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Article I: General Provisions

Section 101: Title

A. The official title of this Ordinance is "New Cumberland Borough Zoning Ordinance" and includes the official Zoning Map of the Borough.

Section 102: Authority

A. This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, "The Pennsylvania Municipalities Planning Code," July 31, 1968, as reenacted and amended, hereafter known as the "MPC."

Section 103: Interpretation

A. In the event of conflicts between the provisions of this Ordinance and any other Ordinance or regulation, the more restrictive provisions shall apply.

B. In the interpretation and application, the provisions of this Ordinance shall be considered the requirements adopted for promotion of the health, safety, and general welfare of the public.

C. In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Borough Council, to be in favor of the landowner and/or developer and against any implied extension of the restriction.

D. Should any Section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof, and the Articles or Sections remaining shall remain in effect as though the Article or Section declared unconstitutional has never been a part thereof.

Section 104: Purpose

A. This Ordinance is enacted for the following purposes:

1. To promote, protect, and facilitate one (1) or more of the following: The public health, safety, morals, general welfare, coordinated and practical community development; open space preservation; proper density of population; natural and historic features; natural resources; emergency preparedness; disaster evacuation; the provision of adequate light and air; police protection; protection of existing and continuation of existing airport flight paths and airport environments; vehicle parking and loading spaces; transportation; water; sewage; schools; public grounds; and other public requirements.

2. To prevent one (1) 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; and panic or other dangers.

3. This Ordinance is made in accordance with an overall program, and with consideration for the character of the Borough, its various parts, and the suitability of the various parts for particular uses and structures.

Section 105: Community Development Objectives

A. To promote and to foster the community development goals and objectives contained in the Borough of New Cumberland Comprehensive Plan and listed below:

1. General Community Land Use.

    a. Maintain, protect, and enhance the unique small-town character of the Borough as a desirable place to live and do business.

    b. Provide a pattern of compatible land uses which is responsive to the needs and desires of the Borough's residents, and to the limitations and potentialities of both the natural and man-made environments.

2. Residential Land Use.

    a. Provide for a healthy, safe, affordable, and attractive variety of housing opportunities to accommodate the diverse needs of the changing residential population.

    b. Allow for a variety of housing opportunities at appropriate densities. Ensure that neighborhoods are visually appealing and functionally coordinated with each other and with land uses in and around the Borough.

3. Commercial Land Use.

    a. Continue to provide for sufficient, but not excessive, commercial land uses in the Borough's central business district and transition areas within the Mixed-Use District, to facilitate a variety of retail and service opportunities for Borough residents.

    b. Standards for commercial development activities in the Mixed-Use District should result in well situated and well-designed commercial developments, with primary emphasis on safety, convenience, and attractiveness.

4. Industrial Land Use.

    a. Provide for light industrial development that is attractive and compatible with surrounding land uses, to stimulate employment opportunities for present and future residents of the Borough and expand the tax base for the Borough and the School District.

    b. Provide for only as much industrial use as the Borough can afford to service with adequate land area, infrastructure, roadways for truck traffic, public sewage needs, and public water demands.

5. Public and Semi-Public Land Use.

    a. Continue to provide and maintain open space and recreation facilities for all age groups at locations reasonably accessible to all residents of the Borough.

    b. The Borough should continue to maintain and upgrade its recreation areas and facilities.

6. Environmental Limitation Area.

    a. Remain conscious of environmental features that exist in the Borough (floodplains, wetlands, steep slopes, wooded areas, etc.) and limit their disturbance as much as possible, to maintain their natural state.

    b. Require special environmental design standards or considerations at or near environmentally sensitive features and areas.

Section 106: Compliance

A. No building or structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure or land be used, or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

B. Unless otherwise specified herein, all lawful uses existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this Ordinance regulating Non-conforming Uses, Structures, Lots, and Signs.

Section 107: Conflict with Other Ordinances

A. It is not intended by this Ordinance to repeal, abrogate, annul, or interfere with any existing ordinances or resolutions, or with any rule, regulation or permit adopted or issued there under, except as provided, and only to the extent permitted, by Section 508(4) of the MPC. Where this Ordinance imposes greater restrictions upon the use or development of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than the provisions of such in other ordinance, resolution, rule, regulation, or permit, then the provisions of this Ordinance and any other Borough regulations, the regulations which impose the greater restrictions shall apply.

Article II: Definitions

Section 201: Word Usage

A. For the purposes of this Ordinance, the following rules of usage and interpretation shall apply, unless the context indicates otherwise. In the interpretation of this Ordinance, the provisions and rules of this Ordinance shall be observed and applied, except when the context clearly requires otherwise.

1. Words in the present tense include the future.
2. Words in the singular include the plural, and the plural the singular.
3. The word "shall" is intended to be mandatory.
4. The word "lot" shall include the word "plot" or "parcel."
5. The word "person" includes a firm, company, corporation, partnership, trust, organization, or association, as well as an individual.
6. A building or structure includes any part thereof.
7. The word "and" indicates that all connected items, conditions, provisions, or events shall apply.
8. The word "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
9. The words "either" and "or" indicate that the connected items, conditions, provisions, or events may apply singly but not in any combination.
10. The word "Borough" means the Borough of New Cumberland and New Cumberland Borough, Pennsylvania.
11. The word "County" means the County of Cumberland, Pennsylvania.
12. Any use of the gender specific words (his, hers, him, her) shall imply both genders.
13. In case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, or table, the text shall control.
14. When a word or phrase is not specifically defined in this Ordinance, or referenced in another Ordinance, then the common meaning of the word or phrase, or the definition contained in Webster's Dictionary, most current version, shall apply.

Section 202: General Definitions

When used in this Ordinance, the following words, terms, and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise.

ACCESS DRIVE OR ACCESS DRIVEWAY – A public or private thoroughfare that affords a means of access to an abutting property, parking area, or street and that has a width in

accordance with the Uniform Construction Code (UCC) and Borough SALDO, but in no case shall be less than twenty-two (22) feet in width. An access drive or access driveway shall not be considered a Driveway.

ACCESSORY DWELLING UNIT – A separate and accessory living space that is attached or detached to the primary dwelling. Attached accessory dwelling units typically include living, sleeping, kitchen, and bathroom facilities that are accessed from a lockable entrance door.

ACCESSORY EQUIPMENT or WIRELESS ACCESSORY EQUIPMENT

Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.

ACCESSORY STRUCTURE – A structure, which is on the same lot with, but detached from, the principal building or structure and which is customarily incidental and subordinate to the principal structure or principal use of the land, including but not limited to private garages, storage sheds, decks, patios, fences, pools, and the like.

ACCESSORY USE – A use customarily incidental and subordinate to the principal use of the land located on the same lot as the principal use.

ADJACENT PROPERTY – Property that is contiguous with the lot line of the subject property.

ADJACENT STRUCTURES

For Small Wireless Communications Facilities, any similarly situated infrastructure within a 250 (two hundred and fifty) foot radius that is of the same design, construction, or use as the proposed structure. Adjacent Structures may include, but are not limited to, utility poles and streetlight poles. The height of an Adjacent Structure is the vertical distance measured from the ground level to the highest point on a structure, not including antennae mounted on the tower and any other appurtenances.

AIRPORT – Any area of land or water, whether of public or private ownership, designed and set aside for the landing and taking off of aircraft including all contiguous property that is held or used for airport purposes. This classification includes airport maintenance facilities and airport terminals.

AIRPORT ELEVATION – The highest point of an airport's usable landing area measured in feet above sea level.

AIRPORT HAZARD – Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or as otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

AIRPORT HAZARD AREA – Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

AISLE – The portion of the parking lot devoted to providing immediate access to the parking stalls. The recommended aisle width is dependent on the parking angle.

ALLEY – A passage of way of no more than 30 feet open to public or private travel which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

ALTERATIONS – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one (1) location to another, or any change in use from that of one (1) Zoning District classification to another. Also, a change in a building, electrical, gas, mechanical, or plumbing system that involves the extension, addition, or change to the arrangement or type of purpose of the original installation that requires a permit.

AMBIENT NOISE LEVEL – The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location without extreme atmospheric conditions such as wind greater than three (3) meters per second or precipitation and then adjusting the noise level to eliminate any noise associated with existing developments or facilities.

AMPHITHEATER – An oval or round structure having tiers of seats rising gradually outward from a central open space or arena. An amphitheater is provided for as a principal or accessory use.

AMUSEMENT ARCADE – An amusement arcade is provided for as principal or accessory use. If an accessory use, any establishment where two (2) or fewer amusement devices are located. If a principal use, any establishment where three (3) or more amusement devices are located.

AMUSEMENT DEVICE – Any mechanical, electrical, or electromechanical device, machine or apparatus used for the playing of games and amusements, which devices or apparatus are commonly known as "pinball machines," "video games," and "jukeboxes," or upon which games are played, or any device on which music is played after the insertion therein of a coin or other disc, slug, or token, or for which fees are paid to an attendant.

AMUSEMENT PARK – An establishment developed primarily for entertainment purposes and offering rides and exhibitions for a fee.

ANIMAL DAY CARE – A facility that cares for domestic animals for less than twelve (12) consecutive hours in the absence of the pet's owner or a facility that provides training for domestic animals with or without the facility owner receiving compensation for such services. Animal day cares do not include medical or surgical treatment or overnight boarding facilities.

ANIMAL GROOMING FACILITY – A retail establishment that provides bathing, trimming, and grooming services for small domestic animals on a commercial basis. An animal grooming facility does not include medical or surgical treatment or overnight boarding facilities.

ANIMAL HOSPITAL AND VETERINARIAN SERVICES – An establishment where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use or temporary boarding during treatment. Animal hospitals and veterinarians do not include kennel services.

ANIMAL SHELTER – A structure used to house domesticated animals, but not for commercial gain.

ANSI – The American National Standards Institute.

ANTENNA or ANTENNAE
Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An Antenna shall not include Tower-Based Wireless Communications Facilities defined herein. An Antenna shall not include private residence-mounted satellite dishes or television antennae or amateur radio equipment including, without limitation, ham or citizen band radio antennae.

APARTMENT – A multi-family dwelling. See "Dwelling Types" in this Section.

APARTMENT BUILDING – A structure consisting of three (3) or more dwelling units.

APPLICANT – A landowner or developer who has filed an application for development, permit, or approval pursuant to this Ordinance, including his heirs, successors, and assigns.

APPLICATION FOR DEVELOPMENT – Every application, whether preliminary, tentative, or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a development plan.

APPURTENANCES – Exterior architectural features that are visible, functional, or ornamental objects attached to a structure or building.

AQUARIUM/ZOO – An establishment that maintains a collection of wild animals, typically in a park, garden, or a transparent tank of water for display to the public.

ARCHITECT – An architect registered by the Commonwealth of Pennsylvania. See "Registered Professional."

ART GALLERY – A structure, or part thereof, devoted to the exhibition of visual works of fine art. Art galleries generally include accessory services, such as the sale or purchase of displayed works, custom framing, or encasement of art works and services related to art appraisal, display, preservation, or restoration.

ARTS AND CRAFT STUDIO – A use involving the creation, display, and sale of arts and crafts, such as paintings, sculpture, and fabric crafts. The creation of arts and crafts may also be permitted within a home occupation, provided the requirements for such use are met.

ASPHALT/CONCRETE PLANT – A plant where asphalt or concrete is mixed for distribution, typically for use off-site.

ASSISTED LIVING FACILITY – See "Care Facilities and Senior Housing" in this Section.

AWNING - A cloth, plastic, or other nonstructural covering that projects from a wall for the purpose of shielding a doorway or window. An awning is either permanently attached to a building or can be raised or retracted to a position against the building when not in use.

BANK/FINANCIAL INSTITUTION – Banks, savings, and loan associations, and similar institutions that lend money or are engaged in a finance related business.

BANNER - Any cloth, bunting, plastic, paper or similar non-rigid material attached to any structure, rope, wire, or framing, anchored on two or more edges or at all four corners, generally placed horizontally. Banners also include non-rigid signs anchored along one edge or two corners, with weights installed that reduce the reaction of the sign to wind. Banners may or may not include text, logos and/or graphic symbols. Banners are temporary in nature and do not include flags.

BAR/TASTING ROOM– An establishment where the principal use is the serving of alcoholic beverages by the drink to the general public and where food or packaged beverages may be served or sold as an accessory use.

BASE FLOOD – A flood having a one percent (1%) chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the "100-year flood."

BASEMENT – That portion of a building which partly or completely has a floor below grade.

BED AND BREAKFAST – An owner-occupied dwelling with rooms/sleeping rooms in which lodging, long or short-term, is provided for compensation and in which meals for lodgers may also be provided. This use shall not include group homes.

BEVERAGE DISTRIBUTOR – Any operation which engages in the sale of beverages in beverage containers which are not for consumption on the premises. This land use typically includes the sale of alcoholic beverages in quantities as prescribed by the Pennsylvania Liquor Control Board (LCB). This definition includes any manufacturer who engages in these sales.

BILLBOARD – A off-premises sign greater than 100 square feet that directs attention to a business, product, advertising matter, or service conducted, sold, or offered at a location other than the premises on which the sign is located.

BOARDING HOUSE – A building other than a hotel, motel, short-term rental, or bed and breakfast where lodging is provided for compensation.

BOROUGH – The Borough of New Cumberland, Cumberland County, Pennsylvania.

BOROUGH COUNCIL – The Council of the Borough of New Cumberland, Cumberland County, Pennsylvania.

BOROUGH ENGINEER – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed by Borough Council to serve as the engineer for the Borough. See also "Registered Professional" in this Section.

BOROUGH MANAGER – A person retained by Borough Council as the Manager of the Borough and responsible for directing and controlling the business and administrative affairs of the Borough.

BOROUGH SOLICITOR – An attorney licensed as such in the Commonwealth of Pennsylvania and retained by and responsible to Borough Council to furnish legal assistance for the administration of municipal regulations and arrangements relative to this Ordinance.

BREWERY, MICRO-BREWERY, OR BREW PUB – An establishment for brewing large and/or limited quantities of beer or other malt liquors for wholesale distribution. This land use provides for the retail sales of beer at the location where it is produced. A micro-brewery may also include a tasting room and restaurant in conjunction with the use.

BUFFERYARD – A landscaped area of a certain depth specified by this Ordinance which shall be planted and maintained with natural landscaping material or an existing natural or constructed natural barrier which duplicates the effect of the required landscape buffer area.

BUILDING – A roofed structure, whether or not enclosed by walls, to be used for shelter, enclosure, or the protection of persons, goods, materials, or animals.

