

BOROUGH OF BERWICK
COLUMBIA COUNTY
PENNSYLVANIA

2026
ZONING ORDINANCE

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ATTACHMENT 1 – OFFICIAL ZONING MAP

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ARTICLE 1 – GENERAL PROVISIONS

101 TITLE

The official title of this Ordinance is Berwick Borough Zoning Ordinance.

102 INTERPRETATION AND CONFLICT

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

- A. Public Provisions: The regulations of this Ordinance are not intended to interfere with or abrogate or annul any other ordinance, rules, or regulations previously adopted or previously issued by Berwick Borough which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of Berwick Borough, the provisions of this Ordinance shall apply.
- B. Private Provisions: The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Berwick Borough shall not however be held responsible for knowledge and/or enforcement of any private deed restriction, private covenant or other form of private agreement which may be inconsistent with the provisions of this Ordinance and/or beyond the scope of regulations contained within this Ordinance.

103 COMPLIANCE WITH ORDINANCE REQUIRED

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

104 PURPOSE

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

- A. To promote, protect, and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national

defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural, or industrial use, and other public requirements; as well as reservation of natural, scenic, and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains.

- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life, or property from fire, flood, panic, or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, manufactured homes and manufactured home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

105 COMMUNITY DEVELOPMENT OBJECTIVES

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

106 REPEALING PROVISION

This Ordinance is a comprehensive rezoning ordinance. All Ordinances, or any parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such conflict.

107 EFFECTIVE DATE

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

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF
BERWICK ON THIS _____ DAY OF _____, 2026.**

President of Council

Mayor

ATTEST:

Borough Secretary

ARTICLE 2 – DEFINITIONS

201 APPLICATION AND INTERPRETATION

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

- A. Words used in the present tense shall include the future tense.
- B. The word "person" shall include a profit or nonprofit corporation, company, partnership, individual or single proprietorship.
- C. The words "used" or "occupied" as applied to any land or building shall include the words "intended," "arranged," or "designed" to be used or occupied.
- D. The word "building" shall include "part thereof" and "structure."
- E. The word "lot" shall include "plot" or "parcel."
- F. The word "shall" is always mandatory.
- G. The singular number shall include the plural, and the plural the singular.
- H. The masculine gender shall include the feminine and neuter.
- I. The word "street" shall include "road," "highway," and "lane."

202 DEFINITION OF TERMS

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

ABANDONMENT

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

ABUTTING

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

ACCESS

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

ACCESSORY USE

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

ADAPTIVE REUSE

The process of repurposing an existing building or structure for a use other than for what it was originally designed or constructed, often with significant renovations or modifications. The purpose of adaptive reuse is to allow a property owner to transform an outdated, vacant, or underutilized building in a way that meets modern needs.

ADULT CARE FACILITIES

- A. Adult Care Center: A use providing supervised care and assistance to persons who need such daily assistance because of their old age or disabilities. This use shall not include persons who need oversight because of behavior that is criminal, violent or related to substance abuse. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.
- B. Adult Care Home: A building or structure, or part thereof, other than the adult's own home, operated for profit or not for profit, in which adult care is provided at any one time, for part of a 24-hour day, to four, five or six adults unrelated to the operator.

ADULT USE

- A. Adult Bookstore: An establishment that has as a substantial portion of its stock-in trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- B. Adult Entertainment: A nightclub, bar, restaurant, club, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- C. Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where

massage or similar manipulation of the human body is offered as an incidental or accessory service.

- D. Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- E. Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use."

ADVANCED FABRICATION

A facility engaged in precision or high-technology manufacturing, prototyping, or assembly using methods such as 3D printing, CNC machining, robotics, or microfabrication, typically within enclosed buildings and without heavy industrial impacts.

AGGREGATE / FILL STORAGE YARD

An outdoor facility used for storing, stockpiling, managing, and distributing bulk materials, such as sand, gravel, crushed stone, soil, and recycled concrete needed for construction, landscaping, and infrastructure projects, excluding processing or extraction activities.

AGRICULTURAL PRODUCTS PROCESSING

The technique of transforming raw agricultural materials such as crops, animals, and fish into finished goods for consumption, industrial use, or storage. It adds value to raw produce, extends shelf life, and reduces post-harvest losses through cleaning, sorting, milling, drying, or packaging.

AGRICULTURE USE

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for farm homes, and packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities.

AIRPORT

A facility for the landing, takeoff, storage, or maintenance of aircraft, including runways, taxiways, hangars, and related operations for private, public, or commercial use.

ALLEY

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

ALTERATION

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

ALTERATION, STRUCTURAL

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

AMENDMENT

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

AMUSEMENT ARCADE / ESPORTS / INTERACTIVE GAMING CENTER

An indoor entertainment facility featuring electronic, virtual, or interactive gaming, including video arcades, esports arenas, or similar gaming experiences, which may include food and beverage service as an accessory use. Less than five such devices shall be permitted as an accessory use to any lawful principal use.

AMUSEMENT PARK

A commercially operated park or facility with various devices for entertainment including, but not limited to, rides, games, electronic games and similar devices, food stands, and other associated facilities.

ANIMAL HOSPITAL / CLINIC

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

ANIMAL KENNEL

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

ANIMAL SHELTER

A facility used to house or contain stray, homeless, abandoned, or unwanted pets and that is owned, operated, or maintained by a public body, established humane society, animal welfare society or other nonprofit organization devoted to the welfare protection, and humane treatment of animals.

ASPHALT / BATCH / CONCRETE PLANT

An industrial facility used for the production of asphalt or concrete, or asphalt or concrete product, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the productions process or of finished products manufactured on the premises, and the storage and maintenance of required equipment.

AUTOMOTIVE / BOAT SALES

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

AUTOMOTIVE REPAIR

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

AUTOMOBILE WRECKING YARD (See also Junkyards)

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

AUTONOMOUS LOGISTICS YARD

A facility designed for the staging, charging, maintenance, or dispatch of autonomous or remotely operated delivery, freight, or transport vehicles, including associated control systems and data infrastructure.

BAKERY

A retail or wholesale establishment where baked goods such as bread, pastries, and similar items are produced, packaged, and sold, which may include on-site consumption as an accessory use.

BANK

An establishment providing financial, lending, or banking services to the public, including banks, credit unions, savings and loan institutions, and automated teller facilities.

BANQUET HALL / EVENT CENTER

A structure designed for an assemblage of persons for gatherings such as weddings, banquet, and parties.

BASEMENT

A portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance between the ceiling and the average grade of the adjoining ground exceeds five (5) feet.

BATTERY ENERGY STORAGE SYSTEMS (BESS)

A facility or installation that stores electrical energy using batteries or similar technology for later use, grid stabilization, or emergency backup, which may be standalone or accessory to a renewable energy facility, gas-fired electric generating facility, or power generation system.

BATTERY RECYCLING AND MATERIALS RECOVERY FACILITY

A facility where used batteries are collected, processed, and recycled to recover metals or other reusable materials, operating within enclosed structures and in compliance with all environmental and hazardous materials regulations.

BED AND BREAKFAST

An owner-occupied dwelling containing units which are rented on a nightly basis. Dining and other facilities shall not be open to the public but shall be exclusively for the use of the residents and registered guests. Breakfast shall be the only meal served. Such rooms shall not have separate utilities, provisions for cooking, or dormitories for sleeping, and must be located within the principal structure.

BETTING OR GAMBLING USE

A use where lawful gambling activities and/or skill games are conducted, including but not limited to off-track para-mutual betting. This term shall not include betting under the State Lottery programs or betting under the "Small Games of Chance" provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property.

BIG BOX RETAIL STORE

A physically large retail establishment, usually part of a chain where the building footprint is equal to or greater than 50,000 square feet. The term sometimes also refers, by extension, to the company that operates the store. A Big Box Retail Store can generally be broken down into two categories: general merchandise (examples include Wal-Mart and Target) and specialty stores (such as Home Depot, Lowes, Barnes & Noble, or Best Buy) which specialize in goods within a specific range, such as hardware, books, or electronics.

BIOMANUFACTURING

A facility that uses biological processes, living organisms, or biomaterials to produce medical, pharmaceutical, agricultural, or industrial products, typically conducted within enclosed and controlled environments.

BOARDING / ROOMING HOUSE

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

BOROUGH

The Borough of Berwick, Columbia County, Pennsylvania.

BOROUGH COUNCIL

The Borough Council of the Borough of Berwick, Columbia County, Pennsylvania.

BRANCH TELECOMMUNICATION EXCHANGE

A facility that houses equipment for routing, switching, or managing telephone, internet, or data communications within a local or regional network, excluding customer service or retail functions.

BREWERY / DISTILLARY / WINERY / CIDERY

A facility where alcoholic beverages such as beer, spirits, wine, or cider are produced, packaged, and distributed, which may include a tasting room or limited on-site sales as an accessory use.

BUFFER AREA

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

BUILDING

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

- A. Building, Accessory: A subordinate structure on the same lot as the principal building or use occupied or devoted to a use incidental to the principal use.
- B. Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.
- C. Building, Principal: A building in which is conducted the principal use of the lot on which it is located.
- D. Building Height: The vertical distance of a building measured from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and, to the average height between eaves and the ridge for gable, hip, and gambrel roofs.

BUILDING SETBACK LINE

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

BULK FUEL STORAGE FACILITY

Any facility where gasoline is stored in bulk for distribution by delivery truck, or fuel, including but not limited to, kerosene, home heating oil, diesel fuel, gasoline, or propane, is stored in large volume tanks for distribution to retail or wholesale establishments. Or any retail home heating fuel distributor where the storage of fuel on the site exceeds a combined total of 10,000 gallons.

BUS / LIMOUSINE / TAXI TERMINAL

An area and/or building where buses, limousines, and/or taxis are stored or parked on a regular basis with or without maintenance and repair facilities.

BUS SHELTER

Any shed-like structure, usually open on one or more sides, located along the regular route of a public bus, van, or other vehicle, including an official school bus, whose purpose is to provide temporary shelter for the users of the vehicle while they are waiting for the bus.

BUS STATION

An area and/or building where passengers load on and unload from buses, and where parking for passenger vehicles and ticket sales are normally part of the operation, but without bus maintenance and repair facilities.

BUSINESS INCUBATOR / INNOVATION

A facility that provides low-cost, small units of space to new, small businesses, coupled with shared support services, management assistance, and structured tenant entry/departure procedures.

CAMPGROUND / RECREATIONAL VEHICLE PARK

A plot of ground upon which two or more campsites are located, established, or maintained for temporary occupancy by persons using tents or recreational vehicles, and which shall not be used for long term residency of occupants.

CARTWAY

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

CAR WASH / DETAILING

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

CELLAR

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

CEMETERY / BURIAL GROUNDS

A place for the interment of deceased human beings or pets in a grave, mausoleum, vault, columbarium or other receptacle, or a memorial garden/area for the dispersal of cremated remains, but not including a private family cemetery.

CERTIFICATE OF ZONING COMPLIANCE

A certificate issued by the Zoning Officer after he/she has inspected any structure, building, sign and/or land or portion thereof for which a zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance. The issuance of a Certificate of Zoning Compliance shall be a prerequisite of securing an Occupancy Permit.

CHANGE OF USE

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

CHILD CARE FACILITIES

- A. Child Care Center: A building or structure, or part thereof, used for the care, at any one time, for part of a twenty-four-hour day, of seven or more children unrelated to the operator, as licensed and regulated by the Pennsylvania Department of Human Services. The term "child care center" shall include nursery schools and drop-in centers.
- B. Child Care Home, Family: A building or structure, or part thereof, other than the child's own home, operated for-profit or not-for-profit, in which child day care is provided at any one time, for part of a twenty-four-hour day, to four, five or six children unrelated to the operator, as licensed and regulated by the Pennsylvania Department of Human Services.
- C. Child Care Home, Group: A building or structure, or part thereof, in which out of home care is provided, at any one time, for part of a twenty-four-hour day, to more than six but fewer than 16 older school age level children, or more than six but less than 13 children of any age level, as licensed and regulated by the Pennsylvania Department of Human Services.

CHIMNEY

Any vertical structure enclosing a flue or flues used to safely vent exhaust gases, smoke, or byproducts from heating appliances and fireplaces.

CHURCH (See Place of Worship)

CIVIC / CONVENTION CENTER

A multipurpose facility and a place of public assembly available to the general public which houses a variety of activities, such as business and community meetings and events, exhibits, trade shows, performing and visual arts, sports and athletic events, including support facilities such as kitchens, offices, and storage areas.

CLEAR SIGHT TRIANGLE

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

CLINIC, MEDICAL / DENTAL

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists, or other licensed medical specialists, in which said medical practitioners may be working in cooperative association. Said clinics may provide medical

services customarily available at hospitals, excluding overnight care of patients and 24-hour emergency service.

CLUB / LODGE, PRIVATE

An area of land or building used by a nonprofit civic, social, fraternal, religious, political, labor union, or educational association of persons (established via a meaningful and substantial membership system as opposed to a token system) to pursue common goals, interests, or activities usually with the payment of fees and dues, regular meetings, and a charter and bylaws. A private club/lodge does not include commercial recreation facilities, such tennis or racquetball clubs or any other use which is specifically defined by this chapter.

COMMERCIAL USE

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

COMMUNITY CENTER

A use that exists solely to provide primarily indoor leisure and educational activities and programs and meeting space to members of the surrounding community and/or certain age groups, and which does not involve substantial use of machinery or noise-producing equipment. The use also may include the preparation and/or provision of meals as accessory to leisure activities. This shall not include residential dwelling uses.

COMMUNITY GARDEN

A space used to grow plants for personal enjoyment or consumption, education, recreation, community enjoyment or consumption, or beautification by members of the neighboring community. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by community group members.

COMMUNITY KITCHEN / SHARED USE KITCHEN / FOOD HUB

A licensed commercial kitchen or facility providing shared space and equipment for food preparation, processing, or packaging by multiple users, which may include small food businesses, caterers, or community programs.

COMPREHENSIVE PLAN

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

CONDITIONAL USE

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

CONSERVATION AREAS

Land area used for game lands, wildlife, or nature preserves, or similar activities either as a use or as a component of a subdivision design.

CONTINUING CARE FACILITY

An age-restricted residential facility as defined in current state licensing requirements, designed, operated and maintained to provide a continuum of accommodation and care for retired adults that may include: Independent Dwelling Units, Skilled Nursing Facilities, Intermediate Care Facilities, or Personal Care Facilities. A Continuing Care Facility may also include supporting services and facilities that encompass dining, recreational, and social activities limited to residents within said facility.

CONTRACTOR YARD

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

CONVENIENCE STORE, WITH GAS SALES

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

CONVENIENCE STORE, WITHOUT GAS SALES

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

CONVERSION

A change of any structure from the use or design for which it was erected or has been customarily used. Such conversions shall be subject to the use requirements of the zone in which they are located.

CONVERSION, RESIDENTIAL

Includes the redesign and conversion of existing residential structures into two-family and multi-family dwellings or the redesign of existing nonresidential structures which are to be converted into residential use in their entirety or above the first floor.

CORRECTIONAL INSTITUTION

A jail, or other institutional facility, used to confine and/or provide treatment, or rehabilitation, of violators of criminal laws, including juvenile inmates/detainees and including facilities for persons who are participating in supervised work release programs, whether such facilities provide confinement for all of each 24-hour period, or only a portion thereof, but not including temporary holding facilities that are necessary to a police station. These uses include, but are not limited to detention facilities, honor camps, houses of correction, jails, juvenile detention facilities, penitentiaries, prison farms, reformatories, training schools for delinquents, offenders, and other adjudicated individuals.

COTTAGE

A single-family detached dwelling unit or two-family dwelling unit that is part of a cottage housing development.

COUNTY PLANNING COMMISSION

The Planning Commission of Columbia County.

COWORKING / SHARED OFFICE SPACE

A facility providing flexible, short- or long-term office or workspace rentals for multiple independent businesses, entrepreneurs, or remote workers, which may include shared meeting rooms and common amenities.

CRITICAL AREAS

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

CULTURAL CENTER

A space used for the creation, display, or teaching of visual, performing, or cultural arts, which may include public exhibitions, classes, or limited retail sales of artwork produced on-site. This may include a museum, art gallery, nature center, or a private library.

DANCE / GYMNASTIC / MARTIAL ARTS / YOGA STUDIO

A building or portion of a building used as a place for a gymnast, dancer, or martial artist or for instructional classes in gymnastics, dance, or martial arts.

DATA CENTER

A facility used primarily for the storage, management, processing, and transmission of digital data including but not limited to cryptocurrency mining operations. A data center, includes server halls, HVAC/cooling systems, emergency power generators, battery/UPS systems, telecommunications links, and security features. Warehouse, logistics, or distribution facilities, general offices or IT services, and telecommunication switching facilities or broadcast towers are not classified as data centers.

- A. Data Center, Minor: A facility up to 5,000 square feet of server space.
- B. Data Center, Major: A purpose-built facility over 5,000 square feet of server space.
- C. Data Center Campus: A data center campus is a unified site comprising two or more individual data center facilities on contiguous land, designed to operate as a single ecosystem. Each building houses server halls, HVAC/cooling infrastructure, emergency power generators, UPS/battery systems, telecommunications links, and robust security measures, while sharing centralized support functions and utilities.

DECISION

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

DENSITY

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

DETERMINATION

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

- A. The Governing Body;
- B. The Zoning Hearing Board; or
- C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the Berwick Borough Subdivision and Land Development Ordinance (SALDO).

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

DEVELOPMENT

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

DISTRIBUTION CENTER / TRUCK TERMINAL

An establishment engaged in the receipt, storage and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle. Breakdown of large orders from a single source into smaller orders and consolidation of several orders into one large one for distribution to several recipients and vice versa are often part of the operation. The operation may include the storage or parking of trucks awaiting cargo as well as facilities for servicing of trucks. Storage facilities, such as warehouses, incidental to the principal use may also be part of the operation. Retail sales, manufacturing and assembly, or product processing, are not considered part of a distribution center/truck terminal.

DISTRICT (See Zoning District)

DOMESTIC VIOLENCE SHELTER

A residential use providing food, shelter, medical care, legal assistance, personal guidance, or other services to persons who have been victims of domestic violence, including any children of such victims, and who temporarily require shelter and assistance to protect their physical or psychological welfare.

DORMITORY

Occupancy by groups of people who are not defined as a family and who are registered students at a college, university, or other institution of higher learning, on a weekly basis or longer, and is managed by the institution at which the students are registered.

DRONE LOGISTICS FACILITY

A site used for the storage, maintenance, charging, and dispatch of unmanned aerial vehicles (UAVs) for delivery, inspection, or transport operations, which may include associated control centers and landing or takeoff areas.

DRUG AND ALCOHOL TREATMENT CENTER

A use (other than a correctional institution or a permitted accessory use in a hospital) providing facilities for persons who need specialized housing, treatment, and/or counseling for stays in most cases of less than one (1) year and who need such facilities because of chronic abuse of or addiction to alcohol and/or a controlled substance.

DWELLING

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

- A. Dwelling – Single-Family Detached: A detached building designed and used for occupancy by one (1) family.
- B. Dwelling – Two Family: A detached or semidetached building containing not more than two (2) single-family dwelling units that are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. Dwelling – Townhouse: An attached residential building containing not less than three (3) single-family dwelling units, but not more than six (6) single-family dwelling units, having a separate front and rear access to the outside, with no dwelling located above any other, and with each dwelling unit separated from another by one or more common fire resistant wall.
- D. Dwelling – Multi-Family: A single building containing three (3) or more single-family dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- E. Dwelling – Cottage Housing Development: At least four (4) but not more than 12 dwelling units, including detached single family dwellings or two-family dwellings, on one parcel.
- F. Dwelling – Over or Attached to a Business: A single-family dwelling located in the same structure, over or attached, to a permitted commercial use.

- G. Dwelling – Accessory Unit (ADU): An attached, detached, or internal to the principal structure, independent, self-sufficient living space. ADUs shall have direct access to the outdoors or to a hall from which there is direct access to the outdoors, and shall include a complete kitchen, bathroom facility, and some form of living space.

DWELLING UNIT

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

EASEMENT

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

ELECTRIC VEHICLE (EV)

A motor vehicle that uses electricity as a source of propulsion and stores energy in batteries that are charged by plugging the vehicle into an electric power source.

ELECTRIC VEHICLE CHARGING STATION (EVCS)

Equipment designed for the transfer of electric energy to an electric vehicle battery, including Level 1, Level 2, and Level 3 charging facilities.

- A. Level 1 Charger: AC Level 1 equipment provides charging through a 120-volt (V) AC plug. Charging converts AC to DC for the battery within the vehicle itself.
- B. Level 2 Charger: AC Level 2 offers charging through 240 V (typical in residential applications) or 208 V (typical in commercial applications) electrical service. Charging converts AC to DC for the battery within the vehicle itself.
- C. Level 3 Direct Current Fast Charging (DCFC): An industrial grade electrical outlet (208 V or 480 V) that allows for faster recharging of electric vehicle batteries through higher power levels. Equipment (typically a three-phase AC input) enables rapid charging and is usually found along heavy traffic corridors. DC fast chargers convert AC to DC within the charging station and then supply charge directly to the battery.

ENERGY GENERATING FACILITY (POWER PLANT)

A facility, building, or structure designed and operated for the primary purpose of generating electricity for distribution to the public utility grid, commercial sale, or on-site consumption by a principal use. Such facilities may utilize fuels including coal, oil, or natural gas or nuclear energy.

ENTERTAINMENT FACILITY

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

ENTERTAINMENT (OUTDOOR)

Any commercial activity or activity associated with a commercial use where concerts, theater arts, movies, mini-golf or any other type of entertainment is provided outside a fully enclosed building.

ENVIRONMENTAL IMPACT STATEMENT

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

EXISTING USE

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

FAMILY

One or more persons related by blood, marriage, legal guardianship, licensed or court-appointed foster care or legal adoption, including any domestic servants or gratuitous guests thereof, who maintain one common household and reside in one dwelling unit; or no more than four persons who are not related to each other by blood, marriage, legal guardianship, licensed or court-appointed foster care, or legal adoption. A roomer, boarder, or lodger is not considered a family member.

FARMERS MARKET / MARKET HALL / FOOD HALL (INDOOR)

An indoor facility where multiple vendors sell locally produced foods, goods, or prepared meals directly to consumers, which may include shared seating areas and small-scale retail or dining uses.

FARMERS MARKET / SEASONAL (OUTDOOR)

A temporary or recurring open-air market where vendors sell locally grown produce, handmade goods, or prepared foods directly to consumers, typically operating on a seasonal or weekly basis.

FEED AND GRAIN SALES AND STORAGE

A facility used for the sale, storage, and limited processing or distribution of animal feed, grain, or agricultural seed products, which may include accessory retail or loading areas.

FENCE

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

FESTIVAL / FAIRGROUNDS / OUTDOOR EVENT VENUE

A site used for large public or private gatherings such as fairs, festivals, concerts, or exhibitions, which may include temporary structures, parking, and accessory food or vendor facilities.

FIREWORKS

As defined by PA Code, title 34, Part 1, Chapter 5 - Blasting, Demolition, Fireworks and Explosives, a combustible or explosive composition, substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

FIREWORKS MANUFACTURING / STORAGE FACILITY

Land with buildings or structures used in connection with the manufacturing or processing of fireworks, as well as the storehouses or magazines for the storage of finished fireworks. This does not include a fireworks retail establishment operated in accord with state and federal requirements.

FLEA MARKET (INDOOR)

Any sales activity conducted entirely in an enclosed building where stalls or sales areas may be set aside and rented or otherwise provided which are intended for use by various unrelated individuals at which articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique are sold, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

FLEA MARKET (OUTDOOR)

Any sales activity conducted in the open air or under any pavilion or other building, tent or structure which is not fully enclosed, where stalls or sales areas may be set aside and rented or otherwise provided which are intended for use by various unrelated individuals at which articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique are sold, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

FLEX SPACE BUILDING

A building containing one or more permitted-by-right commercial or industrial uses.

FLOOR AREA, GROSS

The sum of the gross horizontal areas of the floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings.

FLOOR AREA, HABITABLE

The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court.

FLOOR AREA, NET

The total of all floor areas of a building, excluding stair-wells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

FLOOR AREA RETAIL, NET

All that space relegated to use by the customer and the retail employee to consummate retail sales; and to include display area used to indicate the variety of goods available for the customer: but not to include office space, storage space and other general administrative areas.