ATTACHED – A building with more than one (1) wall in common.

DETACHED – A building with no wall in common.

SEMI DETACHED- A building with only one wall in common.

BUILDING AREA – The total square footage taken on a horizonal plane at the average grade level of the principal building and all accessory structures, except uncovered porches, patios, decks, awnings, terraces, and steps.

BUILDING CODE – The Unified Construction Code of Pennsylvania adopted and as amended by the Borough. See "Uniform Construction Code (UCC)" in this Section.

BUILDING FAÇADE – That portion of any exterior elevation on the building extending from finished grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

BUILDING FRONT – The wall of the building where the principal entrance is located, usually fronting on a public street.

BUILDING HEIGHT – See "Height, Building" in this Section.

BUILDING PERMIT – A permit for activities regulated by the Uniform Construction Code and in accordance with the UCC, as amended, including construction, alteration, repair, demolition, or an addition to a structure.

BUILDING, PRINCIPAL – The building or buildings on a lot in which the principal use or uses are conducted.

BUILDING SETBACK, FRONT – The line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches, and covered patios, whether enclosed or unenclosed, but does not include steps.

BUILDING SETBACK, REAR – The line of that face of the building nearest the rear line of the lot. This face includes sun parlors, covered porches, and covered patios, whether enclosed or unenclosed, but does not include steps.

BUILDING SETBACK, SIDE – The line of that face of the building nearest the side line of the lot. This face includes sun parlors, covered porches, and covered patios, whether enclosed or unenclosed, but does not include steps.

BUILD-TO LINE – The line which defines the placement of the building from the street on which the building fronts, measured from the ultimate street right-of-way (ROW). The build-to line of the building typically forms the street wall line. On a corner lot, the build-to line is located on each side of a lot abutting a street.

BUS OR TRUCK MAINTENANCE FACILITY − A building or set of buildings that are designed for the maintenance of buses and trucks. Buses and/or trucks within this category include vehicles that have a GVWR greater than 8,500 pounds and less than 33,000 pounds. Related land use classifications include: “Commercial Motor Vehicle Repair, and Heavy Equipment Repair.” See also “Supply Yards” with regards to equipment sales.

CANOPY – A structure, other than an awning, made of fabric, metal, or other material with frames affixed to a building and carried by a frame that is supported by columns or posts affixed to the ground.

CAR WASH – The carwash land use classification includes the related facilities and operations listed below. Please note the detention of a car wash does not include a one-bay washing facility in a service station where washing facilities are purely incidental to the operation.

CAR WASH TYPES:

AUTOMOBILE DETAIL – Any building, premises, or land in which or upon which a business or individual performs or renders a service involving the detailing and servicing of an automobile or other motor vehicle. Detailing and servicing shall include any cleaning, buffing, striping, glass replacement, and audio installation or repair. Automobile detail shall not include any service defined as "Vehicle Repair."

CAR WASH, AUTOMATIC – A structure where chains, conveyors, blowers, steam cleaners, or other mechanical devices are used for the purpose of washing motor vehicles and where the operation is generally performed by an attendant.

CAR WASH, SELF-SERVICE – A structure where washing, drying, and polishing of vehicles is generally on a self-service basis without the use of chain conveyors, blowers, steam cleaning, or other mechanical devices.

CARE FACILITIES AND SENIOR HOUSING – An establishment that contains dwelling units, intended or designed to be used, rented, leased, let, or hired out to be occupied for living purposes based on age and/or resident needs. Each care facility type designated below is provided for separately in the Table of Authorized Principal Uses under "Care Facility Type."

CARE FACILITY AND SENIOR HOUSING TYPES:

ASSISTED LIVING FACILITY − Any premises in which food, shelter, assisted living services, assistance or supervision, and supplemental health care services are provided for a period exceeding 24 hours for four (4) or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency, or medication prescribed for self-administration.

INDEPENDENT LIVING FACILITY – Residential dwelling units that restrict the minimum age of residents within the community or residential development. Independent living facilities include, but are not limited to, active adult communities, retirement communities, or 55+ communities composed of non-multi-family dwelling units.

LIFE CARE COMMUNITY – A corporation or association or other business entity that, in exchange for the payment of entrance and monthly fees, provides:

1. Residential accommodations meeting the minimum standards for residents set forth by law and ordinances and providing a design to meet the physical, social, and psychological needs of older people.

2. Medical and nursing care covering, under ordinary circumstances, the balance of a resident's life;

3. Prepaid medical consultation opportunities through independent professionals selected by the organization or through some equivalent arrangement; or

4. Financial self-sufficiency, not dependent on outside support to any significant degree, with entrance and monthly fees adjusting to meet changing costs.

NURSING HOME – An institution licensed by the Commonwealth for the care of human patients requiring either skilled nursing or intermediate nursing care or both levels of care for a period exceeding 24 hours.

RETIREMENT HOUSING FACILITY − A multi-family dwelling facility intended for senior citizens. Typically, each person or couple in the home has an apartment-style room or suite of rooms.

CARPORT − A detached accessory structure that includes private parking area(s) for the storage of one (1) or more vehicles. A carport may be covered by a roof supported by columns or posts and has no more than three (3) walls. An attached carport is an extension of the principal building and subject to the related building codes and zoning regulations of the permitted principal use. See also "Garage, Private" in this Section.

CARTWAY – That portion of a street ROW or alley that is surfaced for vehicular or other traffic use, excluding shoulders and berms; the portion(s) between curbs where curbs are used.

CATERING/EVENT VENUE – A facility that provides a location for a planned occasion or activity such as a wedding, reunion, graduation, or other social gathering. Event halls, when authorized, may sometimes include a catering use.

CATERING FACILITY – A location that prepares food for delivery and consumption at a remote site. Catering operations, when authorized, may sometimes be located in conjunction with an events venue. As a land use classification, catering only includes food preparation.

CEMETERY – Any site containing at least one (1) burial marked, or previously marked, dedicated to, and used or intended to be used for the permanent interment of the human dead, including perpetual care and non-perpetual care cemeteries. This land use classification includes mausoleums and columbaria but not crematoriums.

CHURCH – See “Place of Worship” in this Section.

CLEAR SIGHT TRIANGLE – An area of unobstructed vision at the intersection of two (2) streets or the intersection of a driveway with a street, measured at the height of a driver's eye, which is assumed to be three and three-fourths (3.75) feet above the road surface, between points at a given distance from the intersection of the center lines of the two (2) streets or of a street and driveway as specified in this Ordinance, intended to allow the operators of vehicles approaching simultaneously to see each other in time to prevent a collision. Any obstruction that impedes line-of-sight should be removed upon notification from the Borough. Further, the triangular area of unobstructed vision shall be defined by *PennDOT Publication # 70M: Guidelines for the Design of Local Roads and Streets.*

CLUBS/LODGES – Buildings and related facilities owned and operated by an individual or a group of individuals established for fraternal, social, educational, recreational, or civic benefits of members, and not primarily for profit. Access to facilities is typically restricted to members and their guests.

COLLEGE/UNIVERSITY – An institute of higher learning that may offer two (2) or four (4) year programs and/or post-graduate programs.

COLLOCATION
The mounting of one or more Wireless Communication Facilities, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a Wireless Communication Facility on that structure.

COMMERCIAL MESSAGE - Any sign, wording, logo or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMMERCIAL SCHOOL – An educational establishment that provides specialized instruction and on-site training of business, commercial, clerical, industrial, managerial, trade, and/or artistic skills and which does not satisfy the definition of "School" or "College/University" in this Section.

COMMERCIALLY REASONABLE - The terms and pricing that are reasonably consistent with similar wireless communication facility leases and agreements within a twenty-five (25) mile radius of the Borough.

COMMERCIAL COMMUNICATION TOWER – Any structure, partially or wholly exterior to a building, used for transmitting or retransmitting electronic signals through the air and that does not meet the definition of a "standard antenna." Commercial communications antennae shall include, but are not limited to, antennae used for transmitting commercial radio or television signals, or to receive such signals for a cable system, or to retransmit wireless telecommunications. A commercial communications tower shall be a structure over 30 feet in height that is primarily intended to support one (1) or more antenna. The following term and definition is associated with commercial communication regulations contained in this ordinance.

COMMERCIAL MOTOR VEHICLE REPAIR – Any building, premises, and land in which or upon which a business, service, or industry performs or renders a service involving the maintenance, servicing, repair, or painting of a commercial motor vehicle. Commercial motor vehicles are those vehicles that have a GVWR in excess of 33,000 pounds and generally require a commercial driver's license to operate. Related land use classifications include: "Vehicle Repair Garage," "Bus or Truck Maintenance Facility," and "Heavy Equipment Repair." See also "Supply Yards" with regards to equipment sales.

COMMONWEALTH – The Commonwealth of Pennsylvania.

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

COMMUNITY CENTER – A building or other place in which members of a community may gather for social, educational, or cultural activities.

COMMUNITY FOOD BANK – A charitable organization that solicits and warehouses donated food and other products. This food is then distributed to a variety of community agencies which serve people in need.

COMPREHENSIVE PLAN – The Comprehensive Plan for the Borough of New Cumberland.

CONDITIONAL USE – An authorized use which may be granted only by the Borough Council pursuant to express standards and criteria prescribed in this Ordinance, after review and recommendation by the Planning Commission and public hearing by the Borough Council.

CONFERENCE CENTER − Specialized hotel (usually in a less busy but easily accessible location) designed and built almost exclusively to host conferences, exhibitions, large meetings, seminars, training sessions, etc. A conference center may also provide office facilities and a range of leisure activities.

CONICAL SURFACE ZONE – An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet.

CONSTRUCTION – The erection, renovation, repair, extension, expansion, alteration, or relocation of a building, structure, or site improvements including the placement of mobile homes.

CONVENIENCE STORE – A retail establishment offering for sale a limited selection of goods such as food products, household items, and other goods commonly associated with the same and generally having a gross floor area of less than 10,000 square feet. Convenience stores may sometimes be located in conjunction with a Gas/Fuel Station use but only when the Gas/Fuel Station is also allowable in the Zoning District.

CONVERSION DWELLINGS – See "Dwelling Types" in this Section.

CORRECTIONAL FACILITY – Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense, including but not limited to halfway houses, homes licensed for juvenile offenders, or other facilities where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

COUNTY– The County of Cumberland, Pennsylvania.

CREMATORIUM – A building used to incinerate the deceased.

DATA CENTER ACCESSORY USE – Utilities, utility lines, electrical substations, pump stations, water towers, mechanical equipment and environmental controls (air conditioning or cooling towers, fires suppression, etc.), redundant/backup power supplies, redundant data communications connections, and high security when located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center Facility.

DATA CENTER FACILITY – A use involving a building/premise primarily occupied by computers and/or telecommunications and related equipment, where information is processed, transferred, or stored.

DAY CARE CENTER, ADULT – A facility, licensed by the Commonwealth of Pennsylvania, located within a building which is not used as a dwelling unit, for the care of the elderly and/or functionally impaired adults for a portion of a 24-hour day.

DAY CARE CENTER, CHILD − A facility, licensed by the Commonwealth of Pennsylvania, located within a building which is not used as a dwelling unit, for the care of children under the age of sixteen (16) for a portion of a 24-hour day. This land use classification includes nursery schools which provide daytime care and/or instruction for seven (7) or more children of preschool age.

DAY CARE, HOME-BASED – An accessory use in which care is provided pursuant to approval of the Pennsylvania Department of Public Welfare, for six (6) or less children under the age of sixteen (16) who are unrelated by blood or marriage to all owners of the premises and to all owners and operators of the Family Child Day Care Home operation

being conducted on the premises. Provided, further, that the premises wherein the Family Child Day Care Home operation or business is located must be the full-time bona fide residence of the owner of said operation or business and said premises must be in compliance with all applicable provisions and requirements of the most recent editions of the UCC, as adopted by the Borough, and the Rules and Regulations of the Pennsylvania Department of Public Welfare relating to Family Child Day Care Homes, and any other applicable law, ordinance, or regulation.

DECIBEL (dBa) – A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels (dBa).

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 appealable to the Court of Common Pleas of Cumberland County and the judicial district wherein the Borough lies.

DECK – A freestanding or attached accessory structure to a dwelling which is constructed of natural or synthetic wood, either on or above the ground, without a roof or awning, and with flooring that is not completely impervious, and which may include steps or railings.

DECORATIVE POLE
A Municipal-owned Pole that is specially designed and placed for aesthetic purpose and on which no appurtenances or attachments, other than a small wireless communications facility, lighting, or municipal attachments have been placed or are permitted to be placed.

DEDICATED OPEN SPACE OR RECREATION LAND – A parcel of land integrated within a subdivision or land development that is dedicated, either publicly or privately, specifically for use as a park, open space, and/or active recreation area.

DENSITY – The number of dwelling units in a lot, or group of lots, divided by the area in acres of the lot, or group of lots, computed exclusive of any portion of the ROW of any public road.

DETERMINATION – The final action by an officer, body, or agency charged with the administration of any land use Ordinance or applications thereunder except the Borough Council; the ZHB; the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the SALDO or planned development provisions.

DEVELOPER – Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made an application for land development, a subdivision of land, permit, or approval pursuant to this Ordinance.

DEVELOPMENT – See “Land Development” in this Section.

DEVELOPMENT PLAN – The provisions for development, a plat of subdivision, all covenants relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space, and public facilities. Such provisions shall be prepared by a surveyor, engineer, or

architect and drawings associated with such provisions shall be drawn at a scale no greater than one (1) inch equals 100 feet.

DIAMETER BREAST HEIGHT (DBH) – The total diameter, in inches, of a tree trunk or trunks measured at a point four and one-half (4.5) feet above existing grade (at the base of the tree). In measuring DBH, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

DIGITAL DISPLAY - A display of a sign message made up of internally illuminated components capable of changing the message periodically. Digital displays may include but are not limited to LCD, LED, or plasma displays.

DISTILLERY OR MICRO-DISTILLERY – An establishment for distilling, especially for distilling alcoholic liquors. This land use provides for the retail sales of the distilled beverages at the location where beverages are distilled. A distillery or micro-distillery may also include a tasting room and restaurant in conjunction with the use.

DISTRIBUTED ANTENNA SYSTEMS (DAS) – A network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

DISTRIBUTION CENTER – A center for a set of products in a warehouse or other specialized building, often with refrigeration or air conditioning, which is stocked with products or goods to be redistributed to retailers, to wholesalers, or directly to consumers. A distribution center is a principal part, the order processing element, of the entire order fulfillment process.