FOOD PROCESSING ESTABLISHMENT

Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oils products; (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing and by-product processing (not including facilities that also slaughter animals); (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

FORESTRY

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

FRATERNITY / SORORITY

Occupancy by groups of people who are not defined as a family and who are registered students at a college, university, or other institution of higher learning, and who are members of a fraternal or other organization which take membership from the student population of the institution at which the students are registered, on a weekly basis or longer.

FREIGHT / PARCEL / COLD STORAGE

A facility used for the receipt, storage, sorting, or distribution of goods, parcels, or perishable products, which may include refrigerated or temperature-controlled areas and loading facilities.

FRONTAGE

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

FUEL BURNING APPLIANCE (OUTDOOR)

A device including any furnace, stove, or boiler designed and constructed to burn oil, wood, coal, or other fuels manufactured for placement outdoors for the heating of the living area of a structure.

FUNERAL HOME / MORTUARY

An establishment that receives and prepares bodies for permanent interment or conducts cremation in addition to hosting facilities for religious or secular wakes or memorial services. Temporary storage of bodies in proper facilities prior to embalming, preparation, or autopsy is customary and incidental to a funeral home or mortuary use.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE

A structure that is accessory to an institutional, commercial, or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of such building and that is not available to the public.

GARAGE, PRIVATE RESIDENTIAL

A structure that is accessory to a single- or two-family dwelling, is used for the parking

and storage of vehicle(s) owned and operated by the residents thereof and is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC PARKING

A structure or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the public.

GASOLINE SERVICE STATION

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

GENERAL NUISANCE

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

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

GOVERNING BODY

The Borough Council of the Borough of Berwick, Columbia County, Pennsylvania.

GREENHOUSE (See Nursery)

GROUP HOME

A dwelling occupied by no more than six individuals with disabilities, as defined and protected by the federal Fair Housing Act, as amended, who live together primarily for purposes relating to their disabilities as the functional equivalent of a family in a shared living arrangement licensed by the appropriate county, commonwealth or federal agency.

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

- A boarding/rooming home and/or a personal care home.
- A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.
- A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HALFWAY HOUSE

A State licensed residence for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

HAZARDOUS SUBSTANCES

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

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

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

HEALTH CLUB / FITNESS CENTER

A building, structure, lot or part thereof used to offer indoor or outdoor recreational facilities or activities, such as exercise or weight rooms, racquet sports, non-household swimming pools, aerobics or nutrition classes, steam rooms, saunas, and the like, whether for profit or not-for-profit.

HIGHWAY OCCUPANCY PERMIT

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

HEIGHT

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

HEIGHT OF ANTENNA SUPPORT STRUCTURE, COMMERCIAL

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

HOME OCCUPATION

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

HOMELESS SHELTER

A government or nonprofit corporation facility providing temporary housing to indigent, needy, or homeless persons.

HOOKAH

Includes a tobacco pipe with a long, flexible tube that draws the smoke through water contained in a bowl.

HOOKAH BAR / SMOKING LOUNGE

An establishment where patrons share from a communal hookah which is placed at each table. The term also includes a place where vapes or smoking occurs on premises for a business purpose.

HOSPITAL

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

HOTEL / MOTEL

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

IMPACT ANALYSIS

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

IMPERVIOUS COVERAGE

The percentage of a lot area covered by impervious surfaces. Impervious surfaces shall include: asphalt, blacktop or macadam, concrete or cement, any area covered by a building or structure's footprint, any artificial play surface where water does not infiltrate or drain, any area of compacted crushed stone, or any other material that does not allow the infiltration of water and creates ponding or run off which shall also be deemed impervious.

IMPERVIOUS SURFACE

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways, and similar vehicular and/or pedestrian rights-of-way. Man-made ponds and swimming pools shall not be calculated as impervious for purposes of this chapter.

IMPROVEMENTS

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

INDOOR AGRICULTURE / AGRIVOLTAICS / BIODIGESTERS

A facility that produces crops, plants, or agricultural products within enclosed or climate-controlled structures, which may integrate solar generation (agrivoltaics) or anaerobic digestion systems for energy recovery.

INDUSTRIAL SERVICES

Establishments engaged in the repair or servicing of industrial, business, or commercial machinery, equipment, products, or materials.

INDUSTRY, HEAVY (not otherwise listed)

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

INDUSTRY, LIGHT (not otherwise listed)

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

INTERMEDIATE CARE FACILITY

A residential institution licensed by the state to provide 24-hour, on-site supervision, nursing care, and active treatment services for individuals with intellectual disabilities, developmental disabilities, or related conditions.

JUNK

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.

JUNKYARD (See also Automobile Wrecking Yard)

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

LANDOWNER

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

LIQUOR STORE

A retail use that primarily sells beer, wine, or liquor with or without nonalcoholic beverages and other incidental goods. This does not include a retail use that sells some beer, wine, or liquor in addition to its primary goods, such as a grocery store.

LIVE-WORK UNIT

A type of Home Occupation that involves a dwelling unit which also includes working space for a resident of the dwelling to pursue such occupations as: creating art involving paintings, drawings, sculptures, ceramics, literature, music or custom crafts; dance instruction, musical instruction or dramatic art; or having an office. However, such use shall not involve more than 6 persons present at the same time for instruction.

LOT

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

LOT AREA

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

LOT, CORNER

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

LOT DEPTH

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

LOT LINE

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

LOT LINE, FRONT

The property line of a lot which abuts the right-of-way of the public or private road or street which provides access to the lot and which separates said right-of-way from the lot itself.

LOT LINE, REAR

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

LOT LINE, SIDE

Any lot line not a front or rear lot line.

LOT OF RECORD

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

LOT, THROUGH

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

LOT WIDTH

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

MAKER SPACE / ARTISAN WORKSHOP

A shared or individual workspace where craftspeople, artists, or small-scale manufacturers create, repair, or prototype goods using hand tools or light machinery, which may include limited product display or sales.

MANUFACTURED HOME

A structure (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one (1) or more sections on a permanent chassis. Manufactured homes shall be placed on permanent foundations and shall only be permitted in Manufactured Home Parks.

MANUFACTURED HOME LOT

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

MANUFACTURED HOME PARK

A parcel, or contiguous parcels of land, which has been planned and improved for the placement of six (6) or more manufactured homes.

MODULAR HOME

A modular home is a factory constructed home transported to a permanent location, constructed on a permanent foundation with its construction in compliance with the Pennsylvania Uniform Construction Code, as amended by Berwick Borough, and any other applicable code requirements making it indistinguishable from a stick-built/site-constructed home. A modular home shall be permitted where single-family dwellings are permitted.

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.

MEDICAL MARIJUANA DISPENSARY

A facility licensed by the Pennsylvania Department of Health to dispense medical marijuana and related products to certified patients and caregivers, operating in compliance with the Pennsylvania Medical Marijuana Act (Act 16 of 2016) and all applicable regulations.

MEDICAL MARIJUANA GROWING / PROCESSING FACILITY

A facility licensed by the Pennsylvania Department of Health for the cultivation, processing, or packaging of medical marijuana for distribution to licensed dispensaries, conducted entirely within enclosed and secure buildings in accordance with Act 16 of 2016 and state regulations.

MEDICAL WASTE PROCESSING

A facility where medical or biohazardous waste is treated, sterilized, or processed for safe disposal or recycling, operating in compliance with all state and federal environmental and health regulations.

MICROGRID / DISTRIBUTION HUB

A localized energy system that generates, stores, and distributes electricity independently or in coordination with the larger utility grid, using renewable or conventional power sources and battery storage.

MINERALS

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

MINERAL EXTRACTION / EXCAVATION

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

MINERAL PROCESSING

The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means, to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

MUNICIPALITY

The Borough of Berwick, Columbia County, Pennsylvania.

NIGHT CLUB

A commercial establishment which may include dispensing of alcoholic beverages for consumption on the premises and in which dancing and live entertainment are permitted. This term does not include any Adult Use as defined in this Ordinance.

NO-IMPACT HOME-BASED BUSINESS

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to and from the premises, in excess with those normally associated with a residential use.

NONCONFORMING LOT

A lot, the area or dimension of which was lawful prior to the adoption or amendment of this Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE

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

NONCONFORMING USE

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

NURSERY / GREENHOUSE

A building for the growing of flowers, plants, shrubs, trees, and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

NURSING HOME (See Skilled Nursing Facility)

NURSERY SCHOOL (See Child Care Center)

OFFICE, BUSINESS / PROFESSIONAL

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

OPERATIONS / STORAGE (OUTDOOR)

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

OPEN SPACE

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

PARCEL

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

PARKING LOT

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

PARKING, SHARED

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

PARKING SPACE

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

PARKING AREA

Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING AREA, PRIVATE

A parking area for the exclusive use of the clients, customers, or owners of the lot on which the parking area is located or whomever else they permit to use the parking area.

PARKING AREA, PUBLIC

A parking area available to the public, with or without payment of a fee.

PAWN SHOP

A commercial use that is regulated as a pawn shop by the Pennsylvania Department of Banking.

PERMANENT FOUNDATION

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

PERMITTED USE

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

PERSONAL CARE FACILITY

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

PERSONAL SERVICES

An establishment engaged in providing services involving the care of a person or a person's goods or apparel such as barber and beauty shops, spas, nail salons, shoe repair shops, household appliance repair shops, dry-cleaning and laundry pickups, computer and phone repair services,

travel agency, day spa, therapeutic retreat, and other similar uses, and which is not otherwise listed as a use in the Table of Uses.

PLACE OF WORSHIP

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

PLANNING COMMISSION

The Planning Commission of the Borough of Berwick.

PRINCIPAL USE

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

PRIVATE

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

PUBLIC

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

PUBLIC HEARING

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

PUBLIC MEETING

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

Public parks and administrative, cultural and service buildings, to include libraries, municipal services, police, fire, emergency medical services, and district magistrates, excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

PUBLIC UTILITY

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

PUBLIC UTILITY FACILITY

Telephone, electric, and cable television lines, poles, equipment, and structures; water, gas, or sewage pipes, mains, valves or structures, pumping stations; telephone exchanges and all other facilities, equipment and structures necessary for conducting a service by a public utility under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

PUBLISHING PLANT

A facility engaged in the printing, binding, or digital production of books, newspapers, periodicals, or similar media, which may include administrative and distribution functions.

RECREATION AREA

An outdoor area characterized by natural open space with low-intensity use, such as parks, walking trails, picnic areas, or nature preserves or areas requiring significant land development, such as athletic fields, playgrounds, and swimming pools.

RECYCLING / COMPOSTING FACILITY

A facility where recyclable materials or organic waste are collected, sorted, processed, or composted for reuse, operating in compliance with environmental and public health regulations.

RECYCLING COLLECTION POINT

A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, plastic containers, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand, within a completely enclosed building or a container.

REHABILITATION CENTER

A facility that provides short-term, primarily in-patient care, treatment, and/or rehabilitation services for persons recovering from illness or injury who do not require hospitalization.

REPORT

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

RESEARCH AND TESTING FACILITY

Establishments engaged in scientific, technological, or product research, testing, and development, which may include laboratories, prototype fabrication, and administrative offices.

RESTAURANT

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

RESTAURANT, TAKE-OUT

An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant part of the consumption takes place outside the confines of the restaurant.

RETAIL

An establishment selling products, as opposed to services or entertainment, to the general public, including, but not limited to, antiques; appliances; artist or music products; automotive parts; building or plumbing supplies; crafts and hobby supplies; clothing; dairy products; dry goods and variety items; flowers and garden supplies; hardware supplies; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography products; pet supplies; pharmaceutical supplies; specialty gifts; sporting goods; and other establishments selling related products.

RETIREMENT HOUSING COMPLEX

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

SATELLITE DISH ANTENNA, NONCOMMERCIAL

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations. TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SAWMILL / FIREWOOD / FORESTRY PROCESSING

A facility engaged in the cutting, processing, or storage of timber, logs, or firewood, including small-scale milling or forestry-related operations.

SCHOOL, COLLEGE / UNIVERSITY

An educational institution authorized by the state to award associate, baccalaureate, or higher degrees

SCHOOL, ELEMENTARY / SECONDARY

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

SCHOOL, TRADE / VOCATIONAL / HOBBY

An educational facility for the teaching of a trade or skill, which is carried on as a business, which does not meet the definition of elementary or secondary school, and which meets any applicable state licensing or registration requirements.

SEATING CAPACITY

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

SELF-SERVICE STORAGE FACILITY

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares. The units shall be used solely for dead storage of non-hazardous substances and no processing, manufacturing, sales, research and development, service or repair, or other storage activities shall occur.

SETBACK

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

SEWAGE DISPOSAL, CENTRALIZED

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

SEWAGE DISPOSAL, ON-LOT

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

SEWAGE TREATMENT PLANT

A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of Environmental Protection (PA DEP) in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system, which may be publicly or privately owned and operated, and which uses mechanical, biological and chemical processes to treat and dispose of domestic sewage in accord with PA DEP rules and regulations involving an effluent discharge to surface waters or to a soil-based or other treatment system. Publicly owned sewage treatment plants shall also be considered a Public Utility Facility.

SHOOTING / RIFLE / ARCHERY RANGE (INDOOR / OUTDOOR)

A facility designed and operated for the use of firearms or archery equipment for sport, recreation, or training purposes, which may be indoors or outdoors. Outdoor ranges shall include appropriate backstops, berms, or safety enclosures to prevent projectiles from leaving the site and must comply with applicable state and federal safety standards. Indoor ranges must include soundproofing, ventilation, and containment measures to ensure health and safety.

SHOPPING CENTER

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

SHORT-TERM RENTAL

A fully furnished principal single-family detached dwelling that is rented for a period of not less than one (1) day and not more than thirty (30) days to someone other than a family member of the landowner and that is not occupied by an owner or manager. Two-family dwellings shall also be permitted if both dwellings are owned by the same owner and one dwelling is occupied by that owner. Guests have use of the facilities as provided for in any contract or agreement with the owner or management company, and no services, such as meals or house cleaning, are provided to the guests. The term does not include a bed and breakfast, hotel or motel, as defined by this Ordinance.

SIGN

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

SITE PLAN

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

SKILL GAMES

Electronic gaming devices that accept monetary input and other potential cash payouts or prizes, similar in function and appearance to traditional slot machines. These devices integrate skill-based components that influence gameplay outcomes, requiring active player engagement beyond mere chance.

SKILLED NURSING FACILITY

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

SLAUGHTERHOUSE

A use involving the killing of animals to produce food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughterhouse. Slaughterhouse shall not include a custom butcher shop that does not involve killing of animals which is considered a retail establishment.

SOCIAL SERVICE AGENCY

A private, government-sponsored or governmental agency that provides personal and/or family counseling, financial counseling and/or support, job training and/or referral, and other human support services.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN

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

SOLAR ENERGY SYSTEM, ACCESSORY (ASES)

An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted, solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. This use is often referred to as residential solar.

SOLAR ENERGY SYSTEM, PRINCIPAL (PSES)

An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted, solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and other appurtenant structures. This use is often referred to as solar farm or commercial solar.

SOLAR ENERGY

Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR ENERGY SYSTEM

A solar photovoltaic cell, module, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

- A. Solar Array: A grouping of multiple solar modules with the purpose of harvesting solar energy.
- B. Solar Cell: The smallest basic solar electric device which generates electricity when exposed to light.

C. Solar Module: A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR RELATED EQUIPMENT

Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used or intended to be used for collection of solar energy.

SOLID WASTE OR WASTE

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

SOLID WASTE FACILITY

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

SPECIAL EXCEPTION

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

STORAGE OF EXCAVATED MATERIALS

A site used for the temporary or long-term storage of earth, rock, or construction fill generated from excavation or grading activities, excluding on-site stockpiling directly related to an active construction project.

STORAGE OF HAZARDOUS, FLAMMABLE, AND EXPLOSIVE MATERIALS

A secured facility used for the bulk storage of hazardous, flammable, or explosive materials, including but not limited to fuels, chemicals, blasting agents, and dynamite, which is constructed, operated, and monitored in accordance with applicable federal (including ATF), state, and industry safety standards. This use does not include routine on-site storage of materials for a permitted principal use, or retail sale of fuel to the public.

STORY

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

STREET

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

STRUCTURE

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

SUPPORTIVE HOUSING

Group living quarters with shared cooking and eating facilities for persons receiving counseling and/or life skills training for personal management issues, including but not limited to emotional issues, substance abuse, financial mismanagement, or inadequate life management skills.

Supportive housing facilities shall not include a "rehabilitation center," "homeless shelter," "group home," "skilled nursing or other health care facility," "domestic violence shelter," or "temporary shelter."

SWIMMING POOL, PRIVATE NONCOMMERCIAL

A water-filled enclosure, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon. Portable type wading pools, only if having a depth of greater than two and one-half feet (2 ½), shall be construed as swimming pools

TATTOO PARLOR / BODY PIERCING STUDIO

An establishment whose principal business activity is the practice of one or more of the following:

- A. Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- B. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN

A place where alcoholic beverages are served as a primary or substantial portion of the total trade, which may or may not include the sale of food and/or live entertainment.

TEMPORARY SHELTER

A structure or part thereof intended to temporarily house families or individuals who are victims of a disaster, who are affected through action on the part of or on behalf of the municipality other than routine redevelopment-related relocation activities, or who have bona fide emergency housing needs.

THEATER, DRIVE-IN

An area of land which may include accessory uses such as the sale of snacks and which is devoted to the showing of motion pictures which are viewed by persons in vehicles.

THEATER, MOVIE / LIVE (INDOOR)

A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use where patrons are seated in the building, but not including an adult movie theater.

TOBACCO STORE / SMOKE SHOP / VAPE SHOP

A business establishment whose principal purpose is selling tobacco and/or tobacco products and/or vaping products. A retail sales or wholesale establishment which maintains 20% or more of its total merchandise as tobacco and/or tobacco products and/or vaping products shall be considered a tobacco store smoke shop for the purposes of this Chapter. Examples of vaping products referred to in this Chapter include, without limitation, vaporizers, vape pens, vapor products, hookah pens, electronic cigarettes, e-cigarettes, e-cigs, e-pipes and any other electronic nicotine delivery system ("ENDS"). ENDS shall be deemed noncombustible tobacco products. Tobacco products as referred to in this Chapter shall include, without limitation, matches, lighters, hookahs, pipes, chewing tobacco, cigarette rolling machines, ashtrays, pipe tools, pipe supplies and pipe accessories. For the purposes of this Chapter, cannabidiol products, also known as "CBD" topical or non-smoke/non-vapor products, shall be excluded when counting the total merchandise of such a retail sales or wholesale establishment.

TOWER (See Antenna Support Structure, Commercial)

TRANSFER STATION

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

TRANSITIONAL HOUSING

A use that is intended to facilitate the movement of homeless persons, persons who are near-homeless, or persons who have recently left an institution into permanent housing within a maximum period of 24 months, and that provides links to supportive services on site or off site to assist in making the transition.

VARIANCE

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

WAREHOUSE

A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail sales or a truck terminal.

WATERCOURSE

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

WELDING SHOP

A facility primarily engaged in the joining, cutting, or fabrication of metal products using welding or related processes, which may include small-scale repair or custom fabrication work.

WETLANDS

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas which are listed in the state water plan, the United States Forest Service Wetlands Inventory of Pennsylvania, the Pennsylvania Coastal Zone Management Plan, and any wetland area designated by a river basin commission.

WHOLESALE BUSINESS

Establishments or places of business with no on-site manufacturing, primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY CONVERSION SYSTEM (WECS)

A machine designed for the purpose of converting wind energy into electricity. Commonly known as “wind turbine” or “windmill,” the term WECS shall be used interchangeably with the terms wind turbine and windmill.

WIND ENERGY FACILITY, COMMERCIAL

A commercial electricity generating facility, whose main purpose is to supply electricity to off-site customers, consisting of one or more commercial WECS, and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WINDMILL

Wind driven device used to generate electricity.

WINDMILL, NONCOMMERCIAL

A small-scale wind energy system used to generate electricity primarily for on-site consumption, not for resale or commercial distribution. Such systems are typically limited to one per lot, with a maximum height of eighty (80) feet and a maximum capacity of ten (10) kilowatts.

WIND TURBINE

A wind energy conversion system that converts wind energy into electricity through the use of wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

WIND TURBINE HEIGHT

The distance measured from the surface of the tower’s foundation to the highest point of the turbine rotor plane at its furthest vertical extension.

YARD

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

YARD, FRONT

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

YARD, REAR

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

YARD, SIDE

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

YARD SALE

A sale, open to the public, of new, used or previously owned personal property, including but not limited to goods, wares, merchandise and clothing, held on vacant property or on the lawn, yard, porch, patio or in the garage or residence, or in the principal or outbuilding, of the person who is conducting the sale. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this chapter. This use may also be referred to as a lawn, garage, tag, or estate sale.

ZONING DISTRICT

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

ZONING HEARING BOARD

The Zoning Hearing Board of Berwick Borough, Columbia County, Pennsylvania.

ZONING MAP

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

ZONING OFFICER

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

ARTICLE 3 – GENERAL REGULATIONS

301 ATTACHED ACCESSORY STRUCTURES

301.1 NONRESIDENTIAL

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

301.2 RESIDENTIAL

Residential accessory structures, which are attached to a principal structure, shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure. Attached accessory structures housing a vehicle, such as a carport or garage shall have a vehicle access point setback of twenty (20) feet measured from inside of sidewalk. If no sidewalk is present on the street, the measurement shall be taken from edge of street and an additional four (4) feet shall be added. If from an alley, ten (10) feet shall be measured from edge of alley.

302 UNATTACHED ACCESSORY STRUCTURES

An accessory use or building shall not be allowed unless the principal use exists on the same lot or an adjacent lot under common ownership. Accessory dwelling units shall only be permitted on the same lot as the principal use.

302.1 NONRESIDENTIAL

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

302.2 RESIDENTIAL

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

- A. The maximum height shall not exceed one and one-half (1 ½) stories or fifteen (15) feet, whichever is the lesser.
- B. An accessory residential structure shall be located not less than four (4) feet from a side lot line or the rear lot line.

303 CORNER LOT RESTRICTION

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

304 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

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

305 NONCOMMERCIAL SATELLITE DISH ANTENNA

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

306 PRIVATE NONCOMMERCIAL SWIMMING POOLS

Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of five (5) feet from any rear or side yard lot line. The setback distance shall include the deck, pad, or apron around the pool. All swimming pools shall comply with PA UCC requirements, as amended. All swimming pools capable of containing water to a depth, at any point, of two and one half (2 ½) feet or greater shall be enclosed in accordance with the following subsections:

306.1 IN-GROUND POOLS

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

306.2 ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 306.1 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto, which equals or exceeds a height of four (4) feet. Access into a pool, which includes a deck, shall be secured by a gate with a lock. Pools

without access from a deck shall include retractable steps or any similar device that prohibits uncontrolled access into the pool when not in use. Shrubbery, hedges or other vegetative cover shall not be considered as a barrier. Decks, which are attached to the pool, shall not project into any required yard setback for the pool.

306.3 EXEMPTION FROM LOT COVERAGE CALCULATIONS

The following residential accessory uses are exempt from maximum lot coverage calculations:

- A. The area of property on which a swimming pool is located.
- B. Portable storage sheds less than 200 square feet that are not on a permanent foundation.

307 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided.

308 PROJECTIONS INTO REQUIRED YARDS

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

- A. Terraces or Patios: provided that such terraces or patios are located in the rear yard or side yard, are not under roof, without walls or other form of enclosure, and are not closer than three (3) feet to any adjacent lot line.
- B. Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than five (5) feet into any required setback.
- C. Porches and Decks: provided such porches or decks are not enclosed by walls, are located in the rear yard or side yard of the property and do not exceed five (5) feet in depth as extended from the structure.
- D. Handicapped Ramps: may be constructed within three (3) feet of any front, rear or side yard lot line within any zoning district

309 THROUGH LOTS

A "Through Lot" as so defined in Article 2 of this Ordinance, shall meet the required front yard setback distance for the District in which it located for the frontage upon both streets.

310 EXCEPTIONS TO HEIGHT LIMITATIONS

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

311 ENCLOSURES – EXEMPTIONS FROM YARD REQUIREMENTS

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

312 REQUIRED ACCESS

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

313 LAND DEVELOPMENT APPROVAL FOR CERTAIN USES

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

314 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

314.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to structures, fences, walls, shrubs, trees and berms, between two and one-half (2 ½) feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained upon a property, within the triangle formed by the intersection of centerlines of intersecting street right-of-way lines adjacent to the corner lot and a line projected between points on each of those adjacent centerlines for a minimum distance of twenty-five (25) feet from their intersection. The above height limitations shall be based upon measurements taken from the road's surface. A fence that allows more than 75% visibility through it (such as a typical open chain-link fence) shall not be regulated by this section.