DOMESTIC PETS – Animals or fowl customarily found in a dwelling and kept for company or pleasure, including but not limited to dogs, cats, hamsters, parakeets, or canaries and the like, but not including any animal, reptiles, fish, and/or fowl normally found in a zoo. Domestic pets shall not include a sufficient number to constitute a kennel, as defined herein.

DORMITORIES – A residence hall providing rooms for individuals or groups.

DRIVE-THROUGH FACILITIES – A business that orients the sale of goods or services to those remaining in their vehicles while business transactions occur at a pick-up window. Drive-through facilities shall be considered accessory uses which are attached to another authorized principal use which involves a window, service lane, bay, or other facility where customers are provided services either inside or outside their vehicles and where cars may or may not wait in line to access these services, including, but not limited to: drive-in or drive-through windows at fast-food restaurants, banks, pharmacies or other businesses, exterior automated teller machines (ATMs), quick oil-change facilities, car washes and similar automotive services, and other such facilities.

DRIVEWAY – A private area which provides vehicular access to a parking space, garage, dwelling, or other structure; generally, for residential properties containing two or fewer units.

DWELLING – A building that contains dwelling units, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes. Each dwelling type

designated below is provided for separately in the Table of Authorized Principal Uses under "Dwelling Type."

DWELLING TYPES:

CONVERSION DWELLING – A dwelling unit or units created from a larger existing residential dwelling, whether entirely from the existing structure or by building additions or combinations thereof. Conversion dwellings involve the creation of additional dwelling units in a structure from existing dwellings, not initially intended or designed when the dwelling was initially constructed. Conversion dwellings are primarily intended to serve as rental units and are defined separately from Accessory Dwellings Units or In-Law Suites which are primarily intended to house family members.

DUPLEX – See "Two-Family" in this Section.

GARDEN APARTMENT – A multi-family residential building no more than three (3) stories in height containing three (3) or more dwelling units which share a common entrance to the outside, usually through a common corridor, and which dwelling units may have other dwelling units either above or below them.

HIGH-RISE APARTMENT– A multi-family residential building containing at least four (4) residential floors.

MANUFACTURED HOME – A factory built, single family structure that meets the Federal Manufactured Home Construction and Safety Standards Act. In all cases a manufactured home shall be permanently attached to a foundation.

MOBILE HOME – A transportable, single-family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MULTI-FAMILY – A residential building or portion thereof designed exclusively for occupancy by three (3) or more families living independently of each other and containing three (3) or more separate dwelling units including garden apartments and high-rise apartments but not including single-family, two-family, townhouse, or quadruplex dwellings.

QUADRUPLEX – A residential building, other than a townhome or garden apartment, containing only four (4) dwelling units in one (1) structure, each of which has two (2) walls exposed to the outside and each unit shares two (2) common walls with adjoining units which are placed at right angles to one another, rather than in a row, and which units have no other units above or below which share common floors/ceilings.

ROW HOUSE – See "Townhouse" in this Section.

SINGLE-FAMILY – A detached residential building that is the only principal structure on the lot, designed exclusively for occupancy by one (1) family, as defined herein, and containing one (1) dwelling unit with a minimum square footage of 750 square feet. This type of residential building may include traditional stick-built construction or manufactured homes provided that the structure is permanently anchored to a foundation.

SINGLE-FAMILY SEMIDETACHED/TWIN – A building designed for and occupied exclusively as a residence for only one family and having one party wall in common with an adjacent building. The adjacent building sharing a party wall shall be located on a separate parcel.

TINY HOUSE – A single-family dwelling unit on a property for occupancy as either a principal or accessory dwelling unit with a habitable floor area that is 749 square feet or less and is constructed with a foundation or on wheels.

TOWNHOUSE – A single-family dwelling unit no more than three and one-half (3.5) stories in height constructed in a group of not less than three (3) but not more than eight (8) attached units in which each unit shares no more than two (2) common walls that extends from the foundation to the roof.

TWO-FAMILY, also DUPLEX– A residential building containing two (2) independent dwelling units, each having a separate entrance, and which is the only principal building on the lot.

DWELLING UNIT – A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; and containing a minimum of 500 sq. ft habitable living space.

EDUCATIONAL INSTITUTION – A structure, part of a structure, or structures designed and used for training and teaching of children, youth, or adults, including laboratories appurtenant thereto. An educational institution does not include a school or college/university, as defined within this Section.

ELECTRONIC NOTICE – Notice given by the Borough through the Internet regarding the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

ELIGIBLE FACILITIES REQUEST
An application for modification of an existing wireless communications facility or base station that involves—(A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.

EMERGENCY – A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the Public Rights-of-Way to be unusable and result in loss of the services provide. The Municipal Government or Municipal Manager may declare an Emergency.

EMERGENCY SERVICES FACILITY – A centralized location to support multi-agency and or multi-jurisdiction disaster response coordination and communication. The area can be utilized for the maintenance, fueling, storage, dispatching, or parking or vehicles and/or

equipment providing fire, rescue, police, or ambulatory services, and where the area may or may not include buildings utilized in connection therewith.

EMERGENCY SHELTER – A facility, including rescue missions, for persons seeking temporary voluntary shelter for a duration not to exceed 60 days.

ENFORCEMENT NOTICE – A notice as provided in §616.1 of the MPC, 53 P.S. §10616.1, sent by the Borough to the owner or occupant of record of a parcel on which a violation of this Ordinance has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner or occupant of record, the purpose of which is to initiate enforcement proceedings.

ENGINEER, PROFESSIONAL – A licensed professional engineer registered by the Commonwealth of Pennsylvania. See "Registered Professional."

EPA – The United States Environmental Protection Agency (EPA) or any agency successor thereto.

ESSENTIAL SERVICES – The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, cable television, or other telecommunications transmission lines provided by public or private entities, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Essential services do not include communication towers or operations and facilities associated with oil and gas development.

EXCAVATION– The removal or recovery of soil, rock, minerals, mineral substances, or organic substances other than vegetation from water or land or beneath the surface thereof, whether exposed or submerged.

EXHIBITIONS AND ART GALLERIES – See "Art Gallery" in this Section.

FAA – Federal Aviation Administration of the United States Department of Transportation.

FAMILY – Any one (1) of the following: An individual; two (2) or more persons related by blood, marriage, or adoption; or not more than four (4) unrelated persons living as a single housekeeping unit. A family may also include domestic servants and gratuitous guests. See also "Group Home".

FARMERS MARKET – A retail establishment at which fruits, vegetables, breads, eggs, milk, cheese, meat, flowers, and the like are sold by persons who typically grow, harvest, or process such items from their farm or agricultural operation.

FCC – Federal Communications Commission.

FENCE – A free standing, accessory structure, including entrance and exit gates or openings, designed and constructed for the purpose of enclosing space or separating parcels of land, screening, protection, confinement, and/or privacy.

FESTOON LIGHTING - A type of illumination utilized by non-residential properties comprised of either: (a) a group of light bulbs hung or strung overhead or on a building or other structure(s), or (b) light bulbs not shaded or hooded or otherwise screened to prevent direct rays of light from shining on adjacent properties or rights-of-way.

FINAL APPROVAL – The ultimate approval of a development plan granted by the Borough Council which follows tentative approval and filing of an application for final approval.

FITNESS CENTER – An indoor facility for personal exercise and physical conditioning, which includes uses such as sports courts, exercise equipment, and/or locker rooms that may or may not include a Jacuzzi and/or sauna, and retail shops and accessory uses. This use may also be referred to as a health club.

FLAG – Any sign printed or painted on cloth, plastic, canvas, or other like material with distinctive colors, patterns or symbolic devices attached to a pole or staff and anchored along only one edge or supported or anchored at only two corners. All flags must be attached along the shortest side or edge.

FLEA MARKET – A business that sells new and used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and stores or displays the merchandise outdoors.

FLOODWAY – The channel of a river or other watercourse and adjacent land areas that must be reserved to discharge the base flood (100-year floodplain) without cumulatively increasing the water surface elevation more than one (1) foot, or as amended by the National Flood Insurance Program (NFIP).

FLOOR – A habitable area of uniform vertical elevation that is contained within the outside walls of a building or structure.

FLOOR AREA – The sum of the gross floor areas for each of a building's stories, including the basement, but not including the attic unless the attic meets the International Code Council (ICC) International Property Maintenance Code.

FLOOR AREA, GROSS (GFA) – The sum of all the horizontal floor areas of a building, measured between exterior faces of walls.

FLOOR AREA, NET – The total floor area of a building designed for tenant occupancy, or areas accessible to the customers, clients, or general public, but excluding storage areas, equipment rooms, food preparation areas in a restaurant, and common areas such as halls, corridors, stairwells, elevator shafts, rest rooms, interior vehicular parking and loading areas, and similar common areas, expressed in square feet and measured from the center line of joint partitions and exteriors of outside walls.

FLOOR AREA RATIO - The ratio of gross building floor area of all structures on a lot to the total land area of the lot on which it sits. For example, if a ten-thousand- square-foot lot

has a FAR of 2.0, then a developer can only construct a building that has a total floor area of 20,000 square feet.

FOOD AND GROCERY STORE – Supermarkets; bakeries; dairies; delicatessens; but not including convenience stores.

FOOTCANDLE – A unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), measurable with an illuminance meter (also known as a light meter).

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

FREIGHT TERMINAL – A building and adjacent loading area where cargo is stored and where commercial vehicles load and unload cargo on a regular basis which may or may not include facilities for maintenance, fueling, storage, or dispatching of the vehicles.

FRONT FAÇADE AREA - The area of the public right-of-way directly in front of a structure, identified by drawing a perpendicular line from each corner of the structure to the public rights-of-way.

FRONTAGE – See "Street Frontage."

FRONT YARD – See "Yard, Front."

FUNERAL HOME – A building used for the embalming of deceased human beings for burial and for the display of the deceased and ceremonies connected therewith before burial or cremation, and which may include a crematorium.

GARAGE, PRIVATE – A detached accessory structure containing between 251 sq/ft and 450 sq/ft that is not accessible to the general public. A private garage is designed for the storage of private vehicles and personal property of the occupants of the principal building. All nonresidential detached storage structures are defined as storage buildings. See also "Storage Buildings" and "Carport."

GARDEN APARTMENT – See "Dwelling."

GARDEN CENTER − A building or structure used for the sale of flowers, plants, shrubs, trees, and other natural flora and associated products. A garden center does not include a greenhouse, nursery and/or outdoor storage, display and sales of equipment and/or materials associated with the principal use. See also "Greenhouse/Nursery," "Landscape Service Center," and "Storage Yard."

GAS/FUEL STATION – A building(s), premises, or portions thereof, which are used, arranged, designed, or intended to be used for the retail sale of gasoline or other fuel for motor vehicles. This land use classification shall include electric vehicle charging stations for electric motor vehicles. Gas stations may include the operation of a convenience food store in conjunction with the retail sale of petroleum products. Gas stations may sometimes also be located with a vehicle repair and service use, but only when the vehicle repair and service use is also allowable in the Zoning District.

GAZEBO – A freestanding, accessory, roofed structure usually open on the sides.

GHOST KITCHEN – A restaurant that provides the physical infrastructure for diners to "visit" or order online through a website, application, or mobile device. Ghost kitchens require the same food preparation and storage equipment and are subject to the same State and Local food safety regulations as other commercial kitchens. Ghost kitchens shall only be used for food preparation and no customer areas or take-out services will be provided.

GOLF COURSE – Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

GOLF DRIVING RANGE – A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee. A golf range may be permitted as either a principal or accessory use.

GREENHOUSE/NURSERY – A retail or wholesale business that sells flowers, plants, shrubs, trees, and other natural flora and products that aid their growth and care and that may include a greenhouse and/or the growing of plant material outside on the lot. See also "Sheds" with regards to residential greenhouses.

GROSS – The total area or number prior to any deductions.

GROUND MOUNTED SOLAR SYSTEM – A solar photovoltaic system mounted on a structure, pole, or series of poles constructed specifically to support the photovoltaic system and not attached to any other structure.

GROUP CARE FACILITY – A facility which provides room and board and specialized services for:

1. More than eight (8) residents who are mentally or physically handicapped;

2. Any number of permanent residents who are dependent and/or delinquent children under the age of eighteen (18) adjudicated by the court system;

3. Persons with intellectual disabilities of any age; or

4. Persons assigned by a court of law or public or semipublic agency on a short-term basis for supervision, care, and counseling for a specified period of time, including alcoholic recovery, shelters for battered persons and their children, community reentry services following incarceration, and other such transitional and/or supervised short-term assignments.

Staff shall be qualified by the sponsoring agency, who may or may not reside at the facility, and who provide health, social, and/or rehabilitative services to the residents. The services shall be provided only by a governmental agency, its licensed or certified agents or any other responsible nonprofit social services corporation, and the facility shall meet all minimum requirements of the sponsoring agency.

GROUP HOME – A dwelling unit where room and board is provided to not more than eight (8) permanent residents, each residing in the dwelling unit for no less than one (1) year, comprising a single housekeeping unit, who are intellectually or physically disabled

persons of any age, who are in need of supervision and specialized services, and no more than two (2) caretakers on any shift, who may or may not reside in the dwelling and who provide health, social, and/or rehabilitative services to the residents. The service shall be provided only by a governmental agency, its licensed or certified agents or any other responsible nonprofit social services corporation, and the facility shall meet all minimum requirements of the sponsoring agency. A group home does not include persons assigned by a court of law or public or semipublic agency on a short-term basis for supervision, care and counseling for a specified period of time, including, shelters for battered persons and their children, community re-entry services following incarceration, and other such transitional and/or supervised short-term activities. A group home shall be considered a single-family dwelling and shall be authorized wherever a single-family dwelling is permitted subject to the requirements of the district applicable to single-family dwellings.

HABITABLE – A structure consisting of an enclosed living room, sleeping room, kitchen, and dining room. A finished basement is considered habitable.

HALFWAY HOUSE – A residential facility designed to aid people who are transitioning into permanent living structures that provides a supervised environment to ease the transition of its residents between institutional living and independent living and is conducted under the regulations of the Commonwealth of Pennsylvania and the auspices of a social service agency. See also "Correctional Facility" in this Section.

HAZARDOUS WASTE RECYCLING FACILITY – A structure where hazardous waste is collected for recycling purposes.

HEARING – An administrative proceeding conducted by a board pursuant to §909.1 of the MPC.

HEAVY EQUIPMENT REPAIR – A facility for the repair, rebuilding, painting, or reconditioning of heavy equipment not classified as a motor vehicle for use on public roadways. See also "Supply Yard" regarding equipment sales.

HEIGHT, BUILDING – The vertical distance from the lowest finished grade level to the peak of the roof. For the purpose of determining maximum permitted height for principal buildings, such measurement shall be made from the average finished grade at the front setback. For the purpose of side or rear yard determination, such measurement shall be made from the average finished grade of the wall extending along such side yard or rear yard.

HEIGHT OF A TOWER-BASED WIRELESS COMMUNICATIONS FACILITY
The vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based Wireless Communications Facility, including antennae mounted on the tower and any other appurtenances.

HEIGHT OF A WIRELESS SUPPORT STRUCTURE - The vertical distance measured from the ground level, including any base pad, to the highest point on a communications tower, including communications antennas mounted on the tower and any other appurtenances.

HIGH-RISE APARTMENT – See "Dwelling."

HISTORIC STRUCTURE – Means any structure that is:

A. Listed individually or eligible for listing in the National Register of Historic Places (National Register) as determined by the Secretary of the Interior or the Pennsylvania State Historic Preservation Officer (PA SHPO);

B. Identified as a contributing element of a National Register District as counted by the National Register or PA SHPO;

C. Locally determined as a historic place by a Pennsylvania Certified Local Government through authority from the PA SHPO.

HOME OCCUPATIONAL BUSINESS – Any use customarily carried on entirely within a dwelling, by the occupant thereof, which use is clearly incidental and subordinate to the use of the dwelling as a residence and which involves limited, generally scheduled, customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions, to or from the premises Examples include, but are not limited to, professional services such as legal, financial, accounting, or engineering; barber and beauty shops; and music and tutoring instruction. Home occupational businesses are different than no-impact home-based businesses. See also "No-Impact Home-Based Business."

HOMEOWNERS' ASSOCIATION (HOA) – An organization formed to manage the common open space and common facilities within a development plan that are not to be publicly owned and maintained. Membership in and financial support of such organization is mandatory for all owners of private property in the plan.

HORIZONTAL SURFACE ZONE – An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach.

HOSPITAL – An institution providing acute medical or surgical care and treatment for sick or injured humans, as defined in current state licensure requirements.

HOTEL – A building containing rooms intended or designed to be used or that are used, rented, or hired out to be occupied or that are occupied for sleeping purposes by guests. Hotels have a common reception area on premises which is staffed 24 hours a day where clients check in to obtain access to a room. Hotels may provide such additional supporting services such as restaurants, meeting rooms, and recreation facilities.

ILLUMINATION - A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from, an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the sign/object/lot.

A. EXTERNAL ILLUMINATION (OF SIGN) - Artificial light, located away from the sign, which lights the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk, or adjacent property.

B. INTERNAL ILLUMINATION (OF SIGN) - A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.

Message Center Signs, Digital Display, and Signs incorporating Neon Lighting shall not be considered internal illumination for the purposes of this ordinance.

C. HALO ILLUMINATION (OF SIGN) - A sign using a 3-dimensional message, logo, etc., which is lit in such a way as to produce a halo effect. (Also known as *back-lit illumination*)

IMPERVIOUS SURFACE – A surface that prevents the infiltration of water into the ground. Impervious surfaces (or areas) shall include but not be limited to: roofs, additional indoor living spaces; patios and similar structures (including those made of wood or other planks); pools, ponds, and other permanent water-storage areas; garages; storage sheds and similar structures; driveways; and any new streets or sidewalks. Pervious pavement, stone, and other traditionally impervious surfaces that are specifically designed to allow for porous infiltration of stormwater are also considered impervious surfaces. Pervious pavement and similar surfaces that are specifically designed to allow for porous infiltration of stormwater, however, may be used with proper operation and maintenance provisions in lieu of traditional stormwater conveyance facilities, such as inlets and pipes, in order to provide for the transmission of stormwater runoff to subsurface stormwater facilities; if this method of transmission is utilized, the surfaces in question will not be considered impervious surfaces for this Ordinance.

IMPERVIOUS COVERAGE – A measure of the intensity of use of a piece of land. It is measured by dividing the total area of all impervious surfaces within the site by the developable area of the lot.

INTERNAL DRIVEWAY SYSTEM – The portion of the parking lot devoted to providing access to individual parking lot aisles.

JUNKYARD –. See “Salvage/Junk Yard” in this Section.

KENNEL – A use of land and structures in combination wherein four (4) or more domestic animals or pets six (6) months or older are bred, trained, and/or boarded for compensation for more than twelve (12) consecutive hours. Animal day cares and animal grooming facilities where pets are not on site for more than twelve (12) consecutive hours shall not be considered a kennel.

LABORATORY – A building or part of a building devoted to the testing and analysis of any product or animal. No manufacturing is conducted on the premises except for experimental or testing purposes.

LAND DEVELOPMENT – Includes any of the following activities:

A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving:

1. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.

B. A subdivision of land.

C. Per Section 503.(1.1) of the MPC, land development shall not include:

1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three (3) residential units unless such units are intended to be a condominium.

2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this Subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved.

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

LANDSCAPE ARCHITECT – A landscape architect registered by the Commonwealth of Pennsylvania. See "Registered Professional."

LANDSCAPE PLAN – A plan prepared by a landscape architect identifying each tree and shrub by size, type, and scientific name, ball and burlap or bare root, and location, together with a planting diagram and such other diagrams or reports necessary to show method of planting, staking, and mulching, grass seeding specifications and mixtures and existing trees over six (6) inches in DBH.

LANDSCAPE SERVICE CENTER, RETAIL – A business primarily engaged in selling indoor or outdoor grown plants and landscaping materials to the general public.

LANDSCAPE SERVICE CENTER, WHOLESALE – A business primarily engaged in processing, selling, and distributing indoor or outdoor grown plants and landscaping materials to industrial, commercial, institutional, or professional users or to other wholesalers.

LAUNDROMAT – An establishment with coin-operated washing machines and dryers for public use.

LIBRARY – A building or room containing collections of books, periodicals, and sometimes films and recorded music for people to read, borrow, or refer to.

LIFE CARE COMMUNITY – See "Care Facilities and Senior Housing" in this Section.

LIGHT MANUFACTURING – See "Manufacturing Facility, Light" in this Section.

LIVE-WORK UNITS – A commercial use, such as a shop, studio, office, café, deli, personal service establishment, or other place of business, in combination with a dwelling unit located above such place of business. Only the proprietor of the business may occupy

the residential unit. All connections between the uses must be internal to the structure. Live-Work Units differ from Mixed Use uses when internal connections and shared spaces are used by both the non-residential and residential uses.

LOADING BERTH – A portion of a lot used for the standing, loading, or unloading of motor vehicles.

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.

LOT TYPES (also see "Figure 1" at the end of this Article)**:**

LOT, CORNER – A lot at an intersection of, and fronting on, two (2) or more streets.

LOT, INTERIOR – A lot other than a corner lot or through lot.

LOT, THROUGH OR DOUBLE FRONTAGE – A lot having frontage on two (2) parallel or approximately parallel streets and which is not a corner lot.

LOT AREA – The total area within the boundary of the lot excluding any areas contained in a public street ROW.

LOT COVERAGE – The percentage of the area of a lot covered by all impervious buildings or surfaces.

LOT LINE – A line that denotes the boundary of a lot or parcel of land, as defined herein.

LOT LINE TYPES:

LOT LINE FRONT – A line measured along the ROW of any street frontage, whether public or private, between the side lot lines.

LOT LINE REAR – That lot line that is generally opposite to the front lot line.

LOT LINE SIDE – Any lot line that is not a front lot line or rear lot line.

LOT OF RECORD – Any lot which individually or as a part of a subdivision, has been recorded by the Recorder of Deeds of Cumberland County.

LOT WIDTH – The horizontal distance between side lot lines, measured at the front setback line.

MAGISTRATE OFFICE AND COURT – A court having limited jurisdiction over civil and criminal matters and matters of contracts not exceeding a particular threshold.

MAILED NOTICE – Notice given by the Borough by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

MANUFACTURED HOME – See "Dwelling Type".

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 so designated and improved that it contains two (2) or more manufactured home lots for the placement thereon of manufactured homes.

MANUFACTURED HOME SALES – An establishment which conducts the sale of a structure, transportable in one (1) or more sections, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Manufactured Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered a manufactured home.

MANUFACTURING – The processing and fabrication of any article, substance, or commodity.

MANUFACTURING FACILITY, HEAVY – The manufacture, storage, processing, and treatment of materials which are potentially hazardous, or processes which produce discernible or perceptible amounts of smoke, noise, glare, dust, or odor as a primary or secondary effect of the principal use of the land or buildings. Heavy manufacturing characteristically employs such equipment as smokestacks, tanks, distillation or reaction columns, chemical processing equipment, scrubbing towers, pickling equipment, and waste treatment lagoons. Examples of heavy manufacturing include basic steel manufacturing plants (such as foundries, blast furnaces, and stamping mills), industries handling animal offal or hides, basic cellulose pulp-paper mills and similar fiberboard and plywood production, lime manufacturing, ore and metal smelting and refining, and chemical plants such as petrochemical complexes. Heavy manufacturing facilities do not include any oil and gas facilities or operations.

MANUFACTURING FACILITY, LIGHT – The manufacture, fabrication, assembly, or processing of goods and materials, excluding heavy manufacturing facilities. Processes involved with light manufacturing shall not produce noises, vibration, air pollution, fire hazards, or noxious emissions discernible from neighboring lots. Light manufacturing includes the production of the following goods: home appliances, electrical instruments, office machines, precision instruments, electronic devices, timepieces, jewelry, optical goods, musical instruments, novelties, wood products, printed material, lithographic plates, type composition, machine tools, dies and gauges, ceramics, apparel, lightweight nonferrous metal castings, film processing, light sheet metal products, plastic goods, pharmaceutical goods, and food products, but no animal slaughtering, curing, nor rendering of fats.

MARQUEE - A permanent structure, other than a roof, attached to, supported by, and projecting from a building and providing protection from the elements.

MASSAGE THERAPY ESTABLISHMENT – Any establishment or business which provides the services of massage and body manipulation, including exercises, heat, and light treatments of the body, and all forms of physiotherapy, unless operated by a medical

practitioner, chiropractor, or professional physical therapist licensed by the State of Pennsylvania. This definition does not include an athletic club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an identical or accessory service. A massage establishment may not include any aspects of adult entertainment or an adult-oriented establishment, as either are elsewhere defined and regulated in this Ordinance. Massage therapy professionals must be licensed by an approving agency, association, or school.

MEASUREMENT OF HEIGHT – Measurement of height shall be the vertical height from the average elevation of finished grade at the front of the structure to:

1. The highest point of coping for flat roof surfaces.
2. The deck-line of the roof for mansard roof structures.
3. The average height of the roof for gable or hipped roof.
4. A habitable attic shall be counted as a story.

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 CLINIC – Any establishment where human patients are examined and are treated by or under the care and supervision of doctors, dentists, or other medical practitioners, but where patients are not hospitalized overnight. Medical clinics shall include such uses as reception areas, waiting areas, consultation rooms, and a dispensary, providing that all such uses have access only from the interior of the building or structure.

MEDICAL MARIJUANA – Marijuana for certified medical use as set forth in the Medical Marijuana Act (Act 16, Pennsylvania Law 84, No. 16).

MEDICAL MARIJUANA DISPENSARY – The use of the premises by a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, holding a permit issued by the Commonwealth of Pennsylvania Department of Health, to dispense medical marijuana per the Medical Marijuana Act (Act 16, Pennsylvania Law 84, No. 16).

MEDICAL MARIJUANA GROWER/PROCESSOR – The use of the premises by a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, holding a permit issued by the Commonwealth of Pennsylvania Department of Health, to grow and/or process medical marijuana.

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

MIXED USE – A commercial or other non-residential use in combination with a residential use in a single principal structure. A mixed use is distinguished from live-work units due to the lack of any internal connections between the uses. See also “Live-Work Units” in this Section.

MOBILE BILLBOARD - A sign affixed to a vehicle or pulled by a vehicle, the primary purpose of which is for advertising while the vehicle is moving or in traffic.

MOBILE HOME – See "Dwelling Type" in this Section.

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

MOBILE HOME PARK – A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

MOBILE HOME SALES – The sale of a structure, transportable in one (1) or more sections, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered a manufactured home.

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.

MONOPOLE – A WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances.

MOTEL – A building or group of detached, semidetached, or attached buildings on a lot containing guest dwellings, each of which has a separate outside entrance leading directly to rooms, with a garage or parking space conveniently located with each unit, and which is designed, used, or intended to be used primarily for the accommodation of automobile transients. Boarding houses shall not be considered a motel.

MULTI-FAMILY DWELLING – See "Dwelling Types" in this Section.

MUNICIPAL or MUNICIPALITY - New Cumberland Borough, Cumberland County, Commonwealth of Pennsylvania.

MUNICIPAL BUILDING – A building occupied by the principal offices and departments of the Borough.

MUNICIPALITIES PLANNING CODE (MPC) – Act of 1968, P.L. 805, No. 247, as reenacted and amended (53 P.S. §10101 et seq.).

MURAL (OR MURAL SIGN) - A large picture/image (including but not limited to painted art) which is painted, constructed or affixed directly onto a vertical building wall, which may or may not contain text, logos, and/or symbols.

NATURE PRESERVE – A piece of land protected and managed to preserve its flora and fauna.

NET BUILDABLE AREA – The total acreage of permitted disturbance on a lot. Disturbance includes the portions of a lot where grading and construction activities occur.

NET FLOOR AREA – See "Floor Area, Net" in this Section.

NIGHT CLUB – An establishment primarily for evening, late-night to early morning entertainment, that typically serves food and/or alcoholic beverages, and may provide either live or prerecorded music or video, comedy acts, floor shows, with or without the opportunity for dancing. A nightclub may not include any aspects of adult entertainment or an adult-oriented establishment, as either are elsewhere defined and regulated in this Ordinance.

NO-IMPACT HOME-BASED BUSINESSES – A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, conducted by the individuals living in the dwelling, and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use.

No-impact home-based businesses are different than home occupation businesses. See "Home Occupation Business."

NON-CONFORMING LOT – Any lot which does not comply with the applicable area and bulk provisions of this Ordinance or an amendment thereafter enacted, which lawfully existed prior to the enactment of this Ordinance or any subsequent amendment.

NON-CONFORMING BUILDING OR STRUCTURE (LEGAL NON-CONFORMING) – A structure or part of a structure that does not comply with the applicable area and bulk provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or an amendment thereto, or prior to the application of this Ordinance or amendment to its location by reason of annexation. Non-conforming signs are included in this definition.