314.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2 ½) feet and eight (8) feet in height including but not limited to structures, fences, walls, shrubs, trees and berms, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of fifteen (15) feet along the centerline of the street right-of-way and a depth of fifteen (15) feet along the centerline of a private driveway. The above height limitations shall be based upon measurements taken from the road's surface. A fence that allows more than

75% visibility through it (such as a typical open chain-link fence) shall not be regulated by this section.

315 DRIVEWAY ACCESS AND DIMENSIONAL REQUIREMENTS

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

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

316 FENCES AND WALLS

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

316.1 RESIDENTIAL PROPERTIES

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

316.2 NONRESIDENTIAL PROPERTIES

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

- A. Materials: All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.3 EXEMPTION

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

317 PUBLIC UTILITIES

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

318 SEWAGE DISPOSAL

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

319 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route shall be conditioned upon the applicant securing a Highway Occupancy Permit from the Pennsylvania Department of Transportation. No development shall commence until the owner of the property secures said Highway Occupancy Permit.

320 SOIL EROSION AND SEDIMENTATION CONTROL

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of 5,000 square feet shall be required to prepare a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent edition of the Department of Environmental Protection Erosion and Sedimentation Control Manual. The owner or developer of any property subject to this requirement shall submit the subject plan to the Columbia County Conservation District and a copy to the Borough. No zoning permit for development shall be issued until the Borough receives written notice of the Plan's approval from the Columbia County Conservation District.

For storm water discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and having a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Columbia County Conservation District. No zoning permit for development shall be issued by the Borough until written notification is received from the Columbia County Conservation District verifying compliance in securing the NPDES Permit. The owner or developer of any property subject to the above requirements shall submit the subject plans and information to the Columbia County Conservation District. No zoning permit for development shall be issued until the Borough receives written notice of the applicable approval from the Columbia County Conservation District.

321 PLACEMENT OF MANUFACTURED HOMES

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

322 USES NOT ADDRESSED WITHIN ORDINANCE

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

323 CONFLICTING REGULATIONS

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

ARTICLE 4 – ZONING MAP AND ZONING DISTRICTS

401 ZONING MAP

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

402 CHANGES TO ZONING MAP

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

403 INTERPRETATIONS OF BOUNDARIES

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

403.1 ZONING HEARING BOARD

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

403.2 GUIDELINES

- A. Zoning district boundary lines are intended, when possible to follow or parallel the center line of streets, streams and railroads or natural features and the lot or property lines as they exist on a recorded deed or plan in the Columbia County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- B. Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. If the guidelines as stated above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

404 CLASSES OF ZONING DISTRICTS

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

- R-A LOW DENSITY RESIDENTIAL DISTRICT
- R-B MEDIUM- AND HIGH-DENSITY RESIDENTIAL DISTRICT
- C-1 NEIGHBORHOOD BUSINESS DISTRICT
- C-2 GENERAL COMMERCIAL DISTRICT
- C-3 DOWNTOWN COMMERCIAL DISTRICT
- C-4 HIGHWAY COMMERCIAL DISTRICT
- I-1 LIGHT INDUSTRIAL DISTRICT
- I-2 GENERAL INDUSTRIAL DISTRICT
- OS CONSERVATION DISTRICT

ARTICLE 5 – ZONING DISTRICT REGULATIONS

501 R-A LOW DENSITY RESIDENTIAL DISTRICT

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

502 R-B MEDIUM/HIGH DENSITY RESIDENTIAL DISTRICT

The R-B Residential District is primarily composed of medium- and high-density residential areas of the Borough with a compatible mix of all dwelling types, along with compatible neighborhood commercial uses. The regulations for this District are designed to stabilize and protect the essential characteristics of the area. Development within this District is designed to promote and retain medium- and high- density dwellings with compatible commercial uses.

503 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

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

504 C-2 GENERAL COMMERCIAL DISTRICT

The C-2 General Commercial District is intended to serve the retail marketing function of the Borough and surrounding trade area. This District is intended for a wider range of shopping and service functions that can provide for comparison shopping. Due to the high intensity and diversity of commercial uses allowed within this District, an inherent conflict can result in the mixed development of residential and commercial uses. To avoid such conflicts, the expansion of existing residential uses shall be limited to small additions to the main structure (500 square feet or less) and the addition of residential accessory structures. The development of new residential uses shall be limited.

505 C-3 DOWNTOWN COMMERCIAL DISTRICT

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

506 C-4 HIGHWAY COMMERCIAL DISTRICT

The C-4 Highway Commercial District is intended to accommodate the needs of highway travelers who may require automotive service, food, and lodging and the needs of local residents pertaining to automotive sales and services and to other uses commonly found along highways. Due to traffic volumes associated with this District and the associated features of commercial uses. The expansion of existing residential uses shall be limited to small additions to the main structure (500 square feet or less) and the addition of residential accessory structures. The development of new residential uses shall be prohibited.

507 I-1 LIGHT INDUSTRIAL DISTRICT

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

508 I-2 GENERAL INDUSTRIAL DISTRICT

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

509 OS CONSERVATION DISTRICT

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

510 LAND USE TABLE

In the Land Use Table, Attachment 2, those uses permitted by right in a zoning district are designated by the symbol "P." Those uses that may be permitted as a special exception use in a zoning district, with Zoning Hearing Board approval required in accordance with Article 6, are designated by the symbol "SE." Those uses that may be permitted as a conditional use in a zoning district, with Borough Council approval required in accordance with Article 7, are designated by the symbol "C." Uses not specifically permitted in a particular district shall be prohibited uses, except that uses not addressed in any zoning district in this section may be permitted, as provided in Section 322.

511 DIMENSIONAL REQUIREMENTS

Unless otherwise specifically provided for in this chapter, the minimum permissible lot area, lot width and lot depth, front-, rear-, and side-yard depths, and the maximum or minimum building height and maximum lot coverage for each type of use in each district, whether permitted by

right, by special exception, or conditional use, shall be as set forth in the Dimensional Requirements Table, Attachment 3.

512 BUFFER REQUIREMENTS

- A. C-1 Neighborhood Commercial District: Nonresidential Structures and Multifamily Dwellings: Where C-1 Districts about any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.
- B. C-2 General Commercial District: Where C-2 Districts about any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.
- C. C-3 Downtown Commercial District: Where the C-3 District abuts any residential district, a setback distance of ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5') feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.
- D. C-4 Highway Commercial District: Where C-4 Districts about any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting

residential district are physically separated by a street, road, alley or other public right-of-way.

- E. I-1 Light Industrial District: Where I-1 Districts about any residential district, an additional twenty (20) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than twenty (20) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.
- F. I-2 General Industrial District: Where I-2 Districts about any residential district, an additional twenty (20) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than twenty (20) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

ARTICLE 6 – SPECIAL EXCEPTIONS

601 PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Article 5 of this Ordinance, Zoning District Regulations, Land Use Table.

602 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Article, Article 15, Section 1510.2, the respective zoning district in which the use is located, any applicable supplemental standards contained in Article 8, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations.

603 SITE PLAN

- A. Uses classified as a special exception that include new construction, an addition, and or structural alterations shall file, in addition to a zoning permit, a site plan at a scale of not greater than one (1) inch equals fifty (50) feet, for properties in excess of two (2) acres; or one (1) inch equals twenty (20) feet, for properties being two (2) acres or less. Said plan shall be submitted to the Zoning Officer.
- B. Such plan shall provide all applicable information including, but not limited to the following:
 - 1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
 - 2. The location of all off-street parking areas and/or loading areas.
 - 3. The location of all open space areas, including buffer areas and fencing, if applicable.
 - 4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes and aisle widths.
 - 5. All streets, both public and private, which abut the site, including the right-of-way and cartway widths.
 - 6. Contours of the site for each five (5) feet of change in elevation if the proposed use includes new construction and/or grading of the site. Also, if applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Plan for review and approval by the Columbia County Conservation District.
 - 7. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owner's granting such easements.

8. Streams, ponds, watercourses, wetlands, floodplains or any other type bodies of water, including natural or man-made drainage swales, located on the site or within 100 feet of the site.
9. The location of any residential structure upon an abutting lot or parcel if the proposed special exception use is nonresidential.
10. The Map, Block, and Lot Number of the subject parcel, as listed within the Columbia County Recorder of Deeds Office and a copy of the deed to the subject property.
11. A location map, using the Berwick Borough Zoning Map or portion thereof, indicating the relation of the site of the proposed use to its geographic proximity within the Borough.
12. The applicant shall submit a narrative with the site plan that outlines and fully describes all proposed uses or development of the site, and all pertinent operational aspects, features, and or activities related to the proposed uses or development of the site.

604 IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "Impact Analysis" on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance. The cost of preparing and/or providing such information shall be borne by the applicant. The submission of any reports and/or studies within the context of the definition "Impact Analysis" must conclusively demonstrate that the proposed uses or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, including but not limited to the interest of protecting the health, safety, welfare and convenience of the public, and environmental features and characteristics of the site and of the surrounding areas. Failure to conclusively demonstrate such to the satisfaction to the Zoning Hearing Board shall represent a basis for denying approval of the special exception use.

ARTICLE 7 – CONDITIONAL USES

701 PURPOSE

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

702 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Berwick Borough Council, with the Berwick Borough Planning Commission having the authority to review and submit their recommendations to the Borough Council. Decisions by the Borough Council shall be made pursuant to the standards and criteria set forth in this Article, the respective zoning district in which the use is located, any applicable supplemental standards contained in Article 8, any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations.

703 PROCEDURE FOR SUBMISSION AND DECISIONS

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

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than one inch (1) equals fifty (50) feet for properties in excess of two (2) acres; OR one (1) inch equals twenty (20) feet for properties being two (2) acres or less. Such plan shall, at minimum, indicate:
 1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
 2. The location of all off-street parking areas and/or loading and unloading areas.
 3. The location of all open space areas, including buffer areas and fencing, as applicable.
 4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
 5. All streets, both public and private, which abut the site, including the right-of-way and cartway widths.
 6. Contours of the site for each five (5) feet of change in elevation if the proposed use includes new construction and/or grading of the site. Also, if applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Plan for review and approval by the Columbia County Conservation District.
 7. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.

8. Streams, ponds, water courses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within 100 feet of the site.
 9. The location of any residential structure upon an abutting lot or parcel if the proposed special exception use is nonresidential.
 10. The Map, Block, and Lot Number of the subject parcel, as listed within the Columbia County Recorder of Deeds Office and a copy of the deed to the subject property.
 11. A location map, using the Berwick Borough Zoning Map or portion thereof, indicating the relation of the site of the proposed use to its geographic proximity within the Borough.
 12. The applicant shall submit a narrative with the site plan that outlines and fully describes all proposed uses or development of the site, and all pertinent operational aspects, features, and or activities related to the proposed uses or development of the site.
 13. The applicant shall supply any other information required by the Berwick Borough Council for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Berwick Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council shall submit the application for the proposed conditional use to the Berwick Borough Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.
- C. The public hearing shall be held and conducted in accordance with the same procedural guidelines, which govern the Zoning Hearing Board under Article 15 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- D. The Borough Council shall convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
- E. The Borough Council shall render a final decision on a conditional use application within forty-five (45) days following the conclusion of the last public hearing. If the Borough Council fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

If the Borough Council fails to conduct or complete the required hearing as provided for under Section 1506 of this Ordinance, the decision shall be deemed to have been

rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

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

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

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 Berwick Comprehensive Plan, nor shall it adversely affect the health, safety, and welfare of the public and/or the environment.
- B. Public services and facilities, such as streets, 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. The proposed use shall not result in unsafe or dangerous traffic conditions.
- 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 and/or development shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration, or lighting than would be the operations of any permitted use in the district.

- G. The proposed use and/or development shall not result in any adverse or negative impacts based upon the information required with submission of an Environmental Impact Statement required under Section 706 of this Ordinance, and all subsections thereunder.
- H. The proposed use and/or development shall not result in any adverse or negative impacts with respect to the submission of any reports and/or studies within the context of the definition of "Impact Analysis" as contained within Article 2 of this Ordinance. The applicant must conclusively demonstrate that the proposed use or development will not have an adverse or negative impact upon the particular subject or subjects as defined by the Borough Council.

705 CLASSIFIED CONDITIONAL USES

See the Land Use Table for the uses/developments classified as conditional uses within Article 5 of this Ordinance. In addition, the following shall be classified as a conditional use:

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

706 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Borough Council, at its sole discretion, may exempt a use from the submission of an Environmental Impact Statement, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant, which addresses the basis for the requested exemption. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to critical areas, water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect watercourses, air quality, aquifers and the quality of life throughout Berwick Borough and its environs. An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance:

706.01 SOIL TYPES

- A. U.S.D.A. Soil Types (illustrated upon map).
- B. Permeability of soil on the site.
- C. Rate of percolation of water through the soil for every five acres.

706.02 SURFACE WATERS

- A. Distance of site from the nearest surface water and head waters of streams.
- B. Sources of runoff water.
- C. Rate of runoff from the site.
- D. Destination of runoff water and method of controlling downstream effects.
- E. Chemical additives to runoff water on the site.
- F. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Columbia County Conservation District.
- G. A storm water management plan, which shall be developed in coordination with the soils erosion and sedimentation plan.

706.03 GROUND COVER INCLUDING TREES

- A. Extent of existing impervious ground cover on the site.
- B. Extent of proposed impervious ground cover on the site.
- C. Extent of existing vegetative cover on the site.
- D. Extent of proposed vegetative cover on the site.

706.04 TOPOGRAPHY

- A. Maximum existing elevation of site.
- B. Minimum existing elevation of site.
- C. Maximum proposed elevation of site.
- D. Minimum proposed elevation of site.
- E. Description of the topography of the site and all proposed changes in topography.

706.05 GROUND WATER

- A. Average depth to seasonal high water table.
- B. Minimum depth to water table on site.

- C. Maximum depth to water table on site.

706.06 WATER SUPPLY

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

706.07 SEWAGE SYSTEM

- A. Sewage disposal system (description and location on the site of system).
- B. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, and other chemicals).
- C. Projected daily volumes of sewage.
- D. Affected sewage treatment plant's present capacity and design capacity.

706.08 SOLID WASTE

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

706.09 AIR QUALITY

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

706.10 NOISE

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

706.11 IMPACT OF PROPOSED USE/DEVELOPMENT

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

- A. Existing plant species, (upland and marine), and effects thereon.
- B. Existing animal species and effects thereon.
- C. Existing wild fowl and other birds and effects thereon.
- D. Effects of drainage and runoff.
- E. Effects on ground water quality.
- F. Effects on surface water quality.
- G. Effects on air quality.
- H. Alternatives to proposed use/development, consistent with the zoning of the site.
- I. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

706.12 IMPACT UPON CRITICAL AREAS

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

706.13 OTHER GOVERNMENTAL JURISDICTION

A list of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

706.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Borough Council shall promptly forward the Environmental Impact Statement to the Borough Planning Commission, the Borough Planning Consultant, the Borough Engineer, and any other agency, firm or individual which the Borough Council may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Borough Council with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.

- C. The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement.
- D. A determination by the Borough Council of a potential adverse and/or negative impact which may result shall constitute sufficient basis for the denial of a conditional use permit.

ARTICLE 8 – SUPPLEMENTAL REGULATIONS

801 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception, and/or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located. In any zoning district in which residential dwellings are the principal permitted use, no lot used shall contain more than one principal building or use, unless otherwise explicitly permitted by this Ordinance.

802 SUPPLEMENTAL USE REGULATIONS

802.1 ADAPTIVE REUSE

This section provides an alternative process to seek zoning approval for new uses of certain buildings. Existing principal commercial, institutional, industrial, or manufacturing buildings may be converted to residential uses by special exception in the R-A or R-B Zoning Districts, or to residential and permitted commercial uses by special exception in the C-1, C-2, C-3, and C-4 Zoning Districts provided that at least one street-level principal business establishment must be included on each lot, provided that the following requirements are met as well as any other requirements identified by the Zoning Hearing Board:

- A. The Zoning Hearing Board as part of the special exception approval may grant reasonable modifications to specific dimensional, parking, and sign requirements that are necessary to allow reasonable reuse of the building, without needing proof of hardship, provided the Zoning Hearing Board determines such modifications will not adversely affect any adjacent residential neighborhood.
- B. Documents indicating to the Zoning Hearing Board's satisfaction that all parking and vehicle access facilities are adequate and appropriate for the proposed use.

802.2 ADULT USE

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

- A. A residential dwelling.
- B. A place of worship.
- C. A public or quasi-public use or structure.
- D. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

802.3 AMUSEMENT ARCADE / ESPORTS / INTERACTIVE GAMING CENTER

- A. Hours of Operation. Hours of operation shall be limited to the period between the hours of 9:00 A.M. and 2:00 A.M.
- B. Qualified Attendant. A qualified attendant shall be present on-site at all times during the facility's hours of operation.

802.4 AMUSEMENT PARK

- A. Structure Height. No ride, structure or other amusement attraction shall be located closer to any setback line than the height of said ride, structure, or amusement.
- B. Hours of Operation. Hours of operation shall be limited to the period between the hours of 9:00 A.M. and 11:00 P.M.

802.5 ANIMAL HOSPITAL / CLINIC

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

802.6 ANIMAL KENNEL / ANIMAL SHELTER

Animal kennels/shelters in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If open runways are used, the building and runways shall be located not less than 100 feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than 200 feet from such property lines. The kennel/shelter shall not create any nuisance due to odor, noise, dust, or other factor on any neighboring property.

802.7 AUTOMOBILE RELATED ACTIVITIES

- A. Automotive Repair (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles, and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear

property line of any district having residences as a principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the automotive repair facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

- B. Automotive / Boat Sales: Where the operation of an automotive/boat sales use abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the automotive/boat sales facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.
- C. Gasoline Service Station (Also includes Convenience Stores with Gasoline Sales): When a gasoline service station abuts on the side or rear property line of any district with residences as a principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the gasoline service station from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25) feet in width. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty feet from the right-of-way line of the adjoining road. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties.
- D. Car Wash: Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate three (3) cars per stall awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence being six (6) feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by a solid fence, not less than six (6) feet in height. Outdoor lighting shall be directed away from adjacent properties.

802.8 AUTOMOTIVE WRECKING YARD AND/OR JUNKYARD

- A. Junkyards and automotive wrecking yards shall comply with the following:
1. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
 2. Burning of any materials shall be prohibited. No oil, grease, tires or gasoline shall be burned at any time.
 3. No organic waste, toxic materials, and hazardous materials shall be stored on such premises.
 4. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom and disposed of in a manner consistent with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.
 5. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
 6. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday through Saturday between the hours of 7:00 A.M. and 5:00 P.M.
- B. The following shall not apply to existing or the expansion of existing junkyards and automotive wrecking yards within the same parcel, existing at the date of this Ordinance.
1. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4) feet.
 2. Junk shall not be stored within 100 feet of any adjoining property line or nearer than 100 feet to any adjoining or abutting street.
 3. There shall be a roadway fourteen (14) feet in width provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for proper access for firefighting equipment and safety purposes.
 4. All junkyards shall be completely screened from and shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means, or otherwise fail to grow. The required fence shall be no closer than twenty (20) feet to any property line.

802.9 BANK

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

802.10 BANQUET HALL / EVENT CENTER

A banquet hall/event center shall not be open to customers, patrons, or guests between the hours of 2:00 A.M. and 6:00 A.M.

802.11 BED AND BREAKFAST

No signs, show windows or any type of display or advertising shall be visible from outside the premises, except for a single wall or freestanding sign, which shall not be internally illuminated, with a maximum sign area of four (4) square feet on each of two (2) sides, if freestanding, and with a maximum height of eight (8) feet.

802.12 BETTING / GAMBLING USE

- A. Betting or gambling use as a principal use shall only be permitted in the C-4 Highway Commercial District.
- B. Betting or gambling use as an accessory use shall be permitted as accessory to all nonresidential uses. The total number of accessory betting or gambling use devices, including skill games, which are permitted shall be limited to a total of four (4) devices in any combination. If a machine contains multiple stations for players, each individual station shall be considered a separate "device." This includes, but is not limited to, any machine designed for simultaneous use by multiple players through individual stations or terminals. A zoning permit shall not be required for an accessory betting or gambling use.
- C. A qualified attendant shall be present on-site at all times during the facility's hours of operation for both principal and accessory uses.

802.13 BOARDING / ROOMING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property.

802.14 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than three (3) acres. Storage tanks shall be located not less than 100 feet from any property line and shall be not less than 200 feet from any off-site dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors, and truck filling stations shall be located 200 feet from all property lines. The tank

storage area shall be fenced with an eight (8) foot high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence or a residential district, that area of the property shall require a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means, or otherwise fail to grow. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state, and insurance regulations.

802.15 CEMETERY / BURIAL GROUNDS

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

802.16 CHILD CARE FACILITIES

All child care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with/to such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All child care facilities shall have an outdoor play area which shall be completely enclosed with a fence six (6) feet in height. Outdoor play activities shall be limited to the period between the hours of 10:00 A.M. and 5:00 P.M. The minimum area of said play area shall be 300 square feet or ten (10) square feet per child, whichever is greater.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.

802.17 CLUB / LODGE, PRIVATE

Buildings utilized for such purposes shall not be less than forty (40) feet from any property line. Where the use abuts on the rear or side lot line of any district with residences as the principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. The use is private, based on membership, and not open to the public.

802.18 CONTRACTOR YARD

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line on the side or rear property line of any district having residences as the principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the outdoor storage areas from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.19 CONVERSION, RESIDENTIAL

Any conversion of a building to two-family or multi-family dwelling units shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the minimum lot area requirements governing new construction in such district.

802.20 COTTAGE HOUSING DEVELOPMENT

- A. The development or expansion of a cottage housing development shall be deemed as a subdivision or land development and shall be subject to applicable regulations of the Berwick Borough Subdivision and Land Development Ordinance (SALDO).
- B. Customary accessory residential uses shall be permitted, along with common areas for use by residents of the cottage housing development.
- C. Water Supply and Sewage Disposal. A cottage housing development shall be serviced by central water supply and central sewage disposal.
- D. Dimensional Requirements. The following dimensional requirements shall apply to a cottage housing development:
 - 1. Minimum Lot Area. 3,000 square feet per cottage unit
 - 2. Minimum Lot Width: Forty (40) feet
 - 3. Minimum Front Yard Setback: Ten (10) feet
 - 4. Minimum Rear Yard Setback: Twenty (20) feet
 - 5. Minimum Side Yard Setback: Ten (10) feet total (min four (4) feet on one side)
 - 6. Cottage Size. The gross floor area of each cottage shall be at least 800 square feet and not more than 1,200 square feet.
 - 7. Internal Parcel Cottage Setbacks: Ten (10) feet from any other structure
 - 8. No part of any structure in the cottage housing development (including, but not limited to, cottages, parking structures, and community buildings) shall be more than

150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.

E. Community Building.

1. Community buildings are permitted in cottage housing developments.
2. Community buildings shall be clearly incidental in use and size to dwelling units.
3. Building height for community buildings shall be no more than one (1) story.

F. Common Ownership. Community buildings, parking areas, and common open space shall be owned and maintained commonly by the cottage housing development residents through a condominium association, a homeowners' association, or a similar mechanism, and shall not be dedicated to the Borough.

802.21 DATA CENTER

A. General Provisions. All regulations applicable to industrial uses shall also apply to data centers. In the event of a conflict between those regulations and the provisions of this Section, the more restrictive standard shall control. The following shall also apply to all data centers:

1. Site Compatibility and Infrastructure Impact Review. All data center applications, regardless of district or size, shall submit a site compatibility and infrastructure impact review prior to zoning approval. Review components shall include:
 - a) Utility and Infrastructure Overview. Electrical demand, transformer/substation compatibility, water use (source, daily/peak, cooling method), required upgrades, and dual-feed or redundant service confirmation.
 - b) Emergency Services and Access. Two ingress/egress points; NFPA-compliant fire lanes; fire suppression systems; static water supplies; hazard signage; Knox Box/digital gate controls.
 - c) Environmental Buffers and Compatibility. Proximity to wetlands, Cold Water Fisheries, floodplains, or conserved lands; vegetative buffers and screening; stormwater summary.
 - d) Telecommunications. Fiber redundancy, and co-location with utility corridors.
 - e) Community Impact Summary. Adjacent land uses; impacts on noise, traffic, and viewsheds; proposed mitigation.
2. Land Use and Compatibility.
 - a) Data centers will preferentially sited on brownfields, energy campuses, or near substations.
 - b) New utility corridors may not bisect preserved or conserved lands unless no alternative exists.
3. Access and Emergency Circulation
 - a) Minimum of two ingress/egress points.
 - b) NFPA fire lane standards: 24 feet wide, 50 foot turn radii, ladder truck capacity.
 - c) No cul-de-sacs, shared residential driveways, or reliance on residential streets.
4. Fire Protection and Suppression.
 - a) Dedicated static water (20k–50k gallons).

- b) Dual suppression: clean agent (server rooms) + pre-action sprinklers (mechanical/structural).
 - c) Fire-separated battery storage with independent ventilation.
 - d) Knox Box/digital gate controls; hazard signage.
 - e) Annual fire walkthrough;
 - f) Required equipment inventory: arc-rated PPE, foam tools, electrical isolation gear, thermal imaging.
- 5. Buffers, Setbacks, and Screening.
 - a) 200 foot minimum setback next to industrial uses; 400 foot minimum setback next to residential zoning districts and residential uses.
 - b) 200 foot buffer minimum.
 - c) Buffers double as firebreaks and noise screens.
 - d) Components: native evergreens, berms, opaque fencing, gravel firebreak perimeter.
 - e) Must demonstrate effective layering for noise and visual impact.
 - f) Long façades must include articulation, step-backs, or landscaping.
- 6. Noise and Generator Control.
 - a) Maximum property line noise levels shall not exceed 50 dBA.
 - b) Generator testing only weekdays between the hours of 9:00 A.M. and 5:00 P.M. with neighbor notification.
 - c) Acoustic shielding, baffled enclosures, and vibration isolation required.
 - d) Generators shall not be installed or positioned above the roof line of any structure.
 - e) Generator operation for load-shifting, peak-shaving, economic dispatch, or any non-emergency purpose is prohibited.
 - f) The operation of standby or backup generators serving a data center shall be permitted only during a complete loss of electrical service to the data center resulting from a failure of the electric utility distribution system, evidenced by either:
 - 1) Loss of voltage on all utility service phases to the facility below the threshold that triggers the automatic transfer switch; or
 - 2) A utility-issued outage notification affecting the service address; or
 - 3) A directive from the regional transmission operator (RTO/ISO) requiring immediate load-shed due to system instability.
- 7. Water Use and Protection.
 - a) Stamped Water Use Plan required.
 - b) No withdrawals from Cold Water Fisheries, wetlands, bogs, or conserved areas.
 - c) Hydrologic studies required in recharge zones.
 - d) Cooling: closed-loop, hybrid, or reclaimed-water; open-loop prohibited except reclaimed with no thermal discharge.
- 8. Telecommunications and Fiber.
 - a) Two redundant fiber routes with geographic separation.
 - b) Trenching must co-locate with existing corridors;
 - c) Telecom Infrastructure Plan required with service agreements and redundancy mapping.
- 9. Stormwater and Heat Island Mitigation.
 - a) Enhanced BMPs: bioretention, infiltration trenches, thermal filtering.

- b) No unmitigated paved or gravel yards >10,000 square feet.
 - c) Tree canopy or shade in all loading/staging areas.
 - d) Permeable paving where feasible.
10. Abandoning and Decommissioning Provisions.
- a) Any data center ceasing operations shall be deemed abandoned. The owner shall remove all structures, utilities, and appurtenances, and restore the site within 180 days of Borough notice unless an alternative use has been approved by the Borough. The alternative use and any thereafter shall retain the obligation of bonding as well as 180 day site restoration and to remove all structures, utilities, and appurtenances.
 - b) Ceasing of operations occurs when the data center's total monthly kilowatt-hours (kWh) consumption remains at or below 20 percent of the facility's peak monthly power usage for at least 180 consecutive days.
 - c) Peak monthly power usage is defined as the highest total kWh recorded in any single calendar month over the previous 12-month period.
 - d) Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to Berwick Borough.
- B. Full Impact Assessment Triggers.
- 1. Data center applications meeting any of the following criteria shall submit a full impact assessment:
 - a) Gross floor area exceeds 5,000 square feet;
 - b) Electrical load exceeds 1 MW;
 - c) Site is within 500 feet of conservation lands, Cold Water Fisheries, wetlands, or R-A or R-B zoning districts.
- C. Full Impact Assessment.
- 1. The full impact assessment shall be prepared by a licensed professional engineer or qualified consultant and shall include the following components, prepared and stamped by a licensed professional engineer or similarly qualified consultant:
 - a) Fire Protection and Emergency Operations Plan. The applicant shall submit a comprehensive fire protection and emergency operations plan tailored to the unique hazards of data centers, including but not limited to:
 - 1) Fire suppression systems incorporating both:
 - a. A clean-agent gas system (e.g., FM-200, Novec 1230) for server rooms, electrical rooms, and UPS areas; and
 - b. A pre-action sprinkler system for structural, mechanical, and ancillary spaces.
 - 2) On-site static water storage capacity of not less than 20,000 gallons and not more than 50,000 gallons, depending on the gross floor area and fire risk classification. Storage may be satisfied by cisterns, tanks, or lined fire ponds, provided they are engineered for year-round use.
 - 3) Hydrant or Storz connections, certified dry hydrants, and all-weather access to static supplies, with clearly signed and GIS-mapped locations.
 - 4) Fire lanes meeting NFPA 1 and NFPA 1141 standards, with looping circulation, no dead ends, and sufficient turning radii for aerial apparatus.

- 5) Knox Box systems or equivalent secure access devices at all entrances and gates, integrated with local dispatch.
 - 6) Site maps posted on-site and provided to emergency services, showing the location of fuel storage, battery systems, suppression equipment, and shutoff controls.
 - 7) Annual facility walkthrough and site-specific training for all responding fire and emergency service departments, with documentation of attendance and updates.
 - 8) An equipment inventory demonstrating the applicant's contribution to ensuring local departments have or will obtain necessary gear, including arc-rated PPE, foam suppression tools, electrical isolation equipment, and thermal imaging devices.
- b) Utility Coordination Plan. The utility coordination plan shall:
- 1) Document anticipated electrical demand, peak and base load, and method of delivery (dual-feed, underground, or overhead).
 - 2) Demonstrate substation capacity to accommodate both initial and future demand, including redundancy or expansion potential.
 - 3) Provide confirmation of transformer size and site-level distribution design, including safeguards against service disruption.
 - 4) Identify all required utility upgrades and their potential impacts on adjacent properties, rights-of-way, or preserved corridors.
 - 5) Describe water sourcing and redundancy, including daily and peak withdrawal rates, cooling technology, seasonal fluctuations, and backup supply strategies.
 - 6) Evaluate long-term grid resilience, lifecycle costs, and equity of service impacts to surrounding users.
- c) Hydrological or Aquifer Study. Where the site is located within a mapped recharge area, relies on private wells, or is within 1,000 feet of agricultural or residential wells, the applicant shall provide a hydrogeological study that:
- 1) Evaluates projected drawdown impacts on private wells, shallow aquifers, and groundwater-dependent ecosystems.
 - 2) Analyzes baseflow reduction impacts to streams and Cold Water Fisheries.
 - 3) Assesses cumulative water demand if other high-use facilities are operating or proposed within the same watershed.
 - 4) Identifies potential adverse impacts to wetlands, riparian corridors, and recharge zones, with proposed mitigation measures.
- d) Noise and Generator Protocol. The noise and generator protocol shall include:
- 1) Projected daytime and nighttime decibel levels at each property boundary and at the nearest residential receptor.
 - 2) A generator testing schedule limited to weekday daytime hours, with advanced neighbor notification procedures.
 - 3) Noise mitigation measures including baffled enclosures, acoustic shielding, and siting of generators away from noise-sensitive uses.
 - 4) Vibration isolation for HVAC, generator pads, and other mechanical systems to prevent nuisance to adjoining properties.
- e) Environmental and Land Use Compatibility Report. The report shall analyze the facility's relationship to surrounding land uses and natural systems, including:

- 1) Maximum impervious coverage and compliance with local stormwater ordinances.
- 2) Stormwater management BMPs for quantity, quality, and thermal discharge.
- 3) Visual impact analysis of massing, façade articulation, and sightlines.
- 4) Noise and heat island contributions.
- 5) Proposed buffers and transitions, including setbacks, landscaping, and architectural screening.
- 6) A compatibility summary demonstrating mitigation of adverse impacts on adjacent residential, agricultural, or conservation zones.
- f) Telecommunications Infrastructure Plan. The plan shall document:
 - 1) At least two redundant fiber pathways with physical and geographic separation.
 - 2) Carrier service agreements and future tenant capacity.
 - 3) Trenching and routing plans demonstrating co-location within existing utility or transportation corridors wherever feasible.
 - 4) Avoidance of environmentally sensitive areas, floodplains, and historic landscapes unless no reasonable alternative exists, with mitigation measures.
- g) Community Impact Mitigation Plan. The plan shall evaluate and mitigate broader community impacts, including:
 - 1) Traffic circulation, trip generation, and roadway capacity.
 - 2) Impacts on fire and emergency service demand, with financial or in-kind contributions to offset equipment, staffing, or facility needs.
 - 3) Open space preservation or dedication offsets where siting impacts rural or environmentally sensitive areas.
 - 4) Contributions to public infrastructure such as stormwater upgrades, broadband/fiber expansion, or utility enhancements.
 - 5) Proposed Community Benefit Agreement (CBA) terms, including contribution amounts, disbursement schedule, oversight, and renegotiation conditions.

802.22 DISTRIBUTION CENTER / TRUCK TERMINAL

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

802.23 DWELLING, ACCESSORY UNIT

Accessory dwelling units shall be permitted under the following criteria:

- A. Any lot with a principal single-family detached dwelling unit, or two-family dwelling

unit if each dwelling unit is on its own parcel, may have one accessory dwelling unit.

- B. The accessory dwelling unit shall be located either:
 - 1. In a newly constructed accessory dwelling unit structure;
 - 2. In an existing detached accessory structure occupied, or formerly occupied, on the first floor by a garage, barn, or similar accessory use; or
 - 3. In a principal structure, provided that there is a separate entrance to the outdoors or to a hall from which there is direct access to the outdoors.
- C. No accessory dwelling unit shall be located in front of the front building line of the principal structure.
- D. No setback shall be required for an existing garage living area or accessory structure or a structure constructed in the same location and with the same dimensions as an existing structure and converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
- E. The square footage of an accessory dwelling unit shall be less than fifty percent (50%) that of the principal dwelling unit and no less than a minimum of 400 square feet of gross floor area.
- F. The property shall be owner-occupied, either in the principal dwelling unit or in the accessory dwelling unit.
- G. Each accessory dwelling unit shall require the allocation of one additional Equivalent Dwelling Unit (EDU) for water, sewer, and other applicable utility capacity purposes, to be secured prior to issuance of zoning or building permits.
- H. Accessory dwelling units shall not be a bed and breakfast and/or a short-term rental, as defined in Article 2 of this Ordinance.

802.24 DOMESTIC VIOLENCE SHELTER

- A. The applicant shall provide letters from appropriate Borough codes staff, including, at a minimum, Building or Housing Code Enforcement staff and the Fire Marshal, that the structure has been inspected within the past two months and that it meets minimum code requirements for the intended use.
- B. The applicant shall prove to the satisfaction of the Zoning Hearing Board that there will be sufficient security measures to provide adequate protection to the residents.
- C. The maximum number of residents shall be indicated at the time of application, and that number, not including employees who do not reside at the facility, shall not exceed the minimum space requirements contained in the Pennsylvania Uniform Construction Code, as amended by the Berwick Borough.

802.25 ELECTRIC VEHICLE CHARGING STATION (EVCS)

The purpose of this Section is to permit and regulate electric vehicle charging stations in a manner that supports transportation electrification while ensuring public safety, compatibility with surrounding land uses, and compliance with applicable building, electrical, and fire codes.

- A. Use Regulations. Electric vehicle charging stations shall be permitted by right as an accessory or principal use in all zoning districts, subject to the standards of this Section.
- B. General Standards.
 - 1. EV charging stations shall comply with all applicable National Electrical Code (NEC), NFPA standards, Pennsylvania Uniform Construction Code, as amended by Berwick Borough, and Borough Fire Code requirements.
 - 2. EV charging stations shall be located so as not to obstruct required parking spaces, driving aisles, pedestrian access, accessible routes, or emergency access routes.
 - 3. Charging equipment shall be protected from vehicle impact through curbing, wheel stops, bollards, or equivalent protective measures.
 - 4. Installation of EV charging stations shall not reduce the number of required parking spaces below the minimum required by this Ordinance, unless otherwise approved by the Zoning Hearing Board.
 - 5. EV charging stations shall be clearly labeled with operating instructions and emergency contact information.
 - 6. Lighting associated with EV charging stations shall be directed away from adjacent properties and shall comply with applicable outdoor lighting standards of this Ordinance.
- C. Location and Installation.
 - 1. EV charging stations may be installed in surface parking areas and parking structures, subject to compliance with applicable codes.
 - 2. Level 3 charging stations shall not be installed inside enclosed structures unless approved through the applicable building and fire code review process.
 - 3. EV charging stations installed as a principal use shall be arranged to minimize queuing, vehicle stacking, and impacts to adjacent streets or properties.
- D. Electrical Capacity and Utilities.
 - 1. EV charging installations shall demonstrate adequate electrical capacity to serve the proposed equipment, either through existing service or approved utility upgrades.
 - 2. Any required utility upgrades shall be coordinated with the electric utility provider and completed prior to operation.
- E. Abandonment. Any EV charging station that is non-operational for a continuous period of twelve (12) months shall be removed, and the site restored to its prior condition, unless an extension is approved by the Zoning Officer.
- F. Permitting. All EV charging stations shall require applicable electrical and building permits and inspections as required by the Borough.

802.26 ENERGY GENERATING FACILITY (POWER PLANT)

A. Standards.

1. **Building Noise.** All turbines, compressors, engines, and any mechanical equipment which requires noise reduction to meet Borough standards shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise standards established by Berwick Borough Ordinance 99-3 or as otherwise established as a condition of approval. In any case, the operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels as measured within 300 feet of the building(s). The applicant and or operator shall be responsible for establishing and reporting to the Borough the pre-development ambient noise level prior to the issuance of the zoning permit for the facility.
2. **Setbacks and Buffers.** The following setbacks and buffers shall be applied to any facilities used as part of the electricity generation process:
 - a) **Setbacks.** The following setbacks shall be maintained:
 - 1) **Property Lines, Road Rights-of-Way.** 300 feet to adjoining properties and public road rights-of-way.
 - 2) **Existing Dwellings.** 500 feet to any existing dwelling.
 - b) **Buffer.**
 - 1) An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 - 2) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
 - 3) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in Berwick Borough Subdivision and Land Development Ordinance (SALDO).
 - 4) It shall be the responsibility of the applicant and/or operator and/or property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants, or deteriorating landscape material.
3. **Fencing.** A fence shall be required around the perimeter of the facility unless the design of the structures adequately provides for safety.
4. **Access, Required Parking.** Access to the facility shall be provided by means of a public street or easement to a public street adequate to serve the number and type of vehicles anticipated. The access and parking shall be improved with a dust-free, all

- weather surface. The number of required parking spaces shall equal the number of people on the largest shift.
5. Access Routes, Road Conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
 6. Communications Interference. The applicant shall document that the radio, television, telephone, or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the developer.
 7. Historic Structures. The facility shall not be located within 500 feet of any structure listed on any public historic register.
- B. Site Plan. A full land development plan shall be required for all such sites, showing all facilities, fencing, buffering, access, and all other items required for conditional uses by this chapter and by the Berwick Borough Subdivision and Land Development Ordinance (SALDO).
- C. Local, State and Federal Regulations. All facilities and operations shall comply with all applicable local, state, and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.
- D. Informational Requirements. The applicant shall provide the information required by this Section and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety, and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval. The Applicant shall provide the following:
1. Application Information. The information required by this Section, all required application information, and all other necessary information to enable the Borough to assess compliance with this chapter.
 2. Additional Information. The Borough may require the applicant to submit details about ground and surface water protection, an Environmental Impact Statement, and a Traffic Impact Study.
 3. State and Federal Application Information. A copy of all applications and information required by the applicable state and federal agencies.
 4. Emergency Response. The Applicant shall submit the name, address, and emergency telephone number for the operator of the facility; and shall develop an Emergency Preparedness, Prevention and Control Plan in accord with state and federal requirements and generally accepted practice and submit the Plan for review and comment by the Borough and the Columbia County Emergency Management Agency.
 5. Reporting Requirements. For any facility approved by the Borough, the operator shall submit to the Borough copies of all state or federal required or issued documents and

reports associated with the operation, within 15 days of the date of the document or report.

802.27 ENTERTAINMENT FACILITY

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

802.28 FUNERAL HOME / MORTUARY

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

802.29 GROUP HOME

A group home shall meet the following conditions:

- A. The group home shall be occupied by individuals with disabilities, as defined and protected by the Federal Fair Housing Act, as amended, who shall live together primarily for purposes relating to their disabilities as the functional equivalent of a family in a shared living arrangement.
- B. No more than six people, including caregivers, shall occupy the home, and the residents shall function as a common household, except that a higher number may be approved by the Zoning Hearing Board under Section 1510.2.I.
- C. The home shall be licensed by the appropriate county, commonwealth or federal agency and provide a copy of the license to the Borough.
- D. See Section 1510.2.I., which may allow modifications to zoning requirements to be approved as a special exception by the Zoning Hearing Board.

802.30 HALFWAY HOUSE

- A. The applicant shall indicate the nature of the clients to be served and the type of treatment/care to be provided, including whether or not any counseling or other services will be provided for nonresidents.
- B. The applicant shall provide evidence that the facility is licensed by an applicable county, state, or federal program. The facility shall notify the Borough, in writing within 14 days if there is a change in the type of clients or the maximum number of residents, or if the license expires, is suspended, or withdrawn.
- C. If the facility is a temporary residence for the clients, the maximum number of clients shall be indicated at the time of application, and that number, not including employees, shall not exceed the minimum space requirements contained in the Uniform Construction Code, as amended by the Berwick Borough.
- D. The facility shall have twenty-four-hour on-site supervision by professionals trained to supervise the types of clients to be served by the facility.
- E. If a facility will house persons presenting a potential physical threat to the safety of nonresidents, the facility operator shall provide evidence that sufficient staffing and other security measures will be provided.
- F. The facility shall be located a minimum of 1,000 linear feet from any other such existing/approved facility.
- G. If the facility is within a residential district, the building shall be maintained and/or constructed to ensure that it is similar in appearance, condition, and character to the other residential structures in the area, and only a sign as provided for in Article 6 shall be permitted.

802.31 HOME OCCUPATION

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

- A. The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.
- B. Outdoor signage shall be permitted, but limited to not more than two (2) signs, with one affixed to the structure and measuring not more than twelve (12) square feet; and the second free-standing and measuring not more than four (4) square feet, with its top being not more than three (3) feet when measured from the ground. Signage shall not be in any way illuminated. Signage at a home occupation shall be specifically for the business that is legally located at the site of the sign. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted. A home occupation in a non-residential zone shall be made to adhere to the signage restrictions of that zone.

- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. There shall be no repetitive servicing by truck.
- E. No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced.
- F. Only members of the immediate family residing in the dwelling unit, plus not more than one (1) additional nonresident employee shall carry on the home occupation. Licensed medical practitioners and attorneys may employ up to two (2) nonresident employees.
- G. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty (20%) percent of the floor area of the dwelling unit.
- H. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - 1. Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - 2. Two (2) spaces for all other home occupations.

802.32 HOMELESS SHELTER

- A. The applicant shall provide letters from appropriate Borough codes staff, including, at a minimum, Building or Housing Code Enforcement staff and the Fire Marshal, that the structure has been inspected within the past two months and that it meets minimum code requirements for the intended use.
- B. The maximum number of residents shall be indicated at the time of application, and that number, not including employees, shall not exceed the minimum space requirements contained in the Pennsylvania Uniform Construction Code, as amended by Berwick Borough.

802.33 HOTEL / MOTEL

- A. Hotel/motel uses shall require a minimum lot size of not less than two (2) acres with a lot width of not less than 200 feet. The following requirements shall also apply:
 - 1. The hotel/motel shall be serviced by centralized sewage and centralized water.
 - 2. There shall be more than ten (10) sleeping rooms within the facility.
 - 3. Fifty (50%) percent or more of the gross floor area of the facility shall be devoted to sleeping rooms.
 - 4. Club rooms, ballrooms, and common dining facilities may be provided.
- B. In the case of a corner lot, access drives shall be not less than eighty (80) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

802.34 INDUSTRIAL ACTIVITIES

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

802.35 LIVE WORK UNIT

A Live Work Unit shall be allowed wherever a dwelling unit is allowed. A Live Work Unit shall meet all of the same regulations as a Home Occupation, except that the following standards are modified:

- A. The use shall meet the definition of a “Live Work Unit” in Article 2
- B. A Live Work Unit shall be allowed to have an area equal to fifty (50%) percent of the habitable floor area of the dwelling unit used for the home occupation.
- C. A Live Work Unit may have a four (4) square foot wall sign, which shall not be illuminated and which shall have a maximum height of six (6) feet if it is freestanding.
- D. A Live Work Unit may involve occasional on-site retail sales of art that was primarily produced on the premises.
- E. A Live Work Unit may include occasional exhibitions of the art provided that requirements of the Construction Codes are met regarding the numbers of persons who may be accommodated in the Unit.
- F. A ceramic kiln shall be electrically powered, as opposed to directly burning its own supply of fuel.
- G. A maximum of two (2) persons who do not reside within the dwelling may be employed on the premises.

802.36 MANUFACTURED HOME PARK

The standards and regulations provided herein shall apply to both the development of new manufactured home parks and the expansion of existing ones. The development of a

manufactured home park, including the expansion of an existing one, shall also be deemed as a subdivision or land development and shall be subject to applicable regulations of the Berwick Borough Subdivision and Land Development Ordinance (SALDO). Customary accessory residential uses shall be permitted, along with common areas for use by residents of the manufactured home park.

- A. All manufactured home parks shall have a total land area of not less than ten (10) acres.
- B. All manufactured home parks shall be located on well drained land with the average natural slope not exceeding ten (10%) percent.
- C. All manufactured home parks shall have access to public streets or roads.
- G. All manufactured home parks shall be serviced by central water supply and central sewage disposal.
- D. Access to manufactured home sites shall be from interior driveways, access drives, or private streets and shall not be from public streets or roads. Interior roads within a manufactured home park shall conform to the design standards for a local road as provided for under the Berwick Borough Subdivision and Land Development Ordinance (SALDO).
- E. Access to manufactured home sites shall be from interior driveways, access drives, or private streets and shall not be from public street or roads. Entrance roads shall have a paved cart way width of at least twenty-four (24) feet.
- F. Every manufactured home site shall be provided with a minimum of one (1) off-street parking space.
- G. All manufactured home parks shall be provided with pedestrian walkways on at least one (1) side of every street.
- H. The minimum area of land per manufactured home site shall be not less than 7,200 square feet, with the dimensions being 60 x 120 feet. There shall be an interior spacing distance of not less than thirty (30) feet from the defined site on which the manufactured home is located to the next defined site for a manufactured home.
- I. Every manufactured home park shall provide a defined recreational site or sites which shall contain an area of land not less than five (5%) percent of the total gross land area within the boundaries of the manufactured home park. All recreational sites shall be located in areas which are readily accessible to all residents of the manufactured home park. A recreational development plan shall be provided which identifies passive and active recreational features to be provided upon the site, including recreational equipment, play apparatus, benches, and all other features and facilities to be incorporated into the design of the recreational site. The location of the recreational site and the recreational development plan shall be subject to the review and approval of the

Borough Council. The recreational site must be identified and approved by the Borough Council prior to final approval of the development or expansion of a manufactured home park. To guarantee the installation of all improvements to the site, the applicant shall be required to complete the installation of all such improvements prior to receiving an unconditional final approval or to post an irrevocable letter of credit in the amount of 110% of the estimated cost of improvements. The procedures and standards contained within Section 509 of the Pennsylvania Municipalities Planning Code, Act 247, as amended shall apply to posting the aforementioned irrevocable letter of credit. The procedures and standards within Section 510 of Act 247, as amended, shall apply to the release of the irrevocable letter of credit upon the completion of the required improvements. The applicant shall be required to reimburse the Borough for any consulting fees associated with the inspection of improvements to the site. Said reimbursement must be paid at the same meeting of the Borough Council at which the applicant seeks final and unconditional approval of said improvements.