NON-CONFORMING USE – A use, whether of land or of a structure, that does not comply with the applicable use provisions in this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or an amendment thereto, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF) – All non-tower wireless communications facilities, including but not limited to, Antennae and related equipment. Non-Tower WCF shall not include support structures for Antennae and related equipment.

NURSERY SCHOOL – See "Day Care, Child" in this Section.

NURSING HOME – See "Care Facility and Senior Housing" in this Section.

OCCUPANCY – The physical possession upon, on, or within any lot or structure for a use.

OCCUPANCY PERMIT – A permit for the use or occupancy of a building, structure, or lot indicating compliance with all provisions of this Ordinance and the ICC International Property Maintenance Code.

OFFICE, BUSINESS AND PROFESSIONAL – Any office of recognized professions, other than medical, such as doctors, lawyers, architects, engineers, real estate brokers, insurance agents, and others who, through training, are qualified to perform services of a professional nature and other offices used primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other financial institutions.

OFFICE, MEDICAL – A building or a series of buildings or rooms where one (1) or more licensed medical professionals provide diagnosis and treatment to the general public without overnight observation. A medical office shall include such uses as reception areas, offices, examination rooms, and x-ray rooms, provided that all such uses have access only from the interior of the building. A medical office shall not include a pharmacy or surgical suites.

OPEN BURNING – Any fire or combustion from which air contaminants pass directly into the open air without passing through a flue. The term includes any fire or combustion which occurs in a chimney, fire pit, outdoor fireplace, or grill.

OPEN SPACE – Public or private land used for recreation, resource protection, amenity, and/or buffers, not including any area of a lot, any part an existing or future street ROW, easement of access or areas set aside for public or private utilities, stormwater facilities, and easements.

OUTDOOR STORAGE – Storage of materials and/or equipment but not including motorized vehicles such as automobiles, boats, and buses, outside of a completely enclosed building.

OVERLAY DISTRICT – A Zoning District that encompasses one (1) or more underlying Zoning Districts and that imposes additional requirements or provisions above that required by the underlying Zoning District.

PARK/PLAYGROUND – Land designed for the purposes of recreation and leisure and maintained by a private or public entity as such.

PARK, PUBLIC OR SEMIPUBLIC – A parcel of land owned by the Commonwealth of Pennsylvania, Cumberland County, and/or the Borough that is dedicated, either publicly or privately, specifically for outdoor use for open space and/or active or passive recreation purposes. A park shall also include a parcel of land owned by a homeowners' association or condominium association, as part of a Borough-approved subdivision, land development, and/or planned development that is dedicated, either publicly or privately, specifically for the use as a park, open space and/or active or passive recreation area.

PARK AND RIDE FACILITY – A facility designed for patrons to park their private vehicle and transfer to other private or public transportation.

PARKING GARAGE/STRUCTURE – A building with multiple stories of off-street parking spaces where vehicles are temporarily stored with or without a nominal fee.

PARKING LOT – Any lot, parcel, or yard used in whole or in part for the storage or parking of two (2) or more vehicles where such usage is not incidental to or in conjunction with a property containing no more than two (2) residential dwelling units.

PARKING LOT, COMMERCIAL – Any lot, parcel, or yard used in whole or in part for the temporary storage or parking of two (2) or more vehicles where such usage is the principal use on the site.

PARKING STRUCTURE, ACCESSORY – An accessory structure used exclusively for the temporary storage of motor vehicles and associated with a permitted principal use.

PARKING STRUCTURE, COMMERCIAL – A principal structure used exclusively for the temporary storage of motor vehicles.

PATIO – A structure accessory to a dwelling constructed on the ground from impervious material such as concrete, stones, bricks, blocks, or other paving material and which may or may not have a roof or awning.

PAWN SHOP – A business or establishment which loans money on deposit, or pledge of personal property, or other valuable things, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

PENNANT - A triangular or irregular piece of fabric or other material, commonly attached in strings or strands, or supported on small poles intended to flap in the wind.

PERMITTED USE – An authorized use allowed by right, which may be granted by the Zoning Officer upon compliance with the requirements of this Ordinance.

PERSONAL SERVICES – Any enterprise providing services pertaining to the person, their apparel, or personal effects commonly carried on or about the person, including but not limited to shoe repair, tailoring, clothes cleaning, watch repairing, barbershops, beauty parlors, and related activities.

PERSONS - Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania; provided that Person does not include or apply to the Borough or to any department or agency of the Borough.

PET BOARDING – Taking custody or possession of more than four (4) dogs and/or more than six (6) cats for the keeping, accommodation, care, training, or feeding for fee or reward at a property other than the animal's normal place of residence. The domestic animal can be left in the care of said establishment for a variable period of time. The

establishment must be able to accommodate domestic pets for extended periods of time, including but not limited to, overnight stays within indoor facilities.

PET PARK– A public gathering place that is designed and maintained with features such as benches, sitting, walls, plantings, pet-oriented amenities, and other landscape features.

PHARMACY – A retail store which primarily sells prescription drugs, patient medicines, and surgical and sickroom supplies.

PLACE OF WORSHIP – A semipublic use, including any of the following: church, manse, rectory, convent, synagogue, parish, monastery, seminary, or similar building incidental to the particular use; but this term does not include business offices, except administrative offices incidental to the operation of the particular use, rescue missions, or the occasional use for religious purposes of properties not regularly so used.

PLANNING COMMISSION – The Planning Commission of the Borough of New Cumberland.

PLANNING AGENCY, COUNTY – Cumberland County Planning Department.

PLAT – The map or plan of a subdivision or land development, whether preliminary or final.

POLE or POLES - Any freestanding structure located within the public rights-of-way, including but not limited to, utility poles, streetlights, traffic lights and signage that may support, hold, or house Wireless Communications Facilities, Wireless Accessory Equipment, or Related Equipment.

POLICE STATION – The office or headquarters of a local police force.

PORCH – A roofed or uncovered accessory structure without enclosing walls that is attached to or part of the principal building and which has direct access to and from the principal building.

POST OFFICE – A building or room where postage stamps are sold, and other postal business is conducted.

PRIMARY SURFACE ZONE – An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PRINCIPAL BUILDING OR STRUCTURE – The building(s) or structure(s) on a lot in which the principal use or uses are conducted.

PRINCIPAL USE – The primary or predominant use of any lot or structure.

PRIOR APPROVED DESIGN - A design for a Small Wireless Communications Facility that has been reviewed and deemed to be in accordance with the design requirements herein and approved for construction by the Borough.

PRIVATE – Owned, operated, or controlled by an individual, group of individuals, association, corporation, or not for profit, and restricted to members who meet certain qualifications and their guests.

PUBLIC – Owned, operated, or controlled by a government agency (Federal, State, County or Local).

PUBLIC BUILDING – Of, or pertaining to, buildings, structures, or uses belonging to, or affecting, any duly authorized governmental body, which is available for common, or general use by all.

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

PUBLIC MEETING – A forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

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

PUBLIC PARK – An area of public land specifically defined or set aside for use by and for the general public in both active and passive recreational uses; and includes all landscaping, facilities, and apparatus, playing fields, utilities, buildings, or other structures that are consistent with the general purposes of public parkland, and whether or not such recreational facilities are publicly owned or operated by other organizations pursuant to arrangements with the public authority owning the park and may include public and private cemeteries.

PUBLIC RIGHTS-OF-WAY (ROW) - The surface of and space above and below any real property in the Borough in which the Borough has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to: the total extent of land reserved or dedicated as a Street Way/Alley/Lane for Public or Private purpose; all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other Public place, area or property under the control of the Borough; any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than Streets that are owned by the Borough. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way.

PUBLIC UTILITY BUILDING – Any administrative or service building operated by a public utility which does not meet the definition of an essential service.

PUBLIC UTILITY TRANSMISSION FACILITY – A structure used for relaying public utilities including electricity, potable water, sanitary sewer lines, and other similar functions.

PUBLIC UTILITY TRANSMISSION TOWER - A Structure, owned and operated by a Public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

QUADRUPLEX DWELLING – See "Dwelling Types" in this Section.

RAILROAD FACILITY − A series of buildings, with or without an open yard, with a permanent road laid with rails, commonly in one (1) or more pairs of continuous lines forming a track or tracks, on which locomotives and cars are kept for maintenance and/or storage.

RAILROAD FREIGHT TRANSLOADING AND DISTRIBUTION TERMINAL − A terminal facility for the purpose of loading, unloading, handling, transloading, transferring, storing, staging, sorting, processing, and distributing railroad freight moving to and from railcars and other modes of transportation.

REAR YARD – See "Yard, Rear" in this Section.

RECORDER OF DEEDS – The Cumberland County Recorder of Deeds.

RECOVERY HOME – a residential structure used for the purpose of providing housing for individuals recovering from drug or alcohol addiction, which provides those individuals with a safe and supportive drug and alcohol-free environment that may include peer support and other recovery support services regulated and licensed by the Pennsylvania Department of Drug and Alcohol Programs in accordance with 28 Pa. Code, Chapter 717, as amended.

RECREATION – Activity or area intended for the use, play, relaxation, sports, or other leisure activities. Active recreation uses include activities or areas for game courts, athletic playing fields, play apparatus, and similar facilities. Passive recreation uses include open space, trails, and similar low impact activities.

RECREATION FACILITY – A building, structure, or area designed and equipped for the conduct of sports and/or leisure activities that attract a large number of users. Activities and improvements associated with a recreation facility include: (1) Indoor or outdoor swimming pools; or (2) Indoor or outdoor ice-skating rinks; or (3) Any other public recreation facilities.

RECREATION, INDOOR – A use consisting of indoor facilities for the pursuit of sports, amusement, recreation, and leisure activities available to the general public for a fee, where the principal use is conducted entirely within a completely enclosed building, including, but not limited to such principal uses as health, racquet, and/or swim clubs, fitness centers, roller or ice rinks, karate schools, gymnasiums, arenas, sports courts or playing fields, bowling alleys, amusement arcades, virtual reality and simulation gaming parlors, billiard parlors, shooting ranges, dance halls, but not including any adult business.

RECREATION, OUTDOOR – An enterprise which is conducted wholly or partly outside an enclosed structure for the pursuit of sports, recreation, and amusement activities, where the principal use is outdoors, but which may include accessory uses that are indoors, including, but not limited to such principal uses as miniature golf courses, golf or batting practice facilities, ice rinks, roller blade parks, swimming pools, sports playing fields, ball

parks, stadiums, amphitheaters, drive-in theaters, amusement parks, racetracks, and similar facilities.

RECREATIONAL VEHICLE –

RECREATIONAL VEHICLE: A motor vehicle that is self-propelled or towed and that is designed to be transported along public streets to serve as a mobile temporary residence. For the purposes of this Chapter, the term shall also include towable utility and cargo trailers.

(1). CLASS I RECREATIONAL VEHICLES: Recreational vehicles, campers, travel trailers, RVs boats and trailers used solely for the transport of residents' recreational vehicle(s) that possess less than or equal to two hundred (200) square feet, as measured to the vehicle's outermost edges, and does not exceed a height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigging fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console.

(2). CLASS II RECREATIONAL VEHICLES: Recreational vehicles, campers, travel trailers, boats and trailers used solely for the transport of residents' recreational vehicle(s) that possess more than two hundred (200) square feet, as measured to the vehicle's outermost edges, and/or that exceeds a height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigging fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console.

RECYCLING BUSINESS – A business that is: (1) primarily engaged in converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value; or (2) using raw material products of that kind in the production of new products; or (3) obtaining or storing ferrous or nonferrous metals.

REGISTERED PROFESSIONAL – An individual licensed in the Commonwealth of Pennsylvania to perform services or activities required by provisions of this Ordinance and qualified by training and experience to perform the specific services and/or activities with technical competence.

REHABILITATION FACILITY– See "Group Care Facility" in this Section.

RELATED EQUIPMENT – Any piece of equipment related to, incidental to, or necessary for, the operation of a wireless communications facility. By way of illustration, not limitation, Related Equipment includes generators and base stations.

RESEARCH AND DEVELOPMENT – Any establishment which carries on investigation in the natural, physical, or social sciences or engineering and development as an extension of such investigation with the objective of creating end products and which may include pilot manufacturing, as defined by this Ordinance, as an accessory use, where concepts are tested prior to full-scale production.

RESTAURANT – An establishment designed and operated for the express purpose of providing food and beverage service within the confines of a structure and generally excluding any encouragement, orientation, or accommodation of services or products to the patrons' automobiles, on or within the premises.

RESTAURANT, TAKE-OUT ONLY – A restaurant containing less than 1,500 square feet of gross floor area, which does not contain more than twenty (20) seats, and is primarily designed for order ahead or walk-in food and beverage services, to be picked up by the customer and consumed off-site.

RESTAURANT, GHOST KITCHEN – See “Ghost Kitchen” in this Section.

RETAIL STORE – A retail establishment located entirely within an enclosed building which sells goods, services, or merchandise to the general public for personal, household, or office consumption and which shall not include wholesaling, manufacturing, or processing of the goods offered for sale.

RETIREMENT HOUSING FACILITY – See “Care Facilities and Senior Housing” in this Section.

RIGHT-OF-WAY (ROW) – The surface of and space above and below any real property in the Borough in which the Borough has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Borough, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for Utility purposes, but excluding lands other than streets that are owned by the Borough. The phrase "in the Right(s)- of-Way" means in, on, over, along, above and/or under the Right(s)-of-Way. For the purpose of this ordinance, ROW shall include streets and roads owned by Cumberland County, the Commonwealth of Pennsylvania, and any other Pennsylvania state agencies.

ROADSIDE STAND, ACCESSORY – An accessory use that includes a seasonal, temporary, or a semi-temporary structure for the sale of goods or produce.

ROADSIDE STAND, PRINCIPAL – A principal use that includes a permanent structure for the sale of seasonal goods or produce.

ROOMING HOUSE – See “Boarding House” in this Section.

RUNWAY – A defined area of an airport prepared for landing and takeoff of aircraft along its length. Types of runways include:

NON-PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

OTHER THAN UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precisions Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VISUAL RUNWAY – A runway intended solely for the operation of aircraft using visual approach procedures.

SALVAGE/JUNK YARD – Any premises devoted wholly or in part to the storage, buying or selling, sorting, exchanging, salvaging, recycling, or otherwise handling or dealing in junk, including automotive wreckage, including any land or structure used for the collection, storage, processing and/or sale of scrap metal, scrapped, abandoned, or junked motor vehicles, machinery, equipment, wastepaper, glass, rags, containers, and other discarded materials. Under this Ordinance, two (2) or more scraped, abandoned, unregistered, inoperable or junked motor vehicles shall constitute a junkyard. Refuse or garbage kept in a proper container for prompt disposal shall not be regarded as a junkyard.