- J. Each manufactured home site shall be provided with a stand or pad consisting of two (2) concrete strips to accommodate the supporting base or foundation of the manufactured home.
- K. Every manufactured home in the park shall be enclosed from the bottom of the manufactured home to the ground or stand using industry-approved skirting material compatible with the home.
- L. Every manufactured home shall be securely anchored or tied-down on at least the four (4) corners and/or in accordance with the manufacturer's recommendations furnished with each home.
- M. The owner/operator of each manufactured home park shall provide a refuse disposal plan.
- N. A soils erosion and sedimentation pollution control plan and storm water management plan, approved by the Columbia County Conservation District, shall be required prior to the unconditional approval for the development or expansion of a manufactured home park.
- O. A Sewage Planning Module, approved by the Pennsylvania Department of Environmental Protection, shall be required prior to the unconditional approval for the development or expansion of a manufactured home park.

802.37 MINERAL EXTRACTION / EXCAVATION

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

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

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

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

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

802.38 NO-IMPACT HOME-BASED BUSINESS

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

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than the family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business, including, but not limited to, parking, signs, or lights, except that outdoor signage shall be permitted, but limited to not more than two (2) signs, with one affixed to the structure and measuring not more than twelve (12) square feet; and the second free-standing and measuring not more than four (4) square feet, with its top being not more than three (3) feet when measured from the ground. Signage shall not be in any way illuminated. Signage at a no-impact home-based business shall be specifically for the business that is legally located at the site of the sign. A no-impact home-based business in a non-residential zone shall adhere to the signage restrictions of that zone.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.

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

802.39 OUTDOOR FUEL BURNING APPLIANCE, NEW:

- A. Any new outdoor fuel burning appliance shall have or shall meet the following:
 - 1. A safe flue or chimney which has a minimum termination height of twenty (20) feet above the natural ground level upon which the appliance is located.
 - 2. A "scrubber" or filter type system attached to the appliance.
 - 3. A fan or blower attached to the appliance to increase the efficiency of the appliance.
 - 4. Be located not less than 100 feet from any property line.
- B. All outdoor fuel burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- C. All outdoor fuel burning appliances shall be installed, operated, and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- D. The owner of the outdoor fuel burning appliance shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Ordinance.
- E. No homemade outdoor fuel burning appliances shall be allowed.
- F. Only natural wood, coal, heating oil, natural gas, kerosene, or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood, and any item not specifically and in writing permitted by the manufacturer is prohibited.
- G. A zoning and building permit shall be acquired from Berwick Borough Zoning and Permitting office prior to the installation of any outdoor furnace.
- H. Ashes or waste shall not be accumulated in a large area on the property. Any large accumulation of ashes or waste shall be disposed weekly with your trash.
- I. If an outdoor fuel burning appliance is more than fifty (50%) percent torn down, physically deteriorated, or decayed, the appliance shall be removed and/or replaced with a new unit.

- J. All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

802.40 OUTDOOR FUEL BURNING APPLIANCE, EXISTING:

- A. All outdoor fuel burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- B. All outdoor fuel burning appliances shall be operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- C. All outdoor fuel burning appliances in existence at the effective date of the Zoning Ordinance shall have or shall erect a safe flue or chimney which has a minimum termination height of twenty (20 feet) above the natural ground level upon which the appliance is located.
- D. All outdoor fuel burning appliances in existence at the effect date of the Zoning Ordinance shall have or shall install a "scrubber" or filter type system attached to the appliance.
- E. All outdoor fuel burning appliances in existence at the effective date of this Ordinance shall have or shall install a fan or blower to increase the efficiency of the appliance.
- F. Only natural wood, coal, heating, natural gas, kerosene, or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
- G. All outdoor fuel burning appliances may only be utilized for the sole purpose of furnishing heat to a residence and hot water during the period of October 1 through April 30; and only if the outdoor fuel burning appliance meets the requirements of this Ordinance.
- H. If an outdoor fuel burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance shall be removed and/or replaced with a new unit and the new unit must comply with all of the regulations listed in Section 802.40. of this Ordinance.

- I. Ashes or waste cannot be accumulated in a large area on the property. Any large accumulation of ashes or waste must be disposed weekly with the trash.
- J. All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

802.41 OPERATIONS / STORAGE (OUTDOOR)

Outdoor operations / storage, as defined in Article 2, when proposed as a principal use of land shall be enclosed with a chain link fence not less than eight (8) feet in height. A Soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface to be provided for such storage that equal or exceed 5,000 feet of surface area. A complete listing of all types of machinery, material, and items to be stored therein shall be attached to the required Zoning Application. No hazardous substances, as so defined in Article 2 of this Ordinance, shall be permitted upon the site.

802.42 PLACE OF WORSHIP

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

802.43 PUBLIC USE

Municipal, police, fire, and emergency medical services buildings: Where the parking area abuts the side or rear property lines of an adjoining residential use or a residential district, a fence being not less than six (6) feet in height along with a planting of shrubbery or evergreen trees, not less than ten (10) feet in depth shall be provided.

802.44 PUBLIC UTILITY FACILITY

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

- A. Access and parking shall be provided only in relationship to the maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate not less than eight (8) feet in height shall surround the building or structures of such facilities.
- C. Outside lighting shall be directed away from adjacent properties.
- D. The location, design, and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

- E. A buffer area not less than ten (10) feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities shall be provided.

802.45 RECREATIONAL FACILITY (OUTDOOR)

All such facilities shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than twenty (20) feet to any property line.
- B. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.
- C. A Soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface within the recreation site, including the provision of off-street parking areas that equal or exceed 5,000 square feet of surface area.

802.46 RESTAURANT AND TAVERN

Access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet from an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.47 RETIREMENT HOUSING COMPLEX

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

- A. Design: Retirement Housing Complexes may be designed as single family attached dwellings (townhouses), as single multi-family structure (apartment building), or as a combination thereof
- B. Density: The maximum density shall not exceed 25 dwelling units per gross acre.
- C. Lot Width: A minimum lot width of not less than seventy-five (75) feet.
- D. Yard Requirements: The following setback distances shall be provided:
 - 1. Front Yard: Not less than fifteen (15) feet.
 - 2. Rear Yard: Not less than fifteen (15) feet.
 - 3. Side Yard: Not less than five (5) feet per side.

- E. Open Space: Not less than ten (10%) percent of the parcel on which the Retirement Housing Complex is located shall be retained as permanent open space designed and readily accessible for use of the residents therein. Roads, service lanes, structures and parking and/or loading areas, shall be excluded in calculating the required ten (10%) percent of permanent open space.
- F. Off-Street Parking and Loading: One off-street parking space shall be provided for every (2) two units and one off-street parking space shall be provided for each employee based upon the maximum number of nonresident employees working at any given time. One off-street loading space shall be provided for delivers and/or service vehicles.
- G. Trash: The use of any outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height.
- H. Lighting: The provision of any outdoor lighting shall be directed away from adjacent properties.

802.48 SHORT-TERM RENTAL

- A. The landowner shall live within ten (10) miles of the Berwick Borough boundaries.
- B. The dwelling must be registered with Berwick Borough as a rental unit, with inspection of the property by a Borough Housing Inspector as specified in the Berwick Borough Landlord Registration Ordinance.
- C. A property manager shall be identified, and the name and 24/7 contact information shall be provided to the Borough.
- D. The maximum length of stay per registered party shall be 30 consecutive days.
- E. The entire dwelling shall be rented in the name of one individual, who represents the entire family or group renting the dwelling during the reserved time period.
- F. The number of guests in one party shall not exceed two adults per bedroom.
- G. No exterior or interior sign intended to be seen by the public shall be permitted.
- H. Short-term rentals shall only be permitted in the principal dwelling unit.
- I. The dwelling unit must qualify as a single-family detached dwelling, as defined in Article 2 of this Ordinance.

802.49 SOLAR ENERGY SYSTEM, ACCESSORY (ASES)

- A. Exemptions. ASES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modifications

to an existing ASES, whether or not existing prior to the effective date of this Section that materially alters the ASES shall require approval under this Ordinance.

B. Regulations applicable to all ASES.

1. ASES are a permitted use in all zoning districts.
2. The ASES layout, design and installation shall conform to applicable industry regulations and with all applicable fire and life safety requirements.
3. All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground to the greatest extent possible.
4. The ASES shall be designed to use the energy created primarily for on-site use.
5. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
6. All ASES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

C. Roof mounted and wall mounted accessory solar energy systems.

1. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
2. ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for buildings within each of the applicable zoning districts.
3. Wall mounted ASES shall comply with the building setbacks in the applicable zoning districts.
4. Solar panels shall not extend beyond any portion of the roof edge.

D. Ground mounted accessory solar energy systems.

1. Setbacks.
 - a) The minimum setbacks from the side and rear property lines shall be equivalent to the building setbacks in the applicable zoning district.
 - b) Ground mounted ASES are prohibited in front yards.
2. Freestanding ground mounted ASES solar panels shall not exceed fifteen (15) feet in height above the ground elevation surrounding the systems.
3. Coverage. The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to stormwater planning.
4. Ground mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
5. If a ground mounted ASES is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system shall be graded and returned to environmentally stable condition.

802.50 SOLAR ENERGY SYSTEM, PRINCIAL (PSES)

- A. Exemptions. PSES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modifications to an existing PSES, whether or not existing prior to the effective date of this Section that materially alters the PSES shall require approval under this Ordinance.
- B. Regulations applicable to all PSES.
 - 1. PSES are a Special Exception Use in the I-2 General Industrial Zoning District.
 - 2. All applications for a PSES shall be considered a land development and shall meet the requirements of this Ordinance and the Berwick Borough Subdivision and Land Development Ordinance (SALDO).
 - 3. The PSES layout, design and installation shall conform to applicable industry standards, including the Pennsylvania Uniform Construction Code, as amended by Berwick Borough.
 - 4. In addition to the Special Exception Review Criteria found in Section 1510.2, Provisions for Granting a Special Exception Approval, the Zoning Hearing Board shall also apply the following criteria to the review and approval for PSES:
 - a) A determination that adequate measures have been undertaken by the proponent of the PSES to reduce the risk of accidents caused by hazardous materials.
 - 5. A project narrative shall be submitted with the application, including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types, and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the solar-energy system.
 - 6. All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground to the greatest extent feasible.
 - 7. All PSES shall be situated to eliminate concentrated glare onto nearby structures or roadways. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or through mitigation.
 - 8. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
- C. Ground mounted principal solar energy systems.
 - 1. Minimum lot size. The PSES shall meet the lot size requirements of the applicable zoning district.
 - 2. Setbacks.
 - a) PSES shall comply with the building setback of the applicable zoning district.
 - b) If the PSES occupies two or more adjacent properties, setbacks between the adjacent properties shall be waived along the shared property boundaries so that the PSES may be installed continuously and make most efficient use of the project area.
 - 3. Height. Ground mounted PSES solar panels shall not exceed fifteen (15) feet in height.
 - 4. Impervious coverage.
 - a) The area beneath the ground mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause

the area to be considered impervious and subject to the overall lot coverage requirement.

- b) Gravel of paved access roads servicing the PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations.
 - 5. Buffering.
 - a) Vegetative buffering, to the extent practical, shall be installed around the entire perimeter of the PSES installation, except where the Zoning Hearing Board determines that the retention of existing trees within the vegetative buffering area may constitute the required vegetative buffer or where the Zoning Hearing Board determines that the solar panels cannot be viewed from a public roadway or residential building.
 - b) The vegetative buffering shall be installed along the exterior side of the fencing.
 - c) The vegetative buffering shall achieve a continuous visual barrier reaching six to eight (6-8) feet in height within two (2) years of planting.
 - d) Widespread use of herbicides to control ground cover growth is prohibited.
 - 6. Unless agreed to by easement or right-of-way holder, ground mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
 - 7. Security.
 - a) PSES shall meet all NEC security requirements, including required fencing.
 - b) Security measures need to be in place to prevent unauthorized trespass and access.
 - c) A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.
 - 8. Access drives to solar inverter stations are required to allow for maintenance and emergency management vehicles. A recommended minimum cartway width is twelve (12) feet.
 - 9. If a ground mounted PSES is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system must be returned to an environmentally stable condition.
 - 10. Natural resources and historic sites. No PSES shall be located less than 200 feet from any Important Bird Area or migration corridor, National Wetland Inventory wetland, Historic Site, or lake, dam, ponds, or public water supply sources.
- D. Roof mounted principal solar energy systems. PSES mounted on roofs of any building shall be subject to the maximum height regulations specified for buildings within the applicable zoning district.
- E. Local emergency services.
- 1. The applicant shall provide a copy of the project summary and site plan to local emergency services with the SALDO application.
 - 2. The applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar energy facility as part of the land development review and approval.

- F. Maintenance. The PSES owner and/or operator shall repair, maintain, and replace the PSES and/or related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good and operating condition.
- G. Decommissioning.
1. Each PSES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.
 2. The PSES owner is required to notify Berwick Borough immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
 3. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations, and other associated facilities from the property. If the owner fails to dismantle and/or remove the PSES within the established time frames, Berwick Borough may complete the decommissioning at the owner's expense to include Court costs and reasonable attorney's fees.
 4. As a condition of final land development approval, the owner shall provide financial security in the form and amount acceptable to Berwick Borough to secure the expense of dismantling and removing said PSES.

802.51 SEWAGE TREATMENT FACILITY

The location and operation of a public or private sewage disposal facility, including but not limited to, sewage treatment plants, shall be designed and constructed in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Protection. Written approval from DEP shall be secured prior to the start of construction for the installation of such facilities. All sewage treatment facilities shall be completely screened from view on all sides by a Buffer Area as defined in Article 2 of this Ordinance. No such facility shall be within 200 feet of any existing property line or within 400 feet of any existing residential use.

802.52 SOLID WASTE FACILITY

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

- A. The applicant shall provide a comprehensive soil analysis and groundwater report which shall conclusively demonstrate that the proposed design, construction, and operation of the solid waste facility shall not pollute surface or groundwater, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant, who prepares the report, attesting to the accuracy of information and the validity of said report.
- B. The applicant shall sign an agreement prepared by the Borough Solicitor, prior to final approval of the application for a Conditional Use Permit which shall specify all the terms

and conditions of approval, including the Borough's authority to revoke the Permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the Conditional Use Permit, the Borough Council shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the Borough Council shall render a decision.

- C. The land area and/or parcel of land on which the solid waste facility is located contain a minimum of five (5) acres.
- D. The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test borings and any other appropriate technical data which conclusively demonstrates that the subsurface conditions beneath any area to be utilized as a landfill is capable of sustaining the bearing load of projected and/or planned quantity of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.
- E. Any application for a Conditional Use Permit for a solid waste facility, which includes the operation of a landfill, shall include a proposed reuse of the property and/or area utilized as a landfill upon the cessation of landfill activities. The proposed reuse of the property shall not be inconsistent with the Community Development Objectives of the Berwick Comprehensive Plan and land uses, existing and planned, on property, which adjoins the site of the Facility.
- F. The applicant shall be required to create an escrow fund to finance the proposed and planned reuse and development of any area utilized as a landfill based upon the projected life expectancy of any area within the solid waste facility which is utilized as a landfill. Such fund shall be funded while the property is still being used for a landfill with annual increment payments. The annual increment payment shall be based upon the estimated cost of the proposed reuse of the site divided by the number of years which the landfill is expected to operate. Such fund shall be separate and distinct from any funding and/or bonding requirement pursuant to closure activities.
- G. A solid waste facility may conduct and operate all approved functional aspects within the Facility between the hours of 7:00 A.M. and 4:00 P.M. from Monday through Friday. Said Facility shall not conduct and/or operate any approved functional aspects associated with the Facility on Saturdays, Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- H. The entire site of a solid waste facility shall be enclosed with industrial type gauge fencing which shall be ten (10) feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.

- I. No operations and/or activities permitted within a solid waste facility shall be permitted within 500 feet of any property line boundary.
- J. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers, or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.
- K. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection.
- L. All storm water collected on the site shall be treated by the facility's wastewater treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.
- M. The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage or disposal of solid waste if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Council, and the results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected.
- N. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be screened by a "Buffer Area" as so defined in Article 2 of this Ordinance. Said Buffer Area shall be located within 300 feet or less from the operations and/or activities, which are subject to being screened. The owner of the property shall be responsible to maintain the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

- O. The applicant shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed solid waste facility, including the projected daily volume and tonnage of refuse being accepted for processing and/or disposal.
- P. The applicant shall submit to the Borough Council, a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.
- Q. Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads. Such private access roads shall only have access to a state legislative route with no permitted access to or from any local streets and/or roads.
- R. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies, which serve the Borough.
- S. Any solid waste facility which processes sludge, prior to its final disposal, shall be designed to include a liner in accordance with the applicable standards of the Department of Environmental Protection for the liner within a proposed landfill.
- T. Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions in accordance with the applicable allowable emission standards of the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency, based upon the more restrictive regulations for reducing and/or limiting air pollution. Any emissions stack or similar structure shall not exceed 100 feet in height.
- U. The applicant shall in addition to other required information and data provide an "Impact Analysis" that addresses the impact of the proposed operation and activities of a solid waste facility in relationship to the following items:
 - 1. All streets and roads which shall and/or are likely to be utilized for means of access to and from the site, including projected truck traffic which shall be generated in relationship to the projected daily volume of waste being transported to the solid waste facility.
 - 2. The suitability of the site for the proposed operations and activities of the solid waste facility in relationship to the soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features which are located both on-site and off-site of the Facility.
 - 3. The impact, both on-site and off-site, of the proposed operations and activities of the solid waste facility on the soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features regarding the degree to which these are protected or destroyed, the tolerance of these resources to the proposed development and any adverse environmental impacts.
 - 4. The impact of the proposed operations and activities of the Solid Waste Facility upon any locations or structures of historical and/or cultural significance within 3,000 feet of any property line of the facility.

- V. Mitigation of Adverse Impacts. In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Borough Council' review of the same shall constitute sufficient basis for the denial of a conditional use permit.
- W. Host Municipality Fee. A host municipality fee shall be executed between Berwick Borough and applicant, owner and/or operator of a solid waste facility prior to the commencement of construction of said Facility.

802.53 TOWNHOUSE

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

- A. Minimum lot size for the development of townhouses shall be one (1) acre.
- B. Minimum lot width shall be 100 feet.
- C. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.
- D. Minimum lot width per dwelling unit shall be not less than twenty (20) feet.
- E. Minimum lot depth per dwelling unit shall be not less than 100 feet.
- F. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- G. Minimum front yard setback shall be not less than twenty (20) feet.
- H. No side yard setbacks shall be required for attached interior townhouse units. A minimum side yard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of townhouses.
- I. Minimum rear yard setback shall be not less than twenty (20) feet.
- J. Minimum width of each dwelling unit shall be not be less than twenty (20) feet.
- K. Maximum building height shall not exceed three (3) stories or forty (40) feet.
- L. Minimum distance between principal structures shall be not less than twenty (20) feet.
- M. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.

- N. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet.
- O. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

802.54 SELF-SERVICE STORAGE FACILITY

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

802.55 TRANSITIONAL HOUSING

- A. No more than two residents shall occupy each bedroom.
- B. On-site supervision shall be provided 24-hours per day, seven days per week.
- C. No overnight guests shall be permitted.
- D. The applicant shall provide letters from appropriate Borough codes staff, including, at a minimum, Building or Housing Code Enforcement staff and the Fire Marshal, that the structure has been inspected within the past two months and that it meets minimum code requirements for the intended use.
- D. The maximum length of occupancy shall be two years.
- E. No more than one sign identifying the facility is permitted, and the sign shall not exceed eight inches by 24 inches or 1.3 square feet and shall not be internally illuminated.

802.56 WAREHOUSE

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

802.57 WINDMILL

Windmills shall not be constructed on any lot consisting of less than one (1) acre in area. The setback from any property line must be greater than 150% of the height of the structure. All connections and hardware shall be constructed and installed in accordance with nation electric code.

802.58 YARD SALE AND GARAGE SALE

Garage sales, yard sales, barn sales or similar activities shall be permitted as an accessory use on a residential lot, provided the total time of all garage shall not exceed fourteen (14) days within a calendar year.

ARTICLE 9 – NONCONFORMING LOTS, USES, STRUCTURES, AND BUILDINGS

901 INTENT

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

902 NONCONFORMING LOTS OF RECORD

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

903 CONTINUATION OF NONCONFORMITY

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

904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

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

905 CHANGES OF NONCONFORMING USES

- A. One (1) nonconforming use may be changed to another nonconforming use that is equally intense or less intense. The Zoning Officer shall have the authority to approve a change within the same type of nonconforming use, such as from one personal service use to another personal service use, provided the applicant agrees to comply with all of the same conditions that applied to the previous use. This Zoning Officer approval may be permitted by right. If the Zoning Officer has doubts about the comparative intensity of the new versus previous use, special exception approval shall be required. All other

proposed changes in a nonconforming use shall need special exception approval by the Zoning Hearing Board.

- B. A Zoning Officer shall considering the following when making a determination regarding the intensity of a replacement nonconforming use:
 - 1. There shall be no increase in the intensity of hours and manner of operation.
 - 2. No structural alterations are made.
 - 3. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
 - 4. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
 - 5. There shall be no increase in the danger of fire or explosion.
 - 6. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
 - 7. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.
- C. The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:
 - 1. No structural alterations are made.
 - 2. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
 - 3. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
 - 4. There shall be no increase in the danger of fire or explosion.
 - 5. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
 - 6. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

906 ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer shall have the authority to approve the enlargement of a nonconforming use and/or structure, if the Zoning Officer finds the following standards will be met.

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with applicable setback requirements to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.

- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.
- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Ordinance.
- F. The enlargement shall not exceed thirty (30%) percent of the floor area or land area as it existed at the time the structure or use first became nonconforming.
- G. A nonconforming single-family detached or two-family dwelling shall be permitted have each of the following accessory structures that does not count against the Section 906.D. and F.: garage, shed, swimming pool. These accessory structures shall meet all dimensional requirements.

907 RESTORATION OF USE

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

908 DETERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 CHANGE OF NONCONFORMING USE

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

908.2 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned if it is changed as set forth in Section 908.1.

908.3 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

909 CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume. A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property. A Certificate of Intention may not be renewed to exceed a period of two years beyond the original date of issuance.

ARTICLE 10 – SIGN REGULATIONS

1001 TYPE AND USE OF SIGNS

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

- A. IDENTIFICATION SIGN: A sign that communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment, or development which is sold, offered, prepared, manufactured, or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment, or development not related to, sold, offered, prepared, or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE E SIGN: A temporary sign, having an area not greater than eight (8) square feet in which advertises the sale, rental or development of the premises upon which the sign is located.
- E. CONSTRUCTION SIGN: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firms associated with the project.
- F. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision.
- G. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision and/or development is located.
- H. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, park, church, hospital or other institution of a similar public or semipublic nature.
- I. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms, and pick-up and delivery areas. Such signs shall contain no advertising material.

- J. EVENT SIGN: A temporary sign advertising political events or candidates, private not-for-profit events, fundraisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fund-raising activities.

1002 CONSTRUCTION TYPES

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

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

1003 PERMITTED SIGNS BY ZONING DISTRICT

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

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

- J. EVENT SIGNS: Such signs shall be permitted in all zoning districts.

1004 AREA, HEIGHT AND SET BACK REQUIREMENTS

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

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than three (3) feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed eight (8) feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. BUSINESS SIGN: A business sign shall not exceed the square feet of area for the following Zoning Districts:
- R-B – Twelve (12) square feet
 - C-1 – Twelve (12) square feet
 - C-2 – Sixty (60) square feet
 - C-3 – Thirty-five (35) square feet
 - C-4 – Eighty (80) square feet
 - I-1 – Eighty (80) square feet
 - I-2 – Eighty (80) square feet

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

The following setback requirements shall apply to signage:

- R-B – Ten (10) feet from any public right-of-way.
 - C-1 – Ten (10) feet from any public right-of-way.
 - C-2 – Ten (10) feet from any public right-of-way.
 - C-3 – Zero (0) feet from any public right-of way. (No signage or portion thereof shall be located within and/or overhanging into the public right-of-way.)
 - C-4 – Ten (10) feet from any public right-of-way.
 - I-1 – Ten (10) feet from any public right-of-way.
 - I-2 – Ten (10) feet from any public right of-way.
 - If an existing building has a front yard setback that is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.
- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10) feet from the front lot line and shall

be removed from the premises within thirty (30) days after the sale or rental of the property.

- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed twenty (20) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than fifteen (15) feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one sign shall be erected at any entrance point to a subdivision/development. Such signs shall be set back not less than ten (10) feet from the front lot line.
- F. CONSTRUCTION SIGN: A construction sign shall not exceed twenty (20) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall be temporary in nature and removed within thirty (30) days following the completion of construction activity.
- G. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed fifty (50) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10) feet from the front lot line.
- H. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5) feet shall be required for such signs. The maximum height of such signs shall not exceed six (6) feet.
- I. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.
- Such a sign shall not be located within 100 feet of any residential district.
 - Such signs shall be setback not less than 100 feet from the centerline of any public right-of-way.

- Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.
- J. EVENT SIGNS: An event sign shall not exceed six (6) square feet in area. Such signs shall not be attached to any tree, utility pole or structure within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within thirty (30) days following the event.
- K. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs, not more than one (1) sign shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of two (2) signs may be permitted.

1005 SIGNS RELATED TO NONCONFORMING USES

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

1006 AREA COMPUTATION OF SIGNS

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

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

- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half ($1/2$) of the circumference by the height of the sign.

1007 VERTICAL CLEARANCE

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

1008 PROHIBITED SIGNS

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

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20) feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. Freestanding or projecting signs over any type of public right-of-way, including sidewalk areas.
- F. Sequential, flashing or oscillating signs.
- G. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

1009 PERMITS REQUIRED

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

ARTICLE 11 – OFF-STREET PARKING AND LOADING

1101 PURPOSE

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

1102 SIZE OF OFF-STREET PARKING SPACES

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

1103 DIMENSIONS AND DESIGN

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

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

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

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

1104 SIZE OF OFF-STREET LOADING SPACES

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

1105 ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10) feet in width for residential uses and not less than twenty (20) feet, nor greater than thirty (30) feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35) feet from the intersection of streets, as measured along the right-of-way lines, unless a greater distance is required for a specific use as contained within Article 8, Supplemental Regulations.

1106 LOCATION OF OFF-STREET PARKING AREAS

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

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership.
- C. The lot to be used for off-street parking shall be not less than 400 feet to any lot line on which the principal structure is located.

1107 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area shall be graded for proper drainage and shall be surfaced so as to provide a pavement structure of bituminous asphalt or concrete. The design, location, and material for any proposed catch basins may be referred to the Borough Engineer for review and approval. Residential driveways shall be graded for proper drainage and shall be entirely surfaced with either stone, pavers, bricks, concrete or asphalt. A concrete apron shall be installed when using the above mentioned materials. It may be required to install catch basins in certain residential driveways. Residential driveway plans may be referred to the Borough Engineer for review and approval.

1108 SCREENING AND LANDSCAPING

- A. Side Yards and Rear Yards

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

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

B. Front Yards

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

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

C. Interior Landscaping

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

1109 LIGHTING

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

1110 PARKING IN YARD AREAS

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

1111 EXISTING STRUCTURES AND USES

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

1112 CHANGES OF STRUCTURES OR USES

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

1113 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half (1/2) shall be disregarded and any fraction equal to or greater than one-half (1/2) shall be construed to require a full space.

1114 MULTIPLE ACTIVITIES OR USES

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

1115 OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged, or placed into use shall comply with the minimum off-street parking spaces as set forth in the Off-Street Parking Requirements Table, Attachment 4.

1116 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1115 of this Ordinance shall provide the required number of off-street parking spaces for the most similar use.

1117 PARKING EXEMPTION IN C-3 DISTRICT

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

1118 OFF-STREET LOADING REQUIREMENTS

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

1119 PROVISION OF HANDICAPPED PARKING SPACES

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

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

1120 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

- A. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
- B. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
- C. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9 ½) feet.
- D. An off-street parking area shall be designed to provide convenient, accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.
- E. Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

1121 SIGNAGE FOR HANDICAPPED PARKING

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

1122 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

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

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

ARTICLE 12 – FLOODPLAIN MANAGEAMENT

1201 INTENT

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

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

1202 SPECIAL DEFINITIONS

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

ACCESSORY USE OR STRUCTURE

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

BASE FLOOD

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

BASEMENT

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

COMPLETELY DRY SPACE

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

DEVELOPMENT

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

ESSENTIALLY DRY SPACE

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

FEMA

The Federal Emergency Management Agency

FLOOD MAPS

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

FLOOD

The temporary inundation of normally dry land.

FLOOD, ONE HUNDRED YEAR

See “Base Flood”

FLOOD INSURANCE STUDY

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

FLOODPLAIN, ONE HUNDRED YEAR

The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred (100) Year Flood, which can be comprised of a Special Floodplain Area, a General Floodplain Area, a Flood Fringe Area and a Floodway as delineated in the Flood Insurance Study and accompanying Flood Insurance Rate Maps.

FLOODPROOFING

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

FLOODWAY

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

FREEBOARD

A margin of safety, expressed in feet above the flood elevation of a One Hundred (100) Year Flood.

HISTORIC STRUCTURE: ANY STRUCTURE THAT IS:

- A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. by an approved state program as determined by the Secretary of the Interior
 - 2. directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for the parking of vehicles, building access or incidental storage in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so the structure is in violation of the applicable non-elevation design requirements contained within this Article.

MANUFACTURED HOME

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

MANUFACTURED HOME PARK

A parcel of land under single ownership, which has been planned and improved for the placement of six (6) or more manufactured homes for non-transient use.

NEW CONSTRUCTION

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

OBSTRUCTION

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

RECREATIONAL VEHICLE

A vehicle which exhibits the following:

- A. is built upon a single chassis;
- B. is 400 square feet or less when measured at the largest horizontal projections;
- C. is designed to be self-propelled or permanently towable by a light duty truck;

- D. is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SUBSTANTIAL DAMAGE

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

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” or the improvement. This term includes structures, which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

1203 ABROGATION AND GREATER RESTRICTIONS

The provisions of this Article supersede any other conflicting provisions, which may be in effect in identified Floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict among any of the provisions of this Article and Ordinance, or any other Ordinance of Berwick Borough, the more restrictive shall apply.

1204 SEVERABILITY

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

1205 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the various One Hundred (100) Year Flood District(s), or that land uses permitted within such district(s) will be free from flooding or flood damages. The provisions and regulations contained within this Article shall not create liability on the part of Berwick Borough or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

1206 OVERLAY OF FLOODPLAIN DISTRICTS

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

1207 IDENTIFICATION OF ONE HUNDRED YEAR FLOODPLAIN DISTRICTS

1207.1 FLOODWAY AREA

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

1207.2 FLOOD FRINGE AREA

The remaining portions of the One Hundred (100) Year Floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated. The basis for the outermost boundary of this area shall be the One Hundred (100) Year Flood Elevations as shown in the flood profiles contained in the Flood Insurance Study.

1207.3 SPECIAL FLOODPLAIN AREA

The areas identified as an AE Zone in the Flood Insurance Study, where One Hundred (100) Year Flood Elevations have been provided, but where no floodway has been delineated.

1207.4 GENERAL FLOODPLAIN AREA

The areas identified as Zone A in the Flood Insurance Study for which no One Hundred (100) Year Elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the One Hundred (100) Year Elevation, as well as the a floodway area, if possible. When no other information is available, One Hundred (100) Year Flood Elevation shall be determined by using a point on the boundary of the identified floodplain areas which is nearest the construction site in question.

In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be only undertaken by professional engineers or others of demonstrated qualifications, who shall certify the technical methods used correctly reflect currently acceptable technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a through technical review by the Borough.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a “development” in accordance with the definition of said term as provided under Section 1202 of this Ordinance.

1208 CHANGES TO DELINEATED BOUNDARIES

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

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.
- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for Berwick Borough. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community and Economic Development.
- D. Prior to the Berwick Borough Council’s approval of any proposed modifications of the boundaries of a One Hundred (100) Year Floodplain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of One Hundred (100) Year Floodplain, shall be governed by the applicable provisions contained in Article 14 of this Ordinance.

1209 INITIAL DETERMINATION OF BOUNDARIES

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

1210 ALTERATIONS TO WATERCOURSES

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all of the following requirements have been satisfied:

- A. Notification. All adjacent municipalities that may be affected by such action shall be notified by Berwick Borough or the applicant prior to any alteration or relocation of a watercourse.
- B. Permits and Approvals. All required permits and approvals shall be obtained from applicable agencies, including but not limited to the Pennsylvania Department of Environmental Protection (DEP), the Federal Emergency Management Agency (FEMA), and the Pennsylvania Department of Community and Economic Development (DCED), where applicable.
- C. Maintenance of Flood Carrying Capacity. The applicant shall demonstrate, through documentation prepared by a qualified professional, that the flood carrying capacity of the watercourse will be maintained upon completion of the proposed alteration or relocation.
- D. Documentation. All required studies, plans, and supporting materials shall be submitted to the Borough for review prior to the issuance of any zoning or building permit.

1211 FLOODWAY RESTRICTIONS

Within any identified Floodway, no encroachment shall be permitted, including fill, new construction, substantial improvements, or any other development, unless it has been demonstrated that the proposed encroachment will not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood.

- A. Hydrologic and Hydraulic Analysis. The applicant shall submit a hydrologic and hydraulic analysis, prepared by a registered professional engineer qualified in such analyses, demonstrating that the proposed development will not increase flood elevations.
- B. FEMA Coordination. The applicant's engineer shall coordinate with FEMA, as necessary, to confirm that the methodology and data used are consistent with the applicable Flood Insurance Study. Written confirmation shall be provided where required.
- C. Required Documentation. The analysis shall include all supporting data, including but not limited to cross-sections, profiles, assumptions, calculations, and relevant information on bridges, culverts, drainage areas, and other hydraulic features.
- D. Certification. The engineer shall provide written certification that the proposed encroachment will not result in any increase in flood heights.
- E. Permits. Where applicable, the applicant shall obtain all required state and federal permits, including a Water Obstruction and Encroachment Permit under 25 Pa. Code Chapter 105. No zoning permit shall be issued until all required approvals have been obtained.

1212 SPECIAL REQUIREMENTS FOR THE SPECIAL FLOODPLAIN AREA AND GENERAL FLOODPLAIN AREA

Within any Special Floodplain Area or General Floodplain Area, no new construction or development shall be permitted unless it is demonstrated that the proposed development will not result in an unacceptable increase in flood risk.

- A. Cumulative Impact. The applicant shall demonstrate, through site-specific analysis prepared by a qualified professional, that the cumulative effect of the proposed development, when considered together with existing and reasonably anticipated development, will not increase the elevation of the One Hundred (100) Year Flood by more than one (1) foot at any point.
- B. Watercourse Setback. No new construction or development shall be located within fifty (50) feet landward from the top of bank of any watercourse.
- C. Floodway Protection. Any development that would result in an increase in flood heights within a designated Floodway shall be prohibited.
- D. Professional Documentation. All required analyses shall be prepared by qualified professionals using accepted engineering practices and shall be subject to review by the Borough.

1213 STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS

All buildings and structures that constitute new construction or substantial improvement shall be designed and anchored to prevent flotation, collapse, or lateral movement in accordance with accepted engineering practices.

The Zoning Officer may require the submission of a certification from a registered professional engineer or architect stating that the design and methods of construction meet these requirements prior to the issuance of a zoning permit.

1214 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit for development within a designated floodplain, the Code Enforcement Officer or authorized representative shall verify that all required federal and state permits have been obtained, including but not limited to permits required under:

- The Pennsylvania Sewage Facilities Act
- The Pennsylvania Dam Safety and Encroachments Act
- The Clean Water Act (Section 404)
- Any other applicable regulations

No building permit shall be issued until all required permits have been secured. The Borough reserves the right to require review of submitted materials by a qualified third-party professional, at the applicant's expense, where necessary to verify compliance with this Article.

1215 FLOODPROOFING

Zoning approval for any proposed use, development, or substantial improvement located within a One Hundred (100) Year Floodplain shall be conditioned upon compliance with the following:

1215.1 RESIDENTIAL

All new construction or substantial improvement of residential structures shall have the lowest floor, including basement, elevated to at least one and one-half (1.5) feet above the base flood elevation.

1215.2 NONRESIDENTIAL

All new construction or substantial improvement of nonresidential structures shall meet one of the following:

- A. The lowest floor, including basement, shall be elevated to at least one and one-half (1.5) feet above the base flood elevation; or
- B. The structure shall be floodproofed to at least one and one-half (1.5) feet above the base flood elevation, provided that:
 - 1. The structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Structural components are capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - 3. Certification is provided by a registered professional engineer or architect.

1215.3 ACCESSORY STRUCTURES

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

- A. The structure shall not be designed or used for human habitation, but shall be limited to the parking and storage of vehicles, or for the storage of tools, material and equipment related to the principal use or activity.
- B. The gross floor area shall not exceed 750 square feet.
- C. The structure shall have a low damage potential.
- D. The structure shall be located upon the site so as to cause the least obstruction to the flow of floodwaters.
- E. Power lines, wiring and outlets shall be not less than one and one half (1 ½) feet above the One Hundred (100) Year Flood Elevation.

- F. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- G. Sanitary facilities are prohibited.
- H. The structure shall be adequately anchored to prevent flotation and movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls.

Design for meeting this requirement must be certified by either a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
2. The bottom of all openings shall be no higher than one (1) foot above grade.
3. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

1215.4 MANUFACTURED HOMES

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

- A. Placed upon a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is one and one half (1 ½) feet or more above the elevation of the One Hundred (100) Year Flood.
- C. Anchored to resist flotation, collapse or lateral movement. Within any identified floodway, manufactured homes shall be prohibited.

1215.5 USE OF FILL

If fill is to be used to raise the lowest floor of the structure, including basement, to an elevation of one and one half (1 ½) feet above the base flood elevation the fill shall:

- A. Extend laterally at least fifteen (15) feet beyond the building line from all points.
- B. Consist only of soil or small rock materials.
- C. Be compacted to provide necessary permeability and resistance to erosion, scouring or settling.

- D. Be no steeper than one (1) vertical foot to two (2) horizontal feet unless substantial data justifying steeper slopes are submitted to, and approved by the Code Enforcement Officer or the person so authorized by Berwick Borough to issue building permits.
- E. Be utilized in a manner and extent to which it does not adversely affect adjacent properties.

1215.6 DRAINAGE FACILITIES

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

1216 UTILITIES

1216.1

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

1216.2

Within any structure the following items shall be either floodproofed **or** elevated to be not less than one and one half (1 ½) feet above the base flood elevation.

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

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

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

1217 CERTIFICATION OF FLOODPROOFING

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

1218 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

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

- A. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.
- B. Provide a minimum of two (2) openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding.
- C. The bottom of the aforementioned openings addressed in item B. shall be no higher than one (1) foot above grade with the option of being equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Provide written certification from a registered professional engineer or architect that the criteria of the above items, (A), (B) and (C) have been met. In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the fully enclosed areas of a structure below the lowest floor to the parking of vehicles, building access or storage. A copy with said restriction shall be provided to the Zoning Officer.

All enclosed areas below the lowest floor shall be designed to allow for the automatic entry and exit of floodwaters in accordance with applicable FEMA standards.

1219 PROHIBITED USES

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

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

1220 REGULATIONS FOR HAZARDOUS MATERIALS

1220.1 Classification

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

Acetone	Nitric acid and oxides of nitrogen
Ammonia	Petroleum products (gasoline, fuel oil, etc.)
Benzene	Phosphorus
Calcium carbide	Potassium
Celluloid	Sodium
Carbon disulfide	Sulfur and sulfur products
Chlorine	Pesticides (including insecticides, fungicides and rodenticides)
Hydrocyanic acid	Radioactive substances
Hydrochloric acid	Polychlorinated Biphenyl (PCB)
Magnesium	Dioxin

1220.2 Prohibited Uses

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

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

With the exclusion of Radioactive Substances, Polychlorinated Biphenyl and Dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in Section 1220.1 of this

Article, may be located within a Flood Fringe area, a Special Floodplain area and General Floodplain area subject to the use being permitted in the underlying zoning district and further subject to being elevated or floodproofed to remain completely dry at an elevation of not less than one and one-half (1 1/2) feet above the base flood elevation.

1220.4 Restrictions for Floodway

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

1221 IMPROVEMENTS

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

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

1222 VARIANCES

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

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

development, increase the One Hundred (100) Year Flood Elevation more than one (1) foot at any point.

- D. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.
- E. A variance shall only be issued upon:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - 3. A determination that granting the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

Variances within identified floodplain areas shall be granted only in exceptional circumstances and in full compliance with applicable federal and state requirements.

1223 MODIFICATION OF FREEBOARD REQUIREMENT ADMINISTRATIVE PROCEDURES

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

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25.00) dollars for each one hundred (\$100.00) dollars of flood insurance coverage.
- B. Such construction below the base flood elevation increases risk to life and property.
- C. The issuance of a variance from the required one and one half (1 ½) feet of freeboard per Section 1215 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents and occupants.

Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or denial. Such information shall be placed on file with the Secretary to the Zoning Hearing Board and shall be submitted annually to FEMA and the Berwick Borough Council.

ARTICLE 13 – ENFORCEMENT AND ADMINISTRATION

1301 ZONING OFFICER

1301.1 APPOINTMENT

The Borough Council shall appoint a Zoning Officer, who shall not hold any elected office within Berwick Borough. The Zoning Officer shall meet qualifications established by Berwick Borough, which shall at minimum include a working knowledge of municipal zoning.

1301.2 DUTIES AND POWERS OF THE ZONING OFFICER

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

- A. Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- B. Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- C. Conduct inspections of properties as required in fulfilling his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure.
- D. Issue permits as authorized by the Zoning Hearing Board, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- E. Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- F. Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- G. Assist in maintaining the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- H. Notify the Zoning Hearing Board of required and/or requested hearings based upon the completion of his/her review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his/her determination that a hearing before the Board is either required or requested shall be a

prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

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

1302 ZONING PERMIT

1302.1 ISSUANCE OF PERMIT

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

1302.2 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his/her authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property, shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- A. A written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- B. A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and the existing and/or proposed structures, buildings or signs, including proposed additions thereto.

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

1302.3 PROCESSING APPLICATIONS

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

1302.4 TIME PERIOD FOR PROCESSING APPLICATION

A properly completed zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete until all applicable information is submitted and all associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1302.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire twelve (12) months from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed six (6) month period, the permit shall expire two years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

1302.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or

on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

1303 CERTIFICATE OF ZONING COMPLIANCE

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

1303.1 APPLICATIONS

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

1303.2 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE

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

1303.3 TIME LIMITATION

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

1304 ENFORCEMENT PROCEDURES

1304.1 NOTICE OF VIOLATION

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

- A. The name of the owner of record and any other person against whom Berwick Borough intends to take action.
- B. The location and/or address of the property in violation.

- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1506, Hearings, subsection (M), shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1304.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Berwick Borough Council, or with its approval, an official of the Borough, or any aggrieved owner or tenant of real property who shows that his/her property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Berwick Borough not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

1304.3 JURISDICTION

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

1304.4 ENFORCEMENT REMEDIES

Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Berwick Borough or the Zoning Officer, shall pay a judgment of not more than five hundred (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred by Berwick Borough as a result of said proceedings. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, Berwick Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there has been a good faith basis for the

person, partnership, or corporation violating this Ordinance to have believed that there was no such violation.

In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Berwick Borough.

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

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

1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Zoning Compliance, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Borough Council. No action shall be taken on any application, appeal, or certificate until all related fees, charges, and expenses have been paid in full. In all cases, any type of application shall not be deemed as filed until correctly completed and submitted with payment in full of appropriate fees.

ARTICLE 14 – AMENDMENTS

1401 AMENDMENT PROCEDURE

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

- A. Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before Borough Council to provide the Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- B. Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- C. Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- D. Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Columbia County Planning Commission for its comments and recommendation.
- E. Proposed action shall not be taken until the Borough Planning Commission and the Columbia County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- F. When a proposed amendment involves a zoning map change, the following procedures shall be applicable:
 - 1. Notice of the public hearing shall be conspicuously posted by Berwick Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one week prior to the date of the public hearing.
 - 2. Notice of the public hearing shall be mailed by Berwick Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail, to the addresses to which real estate tax bills are sent for all real property located within or physically bordering the area being rezoned, as evidenced by tax records within the Columbia County Tax Assessment Office. The party requesting the zoning boundary

amendment shall be responsible for securing such information and providing the same to the Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of Berwick Borough to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that provides for a change in the Zoning Map.

3. The above requirements shall not apply when the rezoning constitutes a comprehensive rezoning.

1402 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

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

The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.

- A. A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- B. A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- C. A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area being rezoned as evidenced by tax records within Columbia County Tax Assessment Office.
- D. Plans, drawings, and explanatory material, which describes in detail the applicant's proposed plans, use, and/or development of the property
- E. Specify those Sections of this Ordinance and/or areas upon the Zoning Map that will be affected by the proposed amendment.

1403 CURATIVE AMENDMENTS

1403.1 INITIATED BY LANDOWNER

- A. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he/she has an interest, may submit a curative amendment to the Borough Council with a written request that his/her challenge and

proposed amendment to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene the public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

- B. The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Columbia County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.
- C. The public hearing before the Borough Council shall be conducted in accordance with the procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council, provided however that the deemed approval provisions contained under Section 1506.L shall not apply. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material, and any other pertinent information may be examined by the public.
- D. If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment that will cure the challenged defects. The Borough Council shall consider in addition to the proposed curative amendment, plans, drawings, and explanatory material the following items:
 - 1. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities.
 - 2. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
 - 3. The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, floodplains, aquifers, natural resources, and other natural features.
 - 4. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - 5. The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.
- E. The proposed curative amendment shall be deemed denied in accordance with any of the following:

1. When the Borough Council notifies the landowner that it will not adopt the curative amendment.
2. When the Borough Council adopts another curative amendment that is unacceptable to the landowner.
3. When the Borough Council fails to act on the request within (45) forty-five days after the close of the last public hearing on the request unless the time is extended by mutual consent by the landowner and the Borough Council.

1403.2 INITIATED BY THE BOROUGH

- A. If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:
 1. References to specific uses which are either not permitted or not permitted in sufficient quantity.
 2. Reference to a class of use or uses which require revision.
 3. Reference to the entire Ordinance and/or Zoning Map which requires revisions.
- B. Within 180 days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1508.A. of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council resolution.
- C. The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon Berwick Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Berwick Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

1404 ENACTMENT OF AMENDMENTS

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

- A. The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.

- B. Public notice shall include the time, place, and date of the meeting at which enactment will be considered and a place within Berwick Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- C. Public notice shall include either the full text of the amendment or the title or the title and a brief summary of the amendment, prepared by the municipal solicitor, setting forth all the provisions in reasonable detail. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library or other County office as designated by the Columbia County Commissioners.
- D. In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten (10) days prior to enactment, readvertise in one newspaper of general circulation in Berwick Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

1405 NOTIFICATION TO COUNTY

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

ARTICLE 15 – ZONING HEARING BOARD

1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of five (5) residents of Berwick Borough appointed by the Borough Council by resolution. The terms of office for Board members shall be five (5) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

1502 ALTERNATES TO ZONING HEARING BOARD

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

1503 REMOVAL OF MEMBERS

The Borough Council may remove any Board member or alternate for malfeasance, misfeasance or nonfeasance in office or for any other just cause. Prior to any vote by the Borough Council, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote if the member requests a hearing in writing.

1504 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1506. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.

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

1505 EXPENDITURES FOR SERVICES

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

1506 HEARINGS

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

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.
- C. Written notice shall be given to the Zoning Officer, to the applicant, to the owner of record of the subject property before the Board, if different than that of the applicant, to the owner of record of any property located within 200 feet of the subject property before the Board, and to any party or person who has submitted a timely written request to receive notification on the subject property.
- D. The party submitting the application to the Zoning Hearing Board shall be responsible for providing the Zoning Hearing Board with the names and mailing addresses of the true and correct owners of record of property located within 200 feet of the subject property before the Board, as evidenced by tax records within the Columbia County Tax Assessment Office. While it shall be the intent of the Berwick Borough Zoning Hearing Board to provide written notice to property owners having property located within 200 feet of the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.
- E. The Borough Council may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the secretary and if applicable, members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall

not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.

- F. The first hearing shall be held within sixty (60) days from the applicant's request unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his/her case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- G. Hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.
- H. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- I. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- J. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.

- K. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- L. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- M. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his/her representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- N. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his/her decision or findings are final, the Board shall make his/her report and recommendations available to the parties of record within forty-five (45) days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct, or complete the required hearing as provided for under Section 1506.D., the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1506.A. and written notice of the decision shall be mailed to those parties identified under Section 1506.B. If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- O. In any appeal of an enforcement notice under Section 1304.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature, and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if the Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- P. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

1507 MEDIATION OPTION

1507.1

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

1507.2

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

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.

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

1508 JURISDICTION OF ZONING HEARING BOARD

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

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permit or building permit or the registration or refusal to register any nonconforming use, structure, or lot.
- D. Appeals from a determination by the zoning officer with reference to the administration of any floodplain provision or regulation within any land use ordinance.
- E. Applications for variances, pursuant to Section 1509 of this Ordinance.

- F. Applications for special exceptions pursuant to Section 1510 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management not related to development which is classified as a subdivision or a land development.

1509 VARIANCES

1509.1 INITIAL DETERMINATION BY ZONING OFFICER

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

- A. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
- B. The Zoning Officer in reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
- C. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1509.2 PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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

- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

1510 SPECIAL EXCEPTIONS

1510.1 INITIAL DETERMINATION BY ZONING OFFICER

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

- A. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance.
- B. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
- C. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1510.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

- A. The proposed use shall not jeopardize the objectives of the Community Development Objectives of the Berwick Comprehensive Plan nor shall it adversely affect the health, safety, and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides

for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.

- D. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- E. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
- F. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject zoning district.
- G. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
- H. The proposed use and/or development shall not be injurious to the public interest.
- I. Consideration shall be given to the accommodation of persons with disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall have the authority to grant a special exception allowing modifications to specific requirements of this chapter if the applicant proves to the satisfaction of the Zoning Hearing Board that such modifications are required under applicable federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities" (as defined in and protected by federal laws). This provision provides a process for local relief, without necessarily needing to prove that a hardship exists under the zoning variance standards. This process also recognizes that federal statutes and case law on this matter may change over time.
 - 1. Such reasonable accommodation shall be requested, in writing, in accordance with the U.S. Fair Housing Act amendments and/or the Americans with Disabilities Act, as amended, and/or under closely related laws and regulations of the Commonwealth of Pennsylvania.
 - 2. If the applicant is requesting a reasonable accommodation for persons with disabilities, the applicant shall identify the following:
 - a) The disability which is protected by such statutes;
 - b) The extent of the modification of the provisions of this chapter necessary for a reasonable accommodation; and
 - c) The manner by which the reasonable accommodation requested may be removed when such person(s) with a protected disability will no longer be present on the property.

3. Any modification approved under this section may be limited to the time period during which persons with disabilities occupy or utilize the premises.
4. For example, this subsection may be utilized in the following instances:
 - a) When a zoning requirement might otherwise interfere with the construction of a wheelchair ramp; or
 - b) If an applicant proves that federal law requires the Borough to allow a higher number of unrelated persons with disabilities in a dwelling unit than would otherwise be allowed.
5. The applicant may be a person(s) with disabilities, or his/her authorized agent, or a property-owner, lessee or other entity who is serving persons with disabilities.

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

1511 PARTIES APPELLANT BEFORE THE BOARD

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

1512 TIME LIMITATIONS

1512.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

1512.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the

Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

1513 STAY OF PROCEEDINGS

1513.1

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

1513.2

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

1513.3

The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

1513.4

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

ARTICLE 16 – APPEALS

1601 APPEALS TO COURT

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

ARTICLE 17 – WIRELESS COMMUNICATIONS FACILITIES

1701 PURPOSE AND SCOPE

The purpose of this Part is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Berwick Borough in compliance with applicable federal and state laws and regulations. While the Borough recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.

1702 TELECOMMUNICATIONS DEFINITIONS

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

ACCESSORY EQUIPMENT

Any equipment serving or being used in conjunction with a Wireless Communications Facility or Wireless Support Structure, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

ANTENNA

An apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

ANTENNA STRUCTURE

Includes, but not limited to, towers, poles, brackets and similar devices used to hold and support antenna(s) and/or dish(es).

BOROUGH

Berwick Borough, Columbia County, Pennsylvania.

COLLOCATION

The mounting of one or more WCFs, including Antennas, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

COMMUNICATIONS EQUIPMENT CABINET/BUILDING

Any unmanned, accessory building or structure, on the same lot as a tower or antenna structure, housing equipment to allow the facility to perform its intended function.

EQUIPMENT COMPOUND

An area surrounding or adjacent to a Wireless Support Structure within which base stations, power supplies, or Accessory Equipment are located.

FAA

Federal Aviation Administration

FCC

Federal Communications Commission.

HEIGHT

When referring to a WCF or Wireless Support Structure, means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna(s).

MODIFICATION OR MODIFY

The improvement, upgrade or expansion of existing Wireless Communications Facilities or base stations on an existing Wireless Support Structure or the improvement, upgrade, or expansion of the Wireless Communications Facilities located within an existing Equipment Compound, if the improvement, upgrade, expansion or replacement does not Substantially Change the physical dimensions of the Wireless Support Structure.

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)

Wireless Communications Facilities that are collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower.

REPLACEMENT OF A WIRELESS COMMUNICATIONS FACILITY (REPLACEMENT OF A WCF)

The replacement of existing Wireless Communications Facilities on an existing Wireless Support Structure or within an existing Equipment Compound due to maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight and height as the Wireless Communications Facilities initially installed and that does not substantially change the physical dimensions of the existing Wireless Support Structure.

ROOF

The exterior surface on the top of a building or structure.

SMALL WIRELESS COMMUNICATIONS FACILITY

A Wireless Communications Facility that meets the following criteria:

- A. The Wireless Support Structure on which Antenna facilities are mounted:
 1. Is 50 feet or less in height;
 2. Is no more than 10 percent taller than other adjacent structures; or
 3. Is not extended to a height of more than 50 feet or by more than 10 percent above its height prior to the Collocation of any WCF as a result of the Collocation of new Antenna facilities; and

- B. Each Antenna associated with the deployment (excluding the Accessory Equipment) is no more than three cubic feet in volume; and
- C. All Accessory Equipment associated with the Wireless Support Structure including the wireless equipment associated with the Antenna and any pre-existing associated equipment on the Wireless Support Structure, is cumulatively no more than 28 cubic feet in volume.
- D. The Wireless Communications Facility does not require Antenna structure registration under 47 CFR Part 17;
- E. The Wireless Communications Facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- F. The Wireless Communications Facility does not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

STEALTH TECHNOLOGY

Camouflaging methods applied to Wireless Communications Facilities and Accessory Equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennas, building-mounted Antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

STRUCTURAL CAPACITY

The physical ability of a tower and associated antennas to withstand design loading without collapsing.

SUBSTANTIAL CHANGE

A modification substantially changes the physical dimensions of a support structure if it meets the criteria established by 47 CFR § 1.6100.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)

Any structure that is used for the primary purpose of supporting one or more Antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, and the accompanying Antenna and Accessory Equipment.

WBCA

Pennsylvania Wireless Broadband Collocation Act (53 P.S. § 11702.1 et. seq.).

WIRELESS

Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS COMMUNICATIONS FACILITY (WCF)

An Antenna facility or a Wireless Support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)

Any person that applies for a Wireless Communications Facility building permit, zoning approval and/or permission to use the public ROW or other Borough-owned or third party land or property.

WIRELESS SUPPORT STRUCTURE

A pole, tower, base station, or other building, whether or not it has an existing Antenna facility, that is used or to be used for the provision of wireless service (whether on its own or comingled with other types of services).

1703 GENERAL REQUIREMENTS FOR ALL WIRELESS COMMUNICATIONS FACILITIES

- A. Standard of care.
 - 1. All WCFs shall meet or exceed all applicable standards and provisions of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate wireless communications facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Borough.
 - 2. If such standards or regulations are changed, the owner of the WCF shall bring such WCF into compliance with the revised standards within six (6) months of the effective date of such standards or regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring such facilities into compliance shall constitute grounds for the removal of the WCF at the owner's expense.
 - 3. The WCF applicant shall submit proof of compliance with all applicable federal and state standards, including but not limited to those established by the Federal Communications Commission, as part of any complete WCF application.
- B. Engineer signature. All plans and drawings included in an application for a WCF shall contain a seal and signature of a professional engineer, licensed in the Commonwealth of Pennsylvania and certifying compliance with all local, state and federal laws and regulations applicable to the proposed WCF.
- C. Eligible facilities requests. WCF applicants proposing a modification to an existing WCF shall be required only to obtain all necessary permits of general applicability from the Borough. In order to be considered for such permits, the WCF applicant must submit permit applications to the Borough in accordance with the requirements of the Borough

Code. Such permit applications shall clearly state that the proposed modification constitutes an eligible facilities request pursuant to the requirements of 47 CFR § 1.6100. The permit applications shall detail all dimensional changes being made to the WCF and wireless support structure.

- D. Wind and ice. All WCFs shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.
- E. Non-conforming wireless support structures. WCFs shall be permitted to collocate upon existing non-conforming wireless support structures. Collocation of WCFs upon existing wireless support structures is encouraged even if the existing wireless support structure is non-conforming as to use within a zoning district.
- F. Signs. All WCFs shall post a sign in a readily visible location on each major equipment component identifying the name and phone number of a party to contact in the event of an emergency. The size and design of such signage shall be approved by the Borough. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- G. Inspections; reports. Inspection reports shall be submitted to the Borough by the owner of a WCF upon request to ensure structural integrity and compliance with applicable federal, state and local codes and regulations.
- H. Permit fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Borough fee schedule.
- I. Performance bond. The owner of a WCF shall obtain a performance bond in an amount sufficient to guarantee removal of the WCF. Evidence of such performance bond shall be provided to the Borough as part of a complete WCF application.
- J. Indemnification. Each person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each person that owns or operates a WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay

judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

- K. Non-commercial usage exemption. Borough residents utilizing satellite dishes, citizen and/or band radios, and antennas for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Part.
- L. Historic buildings. No tower-based WCF or non-tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic or conservation districts list maintained by the Borough. Small WCFs shall be permitted in the public rights-of-way in such districts subject to the requirements of this Article 17.
- M. Change in ownership. If ownership of a WCF is transferred to a party other than the party designated as the owner on the application for the WCF, notice detailing the change in ownership shall be provided to the Borough within thirty (30) days of such change in ownership.
- N. Abandonment; removal. In the event that use of a WCF and/or its dedicated accessory equipment is to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. A WCF and/or dedicated accessory equipment not operated for a period of twelve (12) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:
 - 1. All abandoned or unused WCFs and accessory equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Borough, unless a time extension is approved by the Borough.
 - 2. If the WCF or accessory equipment is not removed within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF regardless of the owner's or operator's intent to operate the WCF in the future.
 - 3. The Borough reserves the right to pursue all available remedies under the law to ensure removal of the WCF and restoration of the site at the expense of the owner. Any delay by the Borough in taking action shall not invalidate the Borough's right to take action.
 - 4. Where there are two or more users of a single WCF, this provision shall not become effective until all users have terminated use of the WCF for a period of twelve (12) months.
- O. Maintenance. The following maintenance requirements shall apply:
 - 1. All WCFs shall be fully automated and unattended on a daily basis and shall be visited only for maintenance, repair or replacement.

2. Such maintenance shall be performed by the owner of the WCF to ensure the upkeep of the WCF in order to promote the safety and security of the Borough's residents and in accordance with all applicable Borough, state and federal regulations.
3. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents. Maintenance logs will be provided to the Borough upon request.

P. Timing of Approval. The following table details the applicable timeframe of approval for each type of WCF application:

Type of WCF/Application	Notice of Incompleteness	Final Decision
Eligible Facilities Request	30 calendar days from receipt of initial application; 10 calendar days from receipt of supplemental application for subsequent notices.	60 total calendar days from receipt of initial application
Small WCF (Collocated)	10 business days from receipt of initial or supplemental application.	60 total calendar days from receipt of initial application.
Small WCF (New or Replacement Wireless Support Structure)	10 business days from receipt of initial or supplemental application.	90 total calendar days from receipt of initial application.
Non-Tower WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	90 total calendar days from receipt of initial application.
Tower-Based WCF	30 calendar days from receipt of application for initial notice; 10 calendar days from receipt of supplemental application for subsequent notices.	150 total calendar days from receipt of initial application.

1704 TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES OUTSIDE THE RIGHTS-OF-WAY

The following regulations shall apply to all tower-based wireless communications facilities that do not meet the definition of a small WCF.

- A. Permitted in certain zones. Tower-based WCFs are permitted outside the public rights-of-way as a conditional use in the following zoning districts:
 1. C-4 Highway Commercial District.
 2. I-1 Light Industrial District.
 3. I-2 General Industrial District.
- B. Conditional use required. Tower-based WCFs are permitted outside the public rights-of-way as a conditional use, subject to the requirements of this Section 1704.
 1. Upon approval of an application for a tower-based WCF, the WCF applicant shall mail notice thereof to the owner or owners of every property zoned residential on the

- same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility if the application will be heard as a conditional use or a variance, not less than 30 days before the hearing or install is to commence. The WCF applicant shall then provide a copy of the notice and a list of the addresses notice was delivered to the Borough Zoning Officer.
2. Prior to the Borough Council's approval of a conditional use authorizing the construction and installation of a tower-based WCF, it shall be incumbent upon the WCF applicant for such conditional use approval to prove to the reasonable satisfaction of the Borough Council that the WCF applicant cannot adequately extend or infill its communications system by the use of equipment installed on existing structures, such as utility poles or their appurtenances and other available structures. The WCF applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF applicant's service area and that no other viable, less-intrusive alternative location exists.
 3. The conditional use application shall include the name and contact information, including phone number, for both the WCF applicant and the owner of the proposed tower-based WCF.
 4. The conditional use application shall include a site plan, drawn to scale, showing property boundaries, power location, total height of the tower-based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.
 5. The conditional use application shall include aerial photographs of the area within a 500' radius of the proposed tower-based WCF and identify all existing WCFs in that area.
 6. The conditional use application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF applicant, the power in watts at which the WCF applicant transmits, and any relevant related tests conducted by the WCF applicant in determining the need for the proposed site and installation.
 7. The conditional use application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Borough Council's decision on an application for approval of tower-based WCF.
 8. Where the tower-based WCF is located on a property that is not owned by the WCF applicant, the WCF applicant shall present evidence to the Borough Council that the owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and that vehicular access will be provided to the facility.
 9. The conditional use application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.

10. The conditional use application shall demonstrate that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a one-mile radius from the point of the proposed tower, unless the WCF applicant can show to the satisfaction of the Borough that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
11. The conditional use application shall include a report by a qualified engineering expert which shows that the tower-based WCF will comply with applicable FCC regulations, including applicable standards for radio frequency emissions.
12. The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions of this Part.

C. Development regulations.

1. Sole use on a lot. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district in Article 5.
2. Combined with another use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following condition: the existing use on the property may be any permitted use in the applicable district as per Article 5, and need not be affiliated with the WCF.

D. Design regulations.

1. Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 150 feet; provided, however, that a tower-based WCF which existed prior to the approval of this part and pursuant to Article 17 of this Ordinance maybe extended beyond the height of 150 feet if not previously extended and such extension does not amount to a substantial change as per the definition of Substantial Change located in the Telecommunications Section 1702. Tower-based WCF applicants must submit documentation to the Borough justifying the total height of the structure.
2. Visual appearance and land use compatibility.
 - a) Tower-based WCFs shall employ stealth technology which may include the wireless support structure being painted a certain color as approved by Borough Council or utilizing a galvanized finish.
 - b) All tower-based WCFs and accessory equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.
 - c) The Borough Council shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; prevent a negative impact on the aesthetic

character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

3. Anti-climbing device. If deemed necessary by the Borough Council, a tower-based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.
4. Minimum setbacks. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of a lot in residential use or a residential district boundary.

E. Surrounding environs.

1. The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
2. The WCF applicant shall submit a soil report to Borough Council complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and anchors for guy wires, if used.

F. Fence/screen.

1. A security fence having a height not to exceed eight (8) feet shall completely surround any tower-based WCF located outside the public rights-of-way, as well as accessory equipment, guy wires, or any building housing accessory equipment.
2. A WCF applicant for tower-based WCF where the WCF is more than 40 feet in height, located outside of the right-of-way, shall submit a landscaping and screening design including the following. The plan shall be approved by the Zoning Officer in consultation with the Public Works Director:
 - a) The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the wireless support structure shall be preserved to the extent practicable.
 - b) Ground mounted equipment may be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by the Zoning Officer and/or Public Works Director.

G. Accessory equipment.

1. To the extent permitted by federal and state law, ground-mounted equipment associated to, or connected with, a tower-based WCF shall be screened from public view using stealth technology approved by the Zoning Officer, in consultation with the Public Works Director. In no case shall ground-mounted equipment, walls, screening or landscaping be located within 12 inches of the face of the curb, or in an area in which there are no curbs, within two feet of the edge of cartway.
2. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

- H. Additional antennas. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Borough Council with a written commitment that it will allow other service providers to collocate antennas on the tower-based WCF where technically and economically feasible. To the extent permissible under state and federal law, the owner of a tower-based WCF shall not install any additional antennas without complying with the applicable requirements of this Part.
- I. FCC license. Each person that owns or operates a tower-based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- J. Lighting. No tower-based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Borough Secretary.
- K. Storage. The storage of unused equipment, materials or supplies is prohibited on any tower-based WCF site.
- L. Repair of non-conforming tower-based WCF. Non-conforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this Section. The collocation of antennas is permitted on non-conforming structures.
- M. Insurance. Each person that owns or operates a tower-based WCF shall provide the Borough Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the tower-based WCF.
- N. Bond. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor, in an amount of \$10,000 to assure the removal of the tower-based WCF upon abandonment or cessation of use for a period of six months. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Part, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough.

1705 NON-TOWER WIRELESS COMMUNICATIONS FACILITIES OUTSIDE THE RIGHTS-OF-WAY

The following regulations shall apply to all non-tower WCFs that do not meet the definition of a small WCF:

- A. Permitted in all districts. Non-tower WCFs shall be permitted outside the public rights-of-way in all zoning districts subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough.
- B. Application procedures.
 - 1. Applications for non-tower WCFs shall be submitted to the Borough Zoning Officer.
 - 2. All applications for non-tower WCFs shall include the following information:
 - a) Upon submission of an application for any non-tower WCF, the WCF applicant shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed WCF and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed WCF if the application will be heard as a conditional use or a variance.
 - b) The name and contact information, including phone number, for both the WCF applicant and the owner of the proposed non-tower WCF.
 - c) A site plan, drawn to scale, showing property boundaries, power location, total height of the non-tower WCF, the entirety of the structure upon which the non-tower WCF will be collocated, and accessory equipment locations.
 - d) A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the non-tower WCF.
 - e) If the non-tower WCF is proposed for location on a wireless support structure that currently supports existing WCFs or other attachments, the depiction shall show the location and dimensions of all such attachments.
 - f) The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the non-tower WCF.
 - g) An aerial photograph of the proposed site showing the area within 500 feet of the non-tower WCF. The aerial photograph shall identify all structures within such radius.
 - h) Photo simulations depicting the non-tower WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the non-tower WCF.
 - i) A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed non-tower WCF and wireless support structure are structurally sound and shall not endanger public health and safety.
 - j) A report by a qualified engineering expert which shows that the non-tower WCF will comply with applicable FCC regulations, including applicable standards for radio frequency emissions.
 - k) A certificate of insurance as required by Section 1705.H.
 - l) Certification of the application's compliance with all requirements of Section 1705.
 - m) All application fees required by the Borough as detailed in the Borough fee schedule.
- C. Development regulations.

1. To the extent permitted by federal and state law, the total height of the wireless support structure and non-tower WCF shall not exceed a maximum height of 150 feet. Non-tower WCFs which are mounted to a building or similar structure may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use permit or variance.
2. In accordance with industry standards, all non-tower WCF applicants must submit documentation to the Borough showing that the proposed non-tower WCF is designed to be the minimum height technically feasible and justifying the total height of the non-tower WCF.
3. If the WCF applicant proposes to locate the accessory equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
4. A security fence with a minimum height of six (6) feet shall surround any separate communications equipment building if such communications equipment building is located at ground level. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

D. Design.

1. Non-tower WCF shall employ stealth technology and be treated to match the wireless support structure in order to minimize aesthetic impact. The application of the stealth technology utilized by the WCF applicant shall be subject to the approval of the Borough.
2. Non-tower WCFs shall, to the extent technically feasible, incorporate architectural features, materials and colors which blend with surrounding buildings, structures, terrain or landscape.
3. All non-tower WCF applicants must submit documentation to the Borough justifying the total height of the non-tower WCF structure. Such documentation shall be analyzed in the context of such justification on an individual basis.

E. Prohibited on certain structures. No non-tower WCF shall be located on single- family detached residences, single-family attached residences, semi-detached residences, duplexes, or any residential accessory structure.

F. Third party wireless support structures. Where the non-tower WCF is proposed for collocation on a wireless support structure that is not owned by the WCF applicant, the WCF applicant shall present documentation to the Zoning Officer that the owner of the wireless support structure has authorized collocation of the proposed non-tower WCF.

G. Retention of experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF at its sole discretion and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these

activities. At the sole discretion of the Borough Zoning Officer, the establishment of a professional services agreement may be required.

- H. Insurance. Each person that owns or operates a Non-Tower WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Non-Tower WCF.
- I. Substantial Change. Any Substantial Change to a WCF shall require notice to be provided to the Borough Zoning Officer, and possible supplemental permit approval as determined by the Borough Zoning Officer in accordance with the Borough Code.

1706 SMALL WIRELESS COMMUNICATIONS FACILITIES

The following regulations shall apply to all tower-based wireless communications facilities that do not meet the definition of a small WCF.

- A. Application procedures.
 - 1. Small WCFs shall be a permitted use in the public rights-of-way in all Borough zoning districts, subject to the requirements of this Section 1706 and generally applicable permitting as required by the Borough Code.
 - 2. Applications for small WCFs shall be submitted to the Borough Zoning Officer.
- B. Applications for small WCFs shall include the following:
 - 1. The name and contact information, including phone number, for both the WCF applicant and the owner of the proposed small WCF.
 - 2. A cover letter detailing the location of the proposed site, all equipment being proposed as part of the small WCF, and a certification that the WCF applicant has included all information required by the Borough Code, signed by a representative of the WCF applicant.
 - 3. A before-and-after depiction of the proposed site, such as a construction drawing, showing all equipment being proposed as part of the small WCF.
 - a) If the small WCF is proposed for location on an existing or replacement wireless support structure that currently supports existing attachments, the depiction shall show the location and dimensions of all such attachments.
 - b) If installation of a new or replacement wireless support structure is being proposed, the depiction shall include the color, dimensions, material and type of wireless support structure proposed.
 - 4. The manufacturer and model, proposed location, and physical dimensions (including volume) of each piece of equipment proposed as part of the Small WCF.
 - 5. An aerial photograph of the proposed site showing the area within 500 feet of the small WCF. The aerial photograph shall identify all structures within such radius.
 - 6. Photo simulations depicting the small WCF from at least three locations near the proposed site. The photo simulations should reflect the proposed design and location of all equipment associated with the small WCF.