SCHOOL – Any public, private, or parochial place of instruction which teaches those academic subjects that are fundamental and essential in general education, and which provide instruction at the pre-primary level and/or kindergarten through 12th grade, or a vocational school, and meets the requirements of the Department of Education of the Commonwealth of Pennsylvania. Schools exclude “Educational Institution” and College/University” as defined in this Section.

SELF-STORAGE BUILDING – A building or group of buildings in a controlled access and fenced compound that contains various sizes of individualized, compartmentalized, and controlled access stalls and/or lockers leased by the general public for a specified period of time for the dead storage of personal lot.

SERVICE STATION – A retail place of business, engaged primarily in the sale of motor fuels or supplying goods and services generally required in the operation and maintenance of motor vehicles and fulfilling of motorist's needs, including the sale of petroleum products; sale and service of tires, batteries, automotive accessories and replacement items; washing and lubrication services; the supplying of other incidental automotive customer services and products; and the performing of automotive maintenance and repair, excluding such repair as spray painting, body, fender, axle, frame, major engine overhaul, or recapping/retreading of tires. A service station may also include the operation of a convenience food store.

SETBACK LINE – A line parallel to a lot line, defining the building setback required by this Ordinance.

SETBACK LINE, FRONT – The building setback line that is parallel to the front lot line, located at a distance as required by this Ordinance.

SETBACK LINE, REAR – The building setback line that is parallel to the rear lot line, located at a distance as required by this Ordinance.

SETBACK LINE, SIDE – The building setback line that is parallel to the side lot line, located at a distance equal to the side yard required by this Ordinance.

SEWAGE TREATMENT PLANT – A facility designed to receive the wastewater from domestic sources and to remove materials that damage water quality and threaten public health and safety when discharged into receiving streams or bodies of water.

SEXUALLY ORIENTED AND/OR ADULT BUSINESSES – Any commercial establishment including, but not limited to the list below. All types of sexually oriented and/or adult businesses are provided for by this land use classification within the Table of Authorized Principal Uses.

TYPES OF SEXUALLY AND ADULT ORIENTED BUSINESSES:

ADULT ARCADE – Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, videos, or other image-producing devices are maintained, not located within viewing booths, to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE – A retail-type establishment that sells the following: (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, CD ROM or DVD discs or other computer software, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

ADULT CABARET – A nightclub, bar, restaurant, or another commercial establishment which regularly features:

1. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

2. Films, motion pictures, video cassettes, DVDs, slides, or other photographic reproductions or visual presentations of any other kind which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MINI MOTION-PICTURE THEATER – An enclosed building or structure offering video presentations or other visual media distinguished or characterized by an emphasis or matter depicting, describing, or relating to “sexual activities” or “nudity”, as defined herein, for observation by patrons within private viewing booths.

ADULT MOTION-PICTURE THEATER – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions or visual presentations of any kind are regularly shown

which is characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER – A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ESCORT AGENCY – A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary businesses for a fee, tip, or other consideration.

NUDE MODEL STUDIO – Any place where a person who appears seminude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the Commonwealth of Pennsylvania or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing.

2. Where in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

Where no more than one (1) nude or seminude model is on the premises at any one (1) time.

SHED – A detached, accessory structure, with a size/area equal to or less than 250 square feet, which is incidental to a permitted residential structure. Sheds typically sit on a simple concrete slab, piers, or soil and are used to store household goods, tools, and/or equipment. Sheds shall include but are not limited to tool sheds, residential greenhouses, and pool equipment structures. All nonresidential detached storage structures are defined as storage buildings. See also “Storage Buildings.”

SHOPPING CENTER – Two (2) or more retail store(s) and other authorized uses in the Zoning District in which it is an authorized use, developed as a single entity on a site, whether developed at one (1) time or in phases or by different owners.

SHORT-TERM RENTAL – A principal or accessory use other than a hotel or motel where lodging is provided for compensation generally for less than 30 days. Rentals are generally facilitated by an online tool that allows for peer-to-peer lodging options where the lodging facilities are generally owned by private individuals. This use includes rentals commonly called by industry names including but not limited to Airbnb, Vrbo, HomeAway, FlipKey, WorldEscape, HouseTrip, etc.

SHOT CLOCK TIMEFRAMES - Federal regulation 47 C.F.R. § 1.6003 defines the, "reasonable periods of time to act on siting applications" as the "Shot Clock" timeframes. At regulation, "[t]he shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted. 47 C.F.R. § 1.6003(e).

SIGN – A name, identification, description, display, illustration, or device which is affixed or represented directly or indirectly upon a building, structure, or land and which functions as an Accessory Use by directing attention to a product, place, activity, person, institution, or business. The following terms and definitions are associated with the sign regulations contained in this Ordinance.

A. **Abandoned Sign:** A sign which has not identified or advertised an existing business, service, owner, product, or activity for a period of at least 180 days, and/or for which no legal owner can be found.

B. **Animated Sign:** A sign depicting action, motion, light, or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display.

C. **Changeable-Copy Sign:** A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system. Four primary types of Changeable-Copy Signs are ***Manual Changeable Copy Signs, Message Center Signs, Digital Displays, and TriVision Boards.***

D. **Directional Sign:** Signs designed to provide direction to pedestrian and vehicular traffic within a site.

E. **Double-Faced Sign:** A freestanding sign with two identical faces of the same size which are back-to-back, and not more than 45 degrees apart. (Also known as ***multi-sided sign***)

F. **Freestanding Sign:** A sign supported by structures or supports that are placed on, or anchored in, the ground, and that are independent from any building or structure. The following are subtypes of **freestanding signs**:

   Ground Sign: A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building. (Also known as ***monument sign***)

   Pole Sign: A freestanding sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.

G. **Governmental/Regulatory Sign:** Any sign for the control of traffic or for identification purposes, street signs, warning signs, railroad crossing signs and signs of public service companies indicating danger or construction, which are erected by or at the order of a public officer, employee or agent thereof, in the discharge of official duties.

H. **Illuminated Sign:** A sign with electrical equipment installed for illumination, either internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by reflection of a light source aimed at its surface.

I. **Incidental Sign:** A sign of a public service nature such as signs identifying parking lots, telephones, restrooms, loading docks, religious institutions, and similar services. These signs shall not contain any commercial advertising.

J. **Incidental Window Sign:** Signs displayed in the window indicating information such as the business' hours of operation, credit institutions accepted, commercial and civic affiliations, and similar information. These signs shall be informational only and shall not contain any commercial advertising.

K. **Manual Changeable Copy Sign:** A sign or portion thereof on which the copy or symbols are changed manually through placement or drawing of letters or symbols on a sign panel.

L. **Marquee Sign**: Any sign attached to a marquee for the purpose of identifying a use or project. If attached to a theater, performing arts center, cinema, or other similar use, it may also advertise films or productions.

M. **Mechanical Movement Sign:** A sign having parts that physically move rather than merely appear to move as might be found in a digital display. The physical movement may be activated electronically or from another power source but shall not include wind-activated movement such as used for banners or flags. Mechanical movement signs do not include digital signs that have changeable, programmable displays.

N. **Message Center Sign:** A type of illuminated, changeable copy sign that consists of electronically changing alphanumeric text often used for gas price display signs and athletic scoreboards. A message center sign must be integrated into a freestanding (pole or ground) sign.

O. **Off-Premises Sign:** An outdoor sign whose message directs attention to a specific business, product, service, event or activity, or other commercial or noncommercial activity, or contains a non-commercial message about something that is not sold, produced, manufactured, furnished, or conducted on the premises upon which the sign is located, and shall not have a sign area greater than 100 sq. ft. (See also, "Billboard")

P. **On-Premises Sign:** A sign whose message and design relates to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

Q. **Permanent Sign:** A sign attached to a building, window, or structure, or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign and whose intended use appears to be indefinite.

R. **Sandwich Board or A-Frame Sign:** A type of freestanding, portable, temporary sign consisting of two faces and taken down at the end of each day. Sandwich board and A-Frame signs are typically used to advertise dining, entertainment, or sales. Such signs must be located on the premises of the business it advertises.

S. **Vehicular Sign:** A sign affixed to a vehicle in such a manner that the sign is used primarily as a stationary advertisement for the business on which the vehicle sits or is otherwise not incidental to the vehicle's primary purpose.

T. **Projecting Sign:** A building mounted sign with the faces generally perpendicular to the building fascia, not to include signs located on a canopy, awning, or marquee. (Also known as ***blade sign***)

U. **Security Sign:** An on-premises sign regulating the use of the premises, such as a "no trespassing," "no hunting," or "no soliciting" sign. (Also known as ***warning sign***)

V. **Snipe Sign:** A temporary or permanent sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public right-of-way. (Also known as ***bandit sign***)

W. **Temporary Sign:** Any sign which is not permanently affixed to land or to any surface or improvement.

X. **Wall Sign:** A building-mounted sign, which is either attached to, displayed on, or painted on an exterior wall in a manner parallel with the wall surface. A sign installed on a false or mansard roof is also considered a wall sign (Also known as: ***fascia sign***, ***parallel wall sign***, ***band sign***).

Y. **Window Sign:** Any sign that is applied, painted, or affixed to a window, or placed inside a window, within three (3) feet of the glass, facing the outside of the building, and easily seen from the outside. Customary displays of merchandise or objects and material without lettering behind a store window are not considered signs.

SIGN AREA - The total dimensions of a sign surface used to display information, messages, advertising, logos, or symbols.

SIGN COPY - The words and/or message displayed on a sign.

SIGN FACE - The part of the sign that is or can be used for the sign area. The sign area could be smaller than the sign face.

STREAMERS - A display made of lightweight, flexible materials, consisting of long, narrow, wavy strips hung individually or in a series, with or without a logo or advertising message printed or painted on them and typically designed to move in the wind.

SINGLE-FAMILY DWELLING – See "Dwelling Types" in this Section.

SITE – A parcel of land located in the Borough, established by a plat or otherwise as permitted by law, which is the subject of an application for development. A site may include more than one (1) lot.

SITE AREA – The total area of all lots, ROWs, easements, open space, and other features contained within the boundaries of a site. The total project area is determined by a survey prepared by a registered surveyor. The total site area may include multiple parcels. Also see "Lot Area" in this Section.

SKILLED NURSING FACILITY − An inpatient healthcare facility with the staff and equipment to provide skilled care, rehabilitation and other related health services to patients who need nursing care, but do not require hospitalization, and when stays are not more than 90 days.

SMALL WIRELESS COMMUNICATIONS FACILITY (SMALL WCF)

A wireless communications facility that meets the following criteria:

(1) The structure on which antenna facilities are mounted—

(i) is 50 feet or less in height, or

(ii) is no more than 10 percent taller than other adjacent structures, or

(iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

(2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and

(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under 47 CFR Part 17;

(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

SMALL WIRELESS FACILITY – The equipment and network components, including antennas, transmitters, and receivers, used by a wireless provider that meets the following requirements:

1. Each antenna associated with the deployment is no more than three (3) cubic feet in volume.

2. The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

SOLAR ENERGY PRODUCTION FACILITY, LARGE – An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy. Large solar energy production facilities 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 and facilities. A facility is considered a large solar energy production facility if it supplies electrical or thermal power solely for off-site use.

SOLAR ENERGY SYSTEM, SMALL – A solar collection system consisting of one (1) or more roof and/or ground mounted solar collector devices and solar related equipment and is intended to primarily reduce on-site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

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

SOUND LEVEL – The intensity of sound, measured in decibels (dBa), and produced by the operation of a permitted use.

SOUND LEVEL METER – An instrument standardized by the American Standards Association for measurement of intensity of sound.

SPECIAL EVENT – Any temporary display, sale of goods, use, or event that is located outside of a principal building structure and is accessory to the principal use of the lot that has the potential to create an increase in traffic, congestion, and/or noise than that which is typically caused by the principal use of the lot.

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 antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

STEEP SLOPE – Any portion of any lot which has a natural or finished slope in excess of 25% shall be considered a steep slope and shall be subject to these regulations, except that high walls remaining from mineral removal activities shall be exempt from these regulations. Slope is calculated based upon contours at intervals of not more than five (5) feet where the slope is greater than ten percent (10%) and at intervals of not more than two (2) feet where the slope is ten percent (10%) or less.

STORAGE BUILDING – An accessory structure with a size/area between 451 and 5,000 square feet used for storing goods and products incidental to a permitted, nonresidential, principal use.

STORAGE YARD, ACCESSORY – As an accessory use, a storage yard includes a portion of a lot or parcel which is occupied by a building and is used to store materials associated with the permitted principal use. Materials and/or equipment within a storage yard are not offered for commercial sale nor are they accessible to the public. See also “Supply Yard.”

STORAGE YARD, PRINCIPAL – As a principal use, a storage yard is an otherwise vacant lot or parcel that is used to store construction equipment, vehicles, and/or construction materials. Materials and/or equipment within a storage yard are not offered for commercial sale nor are they accessible to the public. See also "Supply Yard."

STORMWATER MANAGEMENT FACILITIES – Any structure, natural or man-made, that due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include but are not limited to detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.

STORY – That portion of a building included between the surface of any finished floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it. In determining the number of stories for purposes of height measurement, a basement shall be counted as a story if the ceiling is more than five (5) feet above the average adjoining ground level at the front setback, and a mezzanine shall be counted as a story if it covers 50% or more of the area of the story underneath such mezzanine. An attic or a cellar shall not be counted as a story.

STREET – All land between ROW lines, whether public or private, and whether improved or unimproved, which is intended to accommodate vehicular traffic, including an avenue, drive, boulevard, highway road, freeway, parkway, lane, viaduct, or other vehicular way. The term shall not include the word "Driveway."

TYPE OF STREETS: As defined below and also as defined and outlined in the Borough SALDO.

ARTERIAL ROAD/STREET – A public street that serves large volumes of high speed and long-distance traffic.

COLLECTOR ROAD/STREET – A public street which, in addition to providing access to abutting lots, intercepts local streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial roads.

STREET FRONTAGE – The length of the front lot line. See also "Lot Line."

STREET WALL – The wall of a building adjoining a sidewalk at the edge of the street ROW; or architectural elements, such as walls, piers, pillars, fences, colonnades, porches, and porticoes, in lieu of a building wall when a building is set back from the street wall line.

STREET TREE – Any tree planted within the ROW of a street. Street trees are not the same as trees planted in the front yard of a residential home or lot.

STRUCTURAL ALTERATION – Any change in the support members of a building such as bearing walls, columns, beams, or girders; changes in the means of ingress and/or egress; enlargement of floor area or height of a structure; or relocation of a structure from one (1) position to another.

STRUCTURE – Any man-made object having an ascertainable stationary location on or in land or water, whether or not it is affixed to the land.

STUDENT RECREATIONAL FACILITIES – A facility or facilities for the enjoyable relaxation of students enrolled at a commercial school.

SUBDIVISION – The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (SALDO) – The Borough of New Cumberland Subdivision and Land Development Ordinance (SALDO), Ordinance, as adopted and amended by Borough Council.

SUBSTANTIAL CHANGE or SUBSTANTIALLY CHANGE

A modification to an existing wireless communications facility substantially changes the physical dimensions of a tower or wireless support structure if it meets any of the following criteria:

(1) For wireless communications facilities outside the public rights-of-way, it increases the height of the facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna, not to exceed 20 feet, whichever is greater; for wireless communications facilities in the rights-of-way, it increases the height of the facility by more than 10% or 10 feet, whichever is greater;

(2) For communications towers outside the public rights-of-way, it protrudes from the edge of the tower by more than 20 feet, or more than the width of the tower structures at the level of the appurtenance, whichever is greater; for those wireless communications facilities in the public rights-of-way, it protrudes from the edge of the structure by more than six feet;

(3) It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;

(4) It entails any excavation or deployment outside the current site of the communications tower; or

(5) It does not comply with conditions associated with prior approval of construction or modification of the wireless communications facility unless the noncompliance is due to an increase in height, increase in width, or addition of cabinets.

SUPPLY YARD, ACCESSORY – As an accessory use, a supply yard shall include the portion of a lot or parcel that is not occupied by a building and is used for the display and/or sale of building materials, construction equipment, and/or goods associated with the permitted principal use. Supply yards do not include the storage and sale of vehicles. See also “Storage Yard” and “Vehicle Sales.”

SUPPLY YARD, PRINCIPAL – As a principal use, a supply yard is an otherwise vacant lot or parcel that may or may not be occupied by a building and is used for the display and

sales of building materials, construction equipment, feed and grain, and/or goods typically stored outdoors for sale to the public. Supply yards do not include the storage and sale of vehicles. See also "Storage Yard" and "Vehicle Sales and Service."

SURFACE AREA OF A SIGN – The area of all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed (whether such background is open or enclosed) but excluding any supporting framework and bracing which are solely incident to the display itself, provided that the same do not contain such lettering, wording, designs, or symbols. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, wall, or window, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols. Where a sign consists of a double face, only one (1) side shall be considered for the purpose of calculating the sign area, provided that both faces are identical.

SURVEYOR – A professional surveyor licensed in the State of Pennsylvania. See "Registered Professional."

SWIMMING POOL – A man-made enclosure, designed to impound water for the purpose of creating depth of water suitable for swimming, or other types of water recreation or therapy, including but not limited to water slides, lap pools, whirlpools, soaking tubs, or hot tubs.

TATTOO/BODY PIERCING ESTABLISHMENT – An establishment in which tattooing, or body piercing is carried out professionally, subject to all applicable county and/or state health and licensing requirements.

TEMPORARY USE OR STRUCTURE – Any use or structure which may be a principal use on a lot or accessory to an existing principal use on a lot intended to be used for less than six (6) consecutive months, including but not limited to construction or land sales trailers, tents, bleachers, air supported structures, seasonal displays, and similar structures. Structures intended to be used for more than six (6) months shall be considered permanent and shall meet the use and structure requirements for permanent structures.

TENTATIVE APPROVAL – An approval prerequisite to final approval of a development plan granted by the Borough Council in accordance with this Ordinance.

THEATER – A building or part of a building devoted to showing motion pictures or dramatic, dance, musical, or other live performances. This definition does not include "Adult-Oriented Businesses."

TINY HOUSE – See "Dwelling Types" in this Section.

TOWER - A self-supporting lattice tower, guyed tower, monopole, or any other pole, which is constructed primarily to support an antenna for receiving and/or transmitting Wireless service.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF) A Tower and its supporting antennae, including, but not limited to, self-supporting lattice towers, guyed towers and monopoles. Distributed antennae system hub facilities are considered to be Tower-Based WCFs.

TOWING AND OTHER ROAD SERVICES – A personal service engaged in the business of offering the services of a vehicle wrecker or towing service, whereby disabled motor vehicles are towed or otherwise removed from the place they are disabled by use of a wrecker so designed for that purpose by a truck, automobile, or other vehicle so adapted for that purpose.

TOWNHOUSE – See "Dwelling Types" in this Section.

TRAFFIC REPORT – A technical report, submitted by a professional traffic engineer, which projects the trip generation of a land development and the anticipated trip impact on the Borough's Comprehensive Road Network.

TRAILER CONSTRUCTION – A temporary structure to be used for the duration of the zoning, building, and grading permit to provide temporary offices for personnel associated with the permitted land development.

TRANSITIONAL SURFACE ZONE – An imaginary surface that extends outward and upward from the edge of the primary and approach surfaces to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1).

TURBINE HEIGHT – The distance measured from the highest point of the wind turbine rotor plane to the ground level.

TWO-FAMILY DWELLING – See "Dwelling" in this Section.

UNDERGROUND DISTRICT - A zoning district, or sub-area thereof, including, but not limited to, planned developments, in which utility installations are required to be installed underground on a non-discriminatory basis.

UNIFORM CONSTRUCTION CODE (UCC) – A set of standards that regulated new construction and renovations to residential and commercial buildings in the Commonwealth of Pennsylvania.

UNIVERSITY/COLLEGE – See "College/University" in this Section.

URBAN AGRICULTURE, ACCESSORY – Agricultural activities intended primarily for the growing of crops and in which no livestock or other farm animals are kept or raised excluding poultry and bees. Limited agricultural uses are intended to allow for the growing of agricultural products on vacant lots or properties as an accessory use.

USE – Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business, or operation carried on in a building or other structure or on a tract of land.

USE, ACCESSORY – A use customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

USE, PRINCIPAL – The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

VARIANCE – Relief granted pursuant to the provisions of Articles VI and IX of the MPC, and the conditions set forth in this Ordinance.

VEHICLE BODY REPAIR – The commercial activity of repairing damage to the exterior body of a vehicle, including collision repair, dent removal, panel replacement, and paint restoration, typically requiring specialized equipment and facilities to perform these tasks; essentially, any work done on the non-mechanical parts of a car's body after an accident or damage.

VEHICLE REPAIR GARAGE – Any building, premises, and land in which or upon which a business, service, or industry performs or renders a service involving the maintenance, servicing, repair, or painting of vehicles weighing less than 8,500 pounds Gross Vehicle Weight Rating (GVWR). A vehicle repair garage schedules repair appointments with customers and allows limited walk-in service, this type of use does not include a storefront primary intended for retail sales of automotive goods, supplies, or accessories. See "Service Station". Businesses solely devoted to vehicle electronics repair and/or installation shall be considered retail stores.

VEHICLE SALES AND SERVICE – A retail establishment which may include one (1) or more of the following: an open area, other than a street, for the display and sale or rental of new or used automobiles and light duty trucks; buildings which may contain offices and showrooms; an area within a completely enclosed building where reconditioning, preparation, accessory installation, repairs, and/or the servicing of vehicles is performed.

VEHICLE RENTAL FACILITY – The rental of motor vehicles, watercraft, recreational vehicles, or trailers, including outdoor display areas and service areas within a completely enclosed building and a showroom and offices within the building.

VETERINARY CLINIC – See "Animal Hospitals and Veterinarian Services."

VINEYARD – A farm where grape vines are planted, grown, raised, or cultivated for the purpose of producing grape wine.

WASTEWATER TREATMENT PLANT – A facility that processes and converts wastewater, which is water no longer needed or suitable for its most recent use, into an effluent that can be either returned to the water cycle with minimal environmental issues or reused.

WAREHOUSE AND STORAGE SERVICES – A structure primarily used for the storage of goods and materials which also includes refrigeration and cold storage services. This use does not include distribution centers.

WBCA – Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)

WELL – A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

WHOLESALE BUSINESS – A business primarily engaged in selling merchandise to retailers, institutional, commercial, or professional business customers or other wholesalers, rather than to the general public, which includes the warehousing of

merchandise, and which may include distribution of such merchandise on the site of the principal business.

WIND CHARGER – A wind-driven, direct-current generator used for charging storage batteries.

WIND ENERGY CONVERSION SYSTEM (WECS) – A device such as a wind charger, wind turbine or windmill, and/or other electric generation facility whose main purpose is to convert wind power into another form of energy such as electricity or heat, consisting of one (1) or more wind turbine and other structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

WIND ENERGY PRODUCTION FACILITY, LARGE – An area of land or other area used for a wind energy conversion system principally used to capture wind energy and convert it to electrical energy. Large wind energy production facilities consist of one (1) or more wind turbines, tower, and associated control or conversion electronics and other accessory structures and buildings including substations, electrical infrastructure, transmission lines, and other appurtenant structures and facilities. A facility is considered a large wind energy production facility if it supplies electrical power solely for off-site use.

WIND ENERGY SYSTEM, SMALL – A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and is intended to primarily reduce on-site consumption of utility power. A system is considered a small wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

WINDMILL – A device that runs on the energy generated by a wheel of adjustable blades or slats rotated by the wind.

WIND TURBINE – A device that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

WINERY – An area devoted to the process of fermenting the product into wine. Wineries shall also include the structures or areas provided for the tasting or sale of the wine so long as such areas are on the same site as the products grown.

WIRELESS – Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS ANTENNA - An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of wireless service and any commingled information services.

WIRELESS APPLICATION

A formal request submitted to the Borough to site, construct, operate, remove or modify a wireless support structure, equipment compound, or a wireless telecommunications facility.

WIRELESS COMMUNICATIONS FACILITY (WCF)
The antennas, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)
Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the Public Rights-of-Way or other Municipal-owned land or property.

WIRELESS COMMUNICATIONS RELATED EQUIPMENT – Any piece of equipment related to, incidental to, or necessary for, the operation of a tower-based WCF or non-tower WCF. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.

WIRELESS SUPPORT STRUCTURE or SUPPORT STRUCTURE - For the purposes of wireless communications, any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, upon or to which wireless communications facilities may be attached, if approved by the Borough.

YARD, FRONT – A yard extending between side lot lines across the full lot width from the front lot line to a line parallel to the front face of the structure of the principal use of the lot (See Figure 1).

YARD, REAR – A yard extending between the side lot lines across the full lot width from the rear lot line to a line parallel to the rear face of the structure of the principal use of the lot (See Figure 1).

YARD, SIDE – A yard extending from the front yard line to the rear yard line parallel to the side lot line (See Figure 1).

ZONING CERTIFICATE – A document signed and issued by the Zoning Officer upon a request to certify the correct Zoning District, the compatibility of existing land uses, the compatibility of proposed land uses, and/or the legal status of a non-conforming use, structure, or lot.

ZONING DISTRICT – An area in the Borough in which regulations under this Ordinance uniformly apply, including Overlay Districts.

ZONING HEARING BOARD (ZHB) – The Zoning Hearing Board of the Borough of New Cumberland, Cumberland County, Pennsylvania as defined by and appointed in accordance with the MPC, Act 247 of 1968, as amended by Act 170 of 1998 (53 P.S. §10101 et seq., as may be amended from time to time).

ZONING HEARING BOARD SOLICITOR – The ZHB Solicitor shall be an attorney other than the Borough Solicitor and shall not be employed within the same law firm as the Borough Solicitor. The ZHB Solicitor shall be licensed as such in the Commonwealth of Pennsylvania and represents the Borough ZHB.

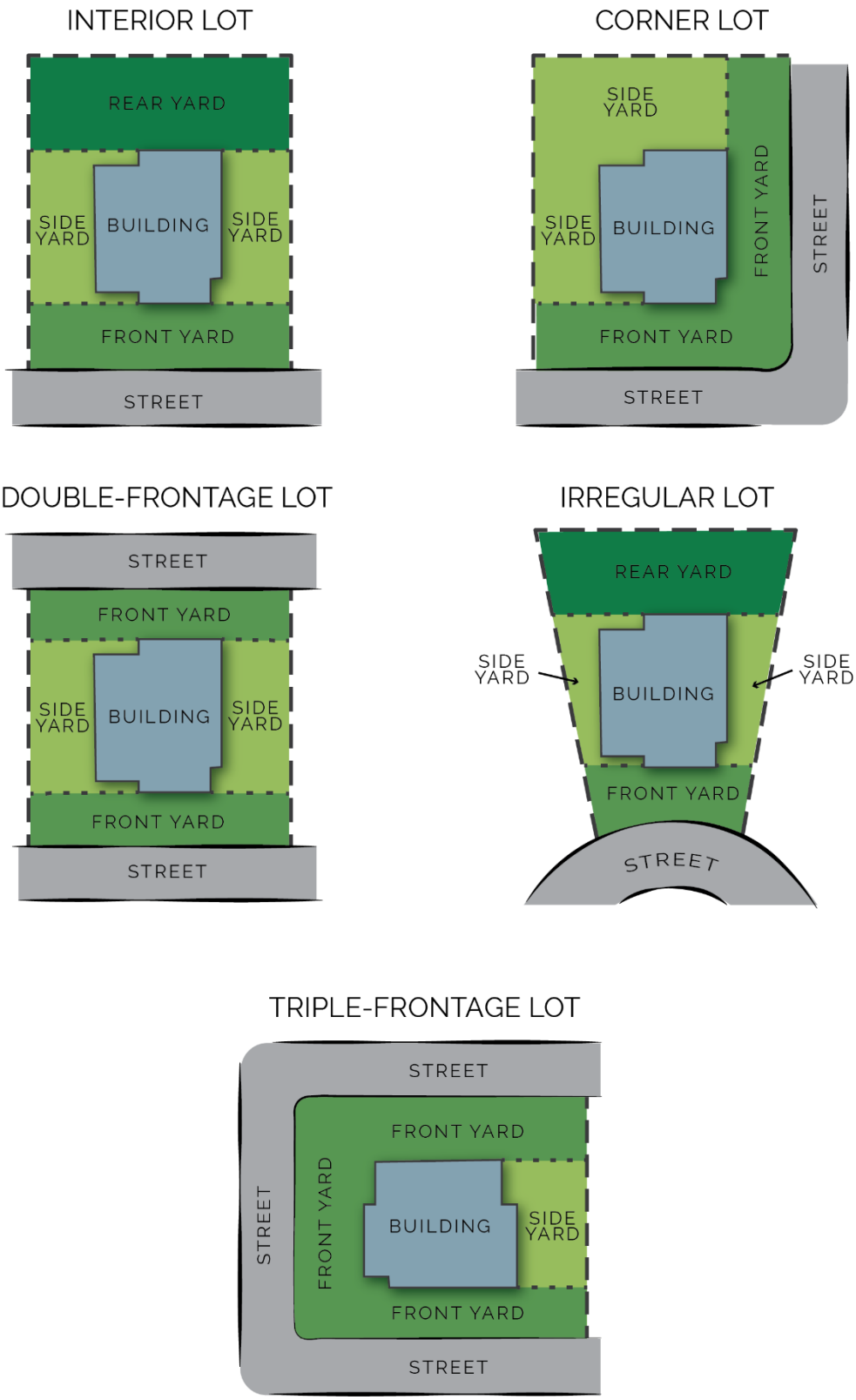
ZONING MAP – The Official Zoning Map delineating the Zoning Districts of the Borough of New Cumberland, Cumberland County, Pennsylvania, together with all amendments subsequently adopted.