7. A written certification by a structural engineer licensed in the Commonwealth of Pennsylvania confirming that the proposed small WCF and wireless support structure are structurally sound and shall not endanger public health and safety.
 8. A report by a qualified engineering expert which shows that the small WCF will comply with applicable FCC regulations, including applicable standards for radio frequency emissions.
 9. A certificate of insurance as required by Section 1706.N.
 10. Certification of the application's compliance with all requirements of Section 1706.
 11. All application fees required by the Borough as detailed in the Borough fee schedule.
- C. Resubmission following denial.
1. If the Borough denies an application for a small WCF, the Borough shall provide the WCF applicant with written documentation of the basis for denial, including the specific provisions of the Borough Code on which the denial was based, within five (5) business days of the denial.
 2. The WCF applicant may cure the deficiencies identified by the Borough and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Borough shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.
- D. Consolidated applications. A single WCF applicant may not submit more than one consolidated or 20 single applications for collocated small WCFs in a 30-day period. If the Borough receives more than one consolidated application or 20 single applications within a 45-day period, the applicable timeframe under Section 1703.P. shall be extended by 15 days.
- E. Location and development standards.
1. Small WCFs in the public ROW requiring the installation of a new wireless support structure shall not be located in front of any building entrance or exit.
 2. All small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and all Borough Code requirements applicable to streets and sidewalks.
- F. Time, place and manner. Once approved, the Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- G. Attachment to municipal structures. The Borough shall allow the collocation of small WCFs to structures owned by the Borough in accordance with the hierarchy detailed in this Section. If the WCF applicant is proposing the collocation of a small WCF on a lower priority structure, it shall be a condition to the approval of the application that the WCF applicant provide evidence that collocation on a higher priority structure or wireless support structure owned by a third-party is not technically feasible. In order from most preferable to least preferable, the Borough's collocation preferences are as follows:

1. Power poles;
 2. Traffic signage poles without traffic signals;
 3. Traffic signal poles;
 4. Decorative light poles.
- H. Obstruction. Small WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the Borough.
- I. Graffiti. Any graffiti on a small WCF, including the wireless support structure and any accessory equipment, shall be removed at the sole expense of the owner within ten (10) calendar days of notification by the Borough.
- J. Obsolete equipment. As part of the construction, modification or replacement of a small WCF, the WCF applicant shall remove any obsolete or abandoned equipment from the wireless support structure.
- K. Relocation or removal of facilities. Within ninety (90) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
1. The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
 2. The operations of the Borough or other governmental entity in the right-of-way;
 3. Vacation of a street or road or the release of a utility easement; or
 4. An emergency that constitutes a clear and immediate danger to the health, welfare, or safety of the public as determined by the Borough.
- L. Time limit for completion of construction. The proposed collocation, the modification or replacement of a wireless support structure or the installation of a new wireless support structure with small WCF attached for which a permit is granted under this Section shall be completed within one year of the permit issuance date unless the Borough and the WCF applicant agree in writing to extend the period.
- M. Reimbursement for ROW Use. In addition to permit fees as described in this Section, every small WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each small WCF shall pay an annual fee to the Borough to

compensate the Borough for the Borough's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

- N. Insurance. Each person that owns or operates a small WCF shall annually provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the small WCF.

ATTACHMENT 1 – OFFICIAL ZONING MAP

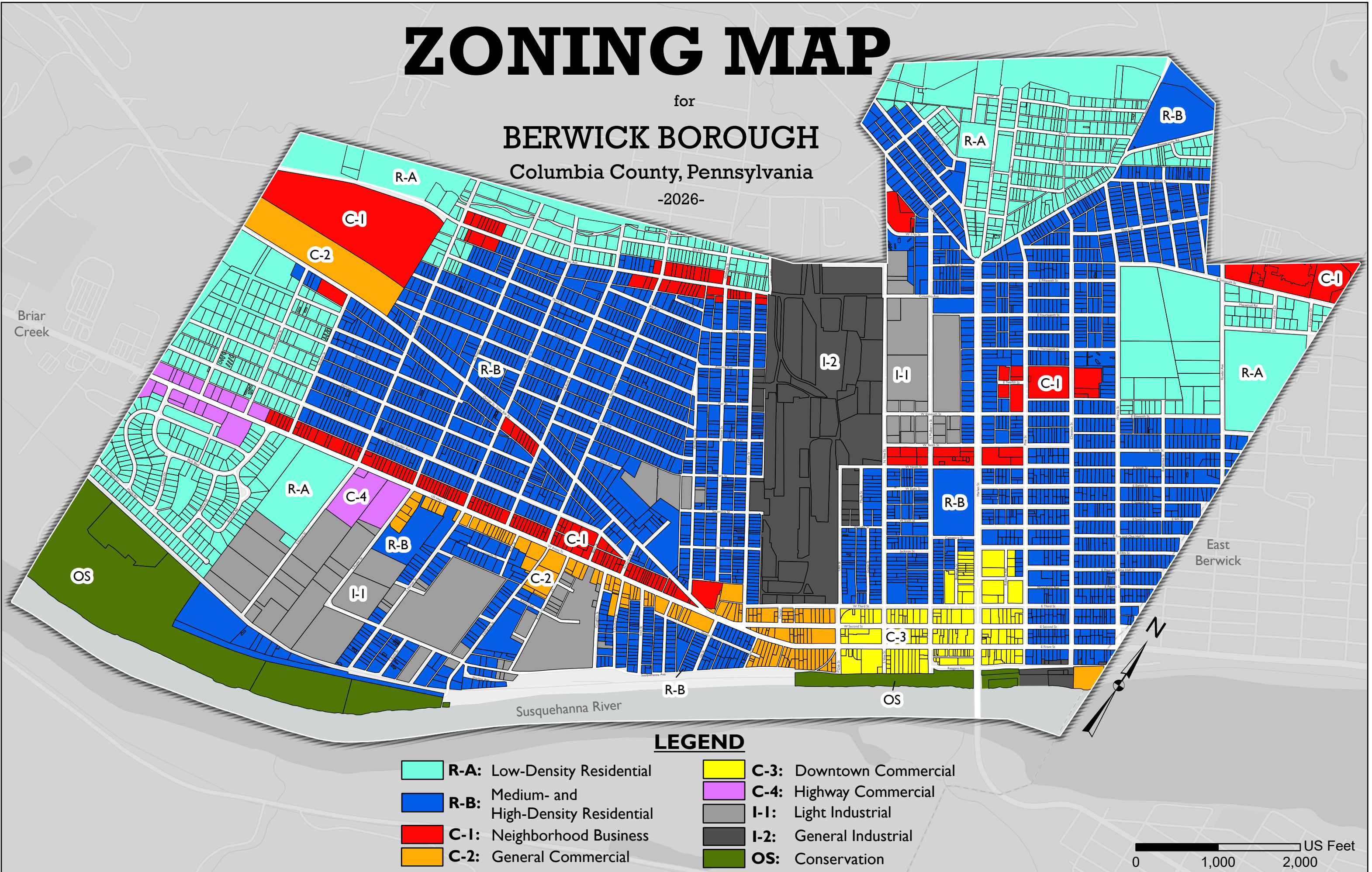
ZONING MAP

for

BERWICK BOROUGH

Columbia County, Pennsylvania

-2026-



LEGEND

	R-A: Low-Density Residential		C-3: Downtown Commercial
	R-B: Medium- and High-Density Residential		C-4: Highway Commercial
	C-1: Neighborhood Business		I-1: Light Industrial
	C-2: General Commercial		I-2: General Industrial
			OS: Conservation

ATTACHMENT 2 – LAND USE TABLE

ATTACHMENT 2

LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Residential	Adaptive Reuse	SE	SE	SE	SE	SE	SE			
Commercial	Adult Care Center		SE	P	P	P	P	P	P	
Accessory	Adult Care Home	P	P	P	P					
Commercial	Adult Use						C			
Industrial	Advanced Fabrication (Advanced Manufacturing)								P	
Industrial	Aggregate / Fill Storage Yard							P	P	
Industrial	Agricultural Products Processing								P	
Conservation	Agricultural Use									P
Industrial	Airport							P		
Commercial	Amusement Arcade / Esports / Interactive Gaming Center			SE	SE	SE	P			
Commercial	Amusement Park						SE			
Commercial	Animal Hospital / Clinic			SE	SE		P			
Commercial	Animal Kennel						P			
Public / Semi-P / Instit	Animal Shelter						P			P
Industrial	Any use that utilizes and/or stores any "Hazardous Substances"							C	C	
Industrial	Asphalt / Batch / Concrete Plant								SE	
Commercial	Automotive / Boat Sales				P		P			
Industrial	Automotive Repair						SE	P		
Industrial	Automotive Wrecking Yard							C	C	
Industrial	Autonomous Logistics Yard							P	P	
Commercial	Bakery		P	P	P	P	P			
Commercial	Bank, which may include drive-through service		P	P	P	P	P			
Commercial	Banquet Hall / Event Center			P	P	P	P			
Industrial	Battery Energy Storage Systems (BESS)							SE	SE	

P=permitted by right

SE=permitted by Special Exception

C=permitted by Conditional Use

ATTACHMENT 2

LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Industrial	Battery Recycling and Materials Recovery Facility								SE	
Commercial	Bed and Breakfast		P	P	P					
Commercial	Betting / Gambling Use						P			
Commercial	Big Box Retail Store						SE			
Industrial	Biomanufacturing							SE	SE	
Residential	Boarding / Rooming House		SE	SE						
Industrial	Branch Telecommunications Exchange							P	P	
Commercial	Brewery / Distillery / Winery / Cidery		SE	P	P	P	P	P		
Industrial	Brewery / Distillery / Winery / Cidery (without tasting room)						P	P		
Industrial	Bulk Fuel Storage Facility							C	C	
Commercial	Bus / Limousine / Taxi Terminal						P	P	P	
Accessory	Bus Shelter		P	P	P	P	P	P	P	
Commercial	Bus Station					P	P			
Commercial	Business Incubator / Innovation		SE	P	P	P	P	P		
Commercial	Campground / Recreational Vehicle Park									P
Commercial	Car Wash / Detailing				P		P			
Public / Semi-P / Instit	Cemetery / Burial Grounds	SE	SE							
Commercial	Child Care Center		SE	P	P	P	P	P	P	
Accessory	Child Care Home, Family	P	P	P	P					
Commercial	Child Care Home, Group		SE	P	P	P	P			
Commercial	Civic / Convention Center				SE	SE	SE			
Commercial	Clinic, Medical / Dental		P	P	P	P	P			
Public / Semi-P / Instit	Club / Lodge, Private		SE	P	P	P	P			
Public / Semi-P / Instit	Community Center		SE	P	SE	SE	SE			
Public / Semi-P / Instit	Community Garden	P	P	P						P
Commercial	Community Kitchen / Shared Use Kitchen / Food Hub		P	P	P	P	P	P		

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LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Conservation	Conservation Areas									P
Public / Semi-P / Instit	Continuing Care Facility, Intermediate Care Facility, Personal Care Facility, Skilled Nursing Facility, Hospice or similar Health Care Facility		SE	SE	SE		P			
Industrial	Contractor Yard							P	P	
Commercial	Convenience Store, with Gas Sales				P	P	P			
Commercial	Convenience Store, without Gas Sales		P	P	P	P	P			
Residential	Conversion, Residential (if otherwise permitted)	P	P	P	P	P				
Public / Semi-P / Instit	Correctional Institution							SE		
Commercial	Coworking / Shared Office Space		P	P	P	P	P			
Commercial	Cultural Center		P	P	P	P	P			
Commercial	Dance / Gymnastic / Martial Arts / Yoga Studio		P	P	P	P	P			
Industrial	Data Center (Major)								SE	
Industrial	Data Center (Minor)							SE	SE	
Industrial	Data Center Campus								SE	
Industrial	Distribution Center / Truck Terminal							SE	SE	
Public / Semi-P / Instit	Domestic Violence Shelter			SE						
Residential	Dormitory / Fraternity / Sorority		SE	SE	SE	SE				
Commercial	Drive-in for Uses Allowed in District				P		P			
Industrial	Drone Logistics Facility							P	P	
Public / Semi-P / Instit	Drug / Alcohol Treatment Center						C			
Residential	Dwelling - Accessory Dwelling Unit	P	P	P	P	P				
Residential	Dwelling - Cottage Housing Development		P	P						
Residential	Dwelling - Multi-Family		P	P				SE		
Residential	Dwelling - Multiple Family (equals or exceeds three (3) stories in height)		C	C				C		

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LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Residential	Dwelling - Over or attached to a business	SE	P	P	P	P				
Residential	Dwelling - Single-Family Detached	P	P	P						
Residential	Dwelling - Townhouse		P	P				P		
Residential	Dwelling - Two-Family	P	P	P				P		
Accessory	Electrical Vehicle Charging Station (EVCS)	P	P	P	P	P	P	P	P	P
Industrial	Energy Generating Facility (Power Plant)								SE	
Commercial	Entertainment (Outdoor)				SE		P			
Commercial	Entertainment Facility (excluding Adult Facility)		SE	SE	P	P	P			
Commercial	Farmers Market / Flea Market / Market Hall / Food Hall (Indoor)		SE	SE	P	P	P			
Commercial	Farmers Market / Flea Market / Seasonal (Outdoor)				P	P	P			
Industrial	Feed and Grain Sales and Storage							P	P	
Commercial	Festival / Fairgrounds / Outdoor Event Venue						P			SE
Industrial	Fireworks Manufacturing / Storage Facility								SE	
Commercial	Flex Space Building		P	P	P	P	P	P		
Industrial	Food Processing Establishment							P	P	
ALL	Forestry	P	P	P	P	P	P	P	P	P
Industrial	Freight / Parcel / Cold Storage							P	P	
Accessory	Fuel Burning Appliance (Outdoor)	P	P	P	P	P	P	P	P	
Commercial	Funeral Home / Mortuary		SE	P	P		P			
Accessory	Garage, Private Customer and Employee			P	P	P	P	P		
Accessory	Garage, Private Residential	P	P	P						
Public / Semi-P / Instit	Garage, Public Parking				SE	SE				
Commercial	Gasoline Service Station				P		P	P		
Residential	Group Home	P	P	P						
Public / Semi-P / Instit	Halfway House		SE				SE			

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ATTACHMENT 2

LAND USE TABLE

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Commercial	Health Club / Fitness Center			P	P	P	P			
Commercial	Health Club / Fitness Center, up to 1,200 square feet		P							
Residential	Home Occupation	SE	P							
Public / Semi-P / Instit	Homeless Shelter				SE		SE	SE		
Commercial	Hookah Bar / Smoking Lounge				P		P			
Public / Semi-P / Instit	Hospital	C	C	C	C		C	C		
Commercial	Hotel / Motel				SE	P	P	SE		
Industrial	Indoor Agriculture / Agrivoltaics / Biodigesters							P	P	
Industrial	Industrial Services							P	P	
Industrial	Industry, Heavy (not otherwise listed)								C	
Industrial	Industry, Light (not otherwise listed)							P	P	
Public / Semi-P / Instit	Institutional Use						SE			
Industrial	Junkyard (see also Automobile Wrecking Yard)							C	C	
Commercial	Kennel						P	P		
Commercial	Limited accessory retail / personal services (< 25% of gross floor area)							P		
Commercial	Liquor Store			P	P	P	P			
Residential	Live-Work Unit	SE	P							
Commercial	Maker Space / Artisan Workshop		P	P	P	P	P	P		
Residential	Manufactured Home Park		C							
Commercial	Medical Marijuana Dispensary				P	P	P			
Industrial	Medical Marijuana Growing / Processing Facility								P	
Industrial	Medical Waste Processing								P	
Industrial	Microgrid / Distribution Hub								P	
Industrial	Mineral Extraction / Excavation							C	C	

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LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Industrial	Mineral Processing								P	
Commercial	Night Club					SE	P			
Accessory	No-Impact Home-Based Business	P	P	P						
Commercial	Nursery / Greenhouse				P		P			P
Commercial	Office, Business / Professional			P	P	P	P			
Commercial	Office, Business / Professional, up to 1,200 square feet		P							
Industrial	Operations / Storage (Outdoor)							SE	P	P
Accessory	Outdoor Cafe			SE	P	P				
Commercial	Parking Lot / Parking Garage				SE	SE	SE			
Commercial	Pawn Shop						P			
Commercial	Personal Services		P	P	P	P	P			
Public / Semi-P / Instit	Place of Worship	SE	SE	P	P	P	P			
Public / Semi-P / Instit	Public Use	SE	SE	P	P	SE	P	P	P	P
Public / Semi-P / Instit	Public Use, limited to municipal building, fire hall and library	SE	SE	SE	SE					
Industrial	Public Utility Facility							P	P	P
Public / Semi-P / Instit	Public Utility Facility (excluding storage yards)	P	P	P	P	P	P			
Commercial	Publishing Plant							P	P	
Commercial	Recreation Facility (Outdoor)									
Industrial	Recycling / Composting Facility							SE	P	
Industrial	Recycling Collection Point							SE	P	
Commercial	Rehabilitation Center				SE		P			
Industrial	Research and Testing Facility							SE	SE	
Commercial	Restaurant or Tavern (excluding live entertainment)		P	P	P	P	P			
Commercial	Restaurant or Tavern (with live entertainment)		SE	SE	SE	SE	SE			

P=permitted by right

SE=permitted by Special Exception

C=permitted by Conditional Use

ATTACHMENT 2

LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Commercial	Restaurant with Drive-Through				SE	SE	P			
Commercial	Restaurant, Take Out		P	P	P	P	P			
Commercial	Retail (Neighborhood), up to 1,200 square feet		P	P						
Commercial	Retail, up to 3,000 square feet			SE	P	P				
Commercial	Retail, with Drive-Through				P		P			
Commercial	Retail, without size restrictions						P			
Residential	Retirement Housing Complex		C	C	C			C		
Industrial	Sawmill / Firewood / Forestry Processing								P	
Public / Semi-P / Instit	School, College / University		C	C	C	C				
Public / Semi-P / Instit	School, Elementary / Secondary	C	C	C	C					
Public / Semi-P / Instit	School, Trade / Art / Hobby		C	C	C	C				
Commercial	Self-Service Storage Facility						P	P		
Industrial	Sewage Treatment Plant								C	
Commercial	Shooting / Rifle / Archery Range (Indoor)						P			
Commercial	Shooting / Rifle / Archery Range (Outdoor)									SE
Commercial	Shopping Center				C		C	C		
Commercial	Short-Term Rental	P	P	P	P	P				
Industrial	Slaughterhouse								SE	
Public / Semi-P / Instit	Social Service Agency		P	P	P	P	P			
Accessory	Solar Energy System, Accessory (ASES)	P	P	P	P	P	P	P	P	
Industrial	Solar Energy System, Principal (PSES)								SE	
Industrial	Solid Waste Facility								C	
Industrial	Storage of Excavated Materials								P	
Industrial	Storage of Hazardous, Flammable, and Explosive Materials								C	
Accessory	Storage Shed, Residential	P	P	P						
Public / Semi-P / Instit	Supportive Housing		SE				SE			
Accessory	Swimming Pool, Private Noncommercial	P	P	P						

P=permitted by right

SE=permitted by Special Exception

C=permitted by Conditional Use

ATTACHMENT 2

LAND USE TABLE

CATEGORY	LAND USE	R-A Low-Density Residential	R-B Medium- and High-Density Residential	C-1 Neighborhood Business	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Commercial	Tattoo Parlor / Body-Piercing Studio		P	P	P	P	P			
Public / Semi-P / Instit	Temporary Shelter		SE				SE			
Commercial	Theatre, Drive-In						P			
Commercial	Theatre, Movie / Live (Indoor)				P	P	P			
Commercial	Tobacco Store / Smoke Shop / Vape Shop						P			
Public / Semi-P / Instit	Transitional Housing		SE				SE		SE	
Industrial	Warehouse							P	P	
Industrial	Welding Shop							SE	SE	
Commercial	Wholesale Business						P	P		
Industrial	Wind Energy Facility, Commercial								SE	
Industrial	Windmill, Noncommercial							P	P	
Industrial	Wireless Commercial Communication Site						C	C	C	
Accessory	Yard Sale	P	P	P						

P=permitted by right

SE=permitted by Special Exception

C=permitted by Conditional Use

ATTACHMENT 3 – DIMENSIONAL REQUIREMENTS TABLE

ATTACHMENT 3
DIMENSIONAL REGULATIONS TABLE

	R-A (one acre)*	R-A Low-Density Residential**	R-B (one acre)*	R-B Medium- and High Density Residential (single-family & two family dwellings)**	R-B Medium- and High -Density Residential (multifamily dwellings)	R-B Medium- and High-Density Residential (nonresidential structures)	C-1 Neighborhood Business (single family & two-family dwellings)	C-1 Neighborhood Business (multifamily dwellings)	C-1 Neighborhood Business (nonresidential structures)	C-2 General Commercial	C-3 Downtown Commercial	C-4 Highway Commercial	I-1 Light Industrial	I-2 General Industrial	OS Conservation
Minimum Lot Area	One acre	5,500 square feet	One acre	4,000 square feet	1,700 square feet per dwelling unit	10,000 square feet unless specified otherwise in Article 8	4,000 square feet	1,700 square feet	45 feet	None	None	20,000 square feet	20,000 square feet	40,000 square feet	5 acres
Minimum Lot Width	150 feet	60 feet	150 feet	40 feet	40 feet	45 feet	40 feet	45 feet	45 feet	50 feet	25 feet	100 feet	100 feet	150 feet	350 feet
Minimum Front Yard Setback	50 feet	20 feet	25 feet	6 feet	10 feet	10 feet	6 feet	10 feet	10 feet	20 feet	None	30 feet	30 feet	30 feet	50 feet
Minimum Rear Yard Setback	50 feet	20 feet	50 feet	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet	None (see exclusion 5- 18)	30 feet	30 feet	30 feet	75 feet
Minimum Side Yard Setback	20 feet	20 feet total (min 8 feet on one side)	20 feet	10 feet total (min 3 feet on one side)	10 feet total (min 4 feet on one side)	8 feet	10 feet total (min 3 feet on one side)	10 feet total (min 4 feet on one side)	8 feet	5 feet	None (see exclusion 5- 19)	20 feet	20 feet	20 feet	50 feet
Maximum Building Coverage	50%	50%	50%	50%	45%	40%	50%	45%	40%	50%	100%	50%	50%	50%	10%
Maximum Impervious Coverage	60%	60%	60%	60%	60%	60%	75%	75%	75%	75%	100%	80%	80%	90%	30%
Maximum Building Height	2 1/2 stories or 35 feet	2 1/2 stories or 35 feet	2 1/2 stories or 35 feet excluding multifamily dwelling buildings. Multifamily dwelling buildings four	2 1/2 stories or 35 feet	4 stories or 45 feet	2 1/2 stories or 35 feet	2 1/2 stories or 35 feet	4 stories or 45 feet	2 1/2 stories or 35 feet	2 1/2 stories or 35 feet	5 stories or 75 feet	3 stories or 45 feet	3 stories or 45 feet	3 stories or 45 feet	2 1/2 stories or 35 feet

*When serviced by an on-lot sewage disposal and/or an on-lot water supply

**When serviced by a centralized sewage disposal system and a centralized water supply system

ATTACHMENT 4 – OFF-STREET PARKING REQUIREMENTS TABLE

ATTACHMENT 4

OFF-STREET PARKING REGULATIONS TABLE

LAND USE	NUMBER OF REQUIRED OFF-STREET PARKING SPACES
Animal Hospital / Clinic	Five (5) spaces for every veterinarian.
Animal Kennel	One (1) space for each ten (10) animals kept or housed plus one (1) space for each employee.
Automotive Repairs	One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
Automotive Sales	One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet of open sales or display area.
Boarding / Rooming House	One (1) space for each guestroom.
Care Facility (Adult / Child)	One (1) space for every 12 occupants plus stacking spaces for loading/unloading plus one (1) parking space per employee.
Clinic, Medical / Dental	Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner, plus one for each staff member.
Continuing Care Facility, Intermediate Care Facility, Personal Care Facility, Skilled Nursing Facility, Hospice or similar Health Care Facility	One (1) space for each staff member, plus one (1) space for every four persons residing therein based upon the maximum number persons permitted under its State license.
Entertainment Facility (Indoor)	One (1) space for every two hundred (200) square feet of gross floor area.
Funeral Home / Mortuary	Twenty (20) spaces for each viewing parlor.
Gasoline Service Station	Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
Group Home	One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
Hospital	One (1) space for every four (4) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space for each employee on the maximum working shift.
Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities	One (1) space for every five hundred (500) square feet of gross floor area; plus one (1) space for each employee on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.
Motel / Hotel	One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
Club / Lodge, Private; Community Center	One (1) space for every three hundred (300) square feet of gross floor area.
Office, Business / Professional	One (1) space for every one thousand (1,000) square feet of gross floor area plus one (1) space for each employee on the highest shift.
Recreational Facility (Outdoor)	In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
Personal Services	Such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area.
Place of Worship	One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.
Places of Public or Private Assembly, including Auditoriums or Meeting Halls	One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
Public Use	One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.
Public Utility Facility	Two spaces per facility; if the facility includes maintenance and/or storage yards than the required number of spaces shall be one (1) space for each employee assigned to work at such facility.
Residential Use	One (1) spaces for each dwelling unit.

ATTACHMENT 4**OFF-STREET PARKING REGULATIONS TABLE**

LAND USE	NUMBER OF REQUIRED OFF-STREET PARKING SPACES
Restaurant (Fast Food)	One (1) space for every eighty (80) square of service or dining area. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-through window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
Restaurant or Tavern	One (1) space for every four (4) seats, plus two (2) spaces for every three (3) employees based upon the maximum working shift.
Retail	One (1) space for every three hundred (300) square feet of gross floor area.
Retail (Neighborhood)	One (1) space for every five hundred (500) square feet of gross floor area.
School	One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
Self-Service Storage Facility	One (1) space for every fifty (50) stalls or lockers available for rent, plus one (1) for each employee on the maximum working shift.