ZONING OFFICER – The designated official or authorized representative appointed by the Borough Council whose duty it shall be to administer this Ordinance and as identified in §614 of the Pennsylvania MPC, Act 247 of 1968, as amended by Act 170 of 1998 (53 P.S. §10101 et seq., as may be amended from time to time). An Alternate Zoning Officer may be appointed by Borough Council, any Alternate Zoning Officer shall retain the same authority of the Zoning Officer for administration and enforcement of this Ordinance.

ZONING ORDINANCE – The New Cumberland Zoning Ordinance, as amended.

ZONING PERMIT – The document required to be applied for prior to commencement of any activities regulated by this Ordinance, to ensure review and compliance of all requirements set forth in this Ordinance; a Zoning Permit shall not be considered issued to Applicant until the permit receives approval by the Zoning Officer, any other appropriate Borough employee, official or Board, and is issued a permit number by the Borough.

FIGURE 1: YARD TYPE ILLUSTRATION



Article III: District Regulations

Section 301: District Designation

A. For the purpose of this Ordinance, the Borough is hereby divided into the following Zoning Districts:

R1	Residential Single-Family
R2	Residential
MU	Mixed-Use
I	Institutional
IC	Industrial/Commercial
	Downtown Overlay District

Section 302: Map Designation of Zoning Districts

A. The aforesaid Zoning Districts are bounded and defined on a map entitled "Official Zoning Map of New Cumberland Borough," adopted on the 9th day of August, 2023, as amended, and certified by the Borough Manager, which map accompanies this Ordinance and is hereby made a part thereof.

Section 303: Boundaries

A. Where uncertainty exists as to the location of the boundaries of Zoning Districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

4. Boundaries indicated as parallel to or extensions of features indicated in Section 304 herein shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

5. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Section 304 herein, the ZHB shall interpret the District boundaries.

Section 304: Use of Property

A. No building, structure, accessory structure, or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the Zoning District in which it is located.

B. No land, structure, building, accessory structure, or development approval shall be issued unless the proposed development conforms to the regulations prescribed within the applicable Zoning District and this Ordinance.

C. Two (2) classifications of principal uses are established in this Ordinance. No principal use is permitted unless it is listed as a Permitted Use by Right (P) or a Conditional Use (CU), and as identified in Table 6. Uses permitted as principal uses or structures within each Zoning District are those uses listed in Table 6. The classification of uses include:

    1. Permitted Uses by Right (P) are those authorized uses for which a zoning approval will be issued by the Zoning Officer upon the Zoning Officer's review of the application for development if the application for development indicates compliance with this Ordinance.

    2. Conditional Uses (CU) are those authorized uses which are permitted by approval of the Council in accordance with this Ordinance and more specifically Article V Express Standards and Criteria for Conditional Uses.

D. Uses Not Listed. It is the intent of this Ordinance to group similar or compatible land uses into specific Zoning Districts. Uses not specifically listed in Table 6 are allowable subject to the provisions of this Section of the Ordinance and subject to the following:

    1. Uses which are not specifically listed on the Tables of Authorized Uses (Principal and Accessory), shall not be permitted in the Borough unless determined to be a legitimate use, similar to a use specifically listed on the Tables of Authorized Uses (Principal and Accessory).

    2. Uses which are not specifically listed but are similar to a specifically listed use shall be permitted by conditional use in the same Zoning District in which the similar specifically listed use is permitted.

    3. Borough Council shall make findings with regard to the similarity of the uses. In the event the Borough Council finds the use is similar and permissible as a conditional use within the proposed District, all standards and requirements related to the similar use within the District shall be applicable to the proposed use.

E. Uses Preempted by State Statute. Notwithstanding any provision of this Section to the contrary, uses that are required to be permitted in any Zoning District by state or federal statute may be permitted in accordance with state or federal law whether or not the use is included in the Tables of Authorized Uses (Principal and Accessory).

F. In the Residential Zoning Districts, R1 and R2, there shall only be one (1) principal use and structure on a lot.

G. In all Nonresidential Zoning Districts authorized by this Ordinance, MU, I, and IC, two (2) or more nonresidential principal buildings can occupy the same lot and two (2) or more authorized nonresidential uses may occupy the same lot or building. Provided in all cases that all applicable requirements for each of the structures or uses can be met on the lot.

H. In addition to the provisions for principal uses, accessory uses shall also be permitted in accordance with the provisions of this Ordinance. In all Zoning Districts, all accessory

uses, and structures shall be located on the same lot with the principal structure and use to which they are accessory. All accessory uses shall comply with the provisions contained herein.

Section 305: Bulk and Area Regulations

A. Bulk and area regulations for uses are specified in the Tables in each Section for each specific Zoning District and as established for general or specific accessory uses.

Section 306: Restrictions

A. No part of a yard or other open space required around any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

Section 307: R1 Residential District

A. Purpose. The purpose of the R1 District is to provide for neighborhoods of single-family dwellings of a low density. It is intended to exclude any non-residential uses and activities not compatible with low density residential development.

B. Authorized Principal Uses. See Section 312, Table of Authorized Principal Uses (Table 5), for authorized principal uses and method of authorization in the R1 District.

C. Authorized Accessory Uses. See Section 314, Table of Authorized Accessory Uses (Table 6), for authorized accessory uses and method of authorization in the R1 District.

D. Area and Bulk Regulations. The area and bulk regulations within the R1 Zoning District shall be subject to the standards identified in Table 1, except as they may be modified by the express standards and criteria for the specific permitted uses and conditional uses.

E. Off-Street Parking and Loading. See Article VII of this Ordinance for off-street parking and loading requirements.

TABLE 1: R1 RESIDENTIAL BULK AND AREA REGULATIONS

Bulk and Area Regulations R1 Residential Zoning District		
	Single-Family/Twin	**All Other Permitted**
Lot size (minimum)	5,000 sq. ft.	6,000 sq. ft.
Lot Width (minimum)	50 ft.	40 ft.
Height (maximum)	35 ft.	45 ft.
*Front Setback (minimum)	25 ft.	20 ft.
Side Setback (minimum)	5 ft.	5 ft.
Rear Setback (minimum)	5 ft.	5 ft.
Impervious Coverage (maximum)	40%	60%
*If a dwelling unit is located within an existing developed neighborhood or area, the front building setback shall be consistent with or in-line with the front setbacks of adjoining properties. The front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered patios or terraces shall not be part of the adjacent buildings in determining such measurements.		

Section 308: R2 Residential District

A. Purpose. The purpose of the R2 District is to provide moderate density residential development located near personal and retail commercial services in a pedestrian-friendly environment.

B. Authorized Principal Uses. See Section 312, Table of Authorized Principal Uses (Table 5), for authorized principal uses and method of authorization in the R2 District.

C. Authorized Accessory Uses. See Section 314, Table of Authorized Accessory Uses (Table 6), for authorized accessory uses and method of authorization in the R2 District.

D. Area and Bulk Regulations. The area and bulk regulations within the R2 Zoning District shall be subject to the standards identified in Table 2, except as they may be modified by the express standards and criteria for the specific permitted uses and conditional uses.

E. Off-Street Parking and Loading. See Article VII of this Ordinance for off-street parking and loading requirements.

TABLE 2: R2 RESIDENTIAL BULK AND AREA REGULATIONS

Bulk and Area Regulations R2 Residential Zoning District	Single-Family/Twin	Two-Family	Townhome	All Other Permitted
Lot size (minimum)	5,000 sq. ft.	5,000 sq. ft.	4,000 sq. ft.	6,000 sq. ft.
Lot Width (minimum)	40 ft.	40 ft.	20 ft.	40 ft.
Height (maximum)	35 ft.	35 ft.	40 ft.	45 ft.
*Front Setback (minimum)	20 ft.	15 ft.	15 ft.	20 ft.
Side Setback (minimum)	5 ft.	5 ft.	5 ft.	5 ft.
Rear Setback (minimum)	5 ft.	5 ft.	5 ft.	5 ft.
Impervious Coverage (maximum)	50%	50%	70%	70%

*If a dwelling unit is located within an existing developed neighborhood or area, the front building setback shall be consistent with or in-line with the front setbacks of adjoining properties. The front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered patios or terraces shall not be part of the adjacent buildings in determining such measurements.

Section 309: MU Mixed-Use District

A. Purpose. The purpose of the MU District is to provide a compatible mixture of residential and low to moderate intensity neighborhood commercial facilities intended to serve the Borough with goods and services. This District accommodates both nonmotorized and well-designed motorized transportation facilities that provide residents and visitors with mobility options.

B. Authorized Principal Uses. See Section 312 Table of Authorized Principal Uses (Table 6), for authorized principal uses and method of authorization in the MU District.

C. Authorized Accessory Uses. See Section 314, Table of Authorized Accessory Uses (Table 6), for authorized accessory uses and method of authorization in the MU District.

D. Area and Bulk Regulations. The area and bulk regulations within the MU Zoning District shall be subject to the standards identified in Table 3, except as they may be modified by the express standards and criteria for the specific permitted uses and conditional uses.

E. Off-street Parking and Loading. See Article VII of this Ordinance for off-street parking and loading requirements.

F. Floor area ratio (FAR): 2.0. See § 404, Bonus Provisions, for conditions when a 2.5 FAR is permitted within the Downtown Overlay District.

TABLE 3: MU MIXED USE BULK AND AREA REGULATIONS

Bulk and Area Regulations MU Mixed-Use Zoning District					
	Single-Family	**Two-Family**	**Townhome**	**Multi-Family**	**All Other Nonresidential Permitted**
Lot Size (Minimum)	4,000 sq. ft.	4,000 sq. ft.	1,600 sq. ft./ unit	750 sq. ft./unit	2,000 sq. ft.
Lot Width (Minimum)	30 ft.	30 ft.	20 ft.	40 ft.	20 ft.
Height (Maximum)	35 ft.	35 ft.	40 ft.	60 ft.	60 ft.
Front Setback (Minimum)*	10 ft.	5 ft.	5 ft.	15 ft.	0 ft.
Side Setback (Minimum)**	3 ft.	3 ft.	3 ft.	10 ft.	5 ft.
Rear Setback (Minimum)	15 ft.	10 ft.	10 ft.	20 ft.	0 ft.
Impervious Coverage (Maximum)	50%	50%	70%	70%	80%

*Front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered patios or terraces shall not be part of the adjacent buildings in determining such measurements.

**Side setbacks are not required for dwellings or buildings that share common walls along the shared wall. The side setback applies to end units only.

Section 310: I Institutional District

A. Purpose. The purpose of the I District is to permit the continued use of public buildings, parks, playgrounds, and open space that are either privately and/or publicly owned. The Institutional District includes public and private schools/educational institutions, places of worship, parks, and properties owned by the Borough and/or the West Shore School District.

B. Authorized Principal Uses. See Section 312 Table of Authorized Principal Uses (Table 6), for authorized principal uses and method of authorization in the I District.

C. Authorized Accessory Uses. See Section 314, Table of Authorized Accessory Uses (Table 6), for authorized accessory uses and method of authorization in the I District.

D. Area and Bulk Regulations. The area and bulk regulations within the I Zoning District shall be subject to the standards identified in Table 4, except as they may be modified by the express standards and criteria for the specific permitted uses and conditional uses.

E. Off-street Parking and Loading. See Article VII of this Ordinance for off-street parking and loading requirements.

TABLE 4: I INSTITUTIONAL BULK AND AREA REGULATIONS

Bulk and Area Regulations I Institutional Zoning District	
Lot Size (Minimum)	6,000 sq. ft.
Lot Width (Minimum)	50 ft.
Height (Maximum)	60 ft.
Accessory Structures	24 ft.
Front Setback (Minimum)	30 ft.
Side Setback (Minimum)	10 ft.
Rear Setback (Minimum)	20 ft.
Accessory Structures	10 ft.
Impervious Coverage (Maximum)	75%

Section 311: IC Industrial/Commercial District

A. Purpose. The purpose of the IC District is to permit a wide variety of commercial and industrial uses that are compatible with existing residential uses and that provide employment opportunities, goods and services, and help to support the tax base of the Borough. This District encourages industrial uses and development, including infill and redevelopment, where appropriate and compatible with the surrounding neighborhood and with access to public and private transportation facilities.

B. Authorized Principal Uses. See Section 312 Table of Authorized Principal Uses (Table 6), for authorized principal uses and method of authorization in the IC District.

C. Authorized Accessory Uses. See Section 314, Table of Authorized Accessory Uses (Table 6), for authorized accessory uses and method of authorization in the IC District.

D. Area and Bulk Regulations. The area and bulk regulations within the IC Zoning District shall be subject to the standards identified in Table 5, except as they may be modified by the express standards and criteria for the specific permitted uses and conditional uses.

E. Off-street Parking and Loading. See Article VII of this Ordinance for off-street parking and loading requirements.

F. Buffer landscaping shall be located on the outer perimeter of a lot or parcel along lot lines of adjoining dissimilar zones as set forth in Section 601.

TABLE 5: IC INDUSTRIAL/COMMERCIAL BULK AND AREA REGULATIONS

Bulk and Area Regulations IC Industrial/Commercial Zoning District	
Lot Size (Minimum)	7,000 sq. ft.
Lot Width (Minimum)	50 ft.
Height (Maximum)	60 ft.
Accessory Structures	24 ft.
Front Setback (Minimum)*	10 ft.
Side Setback (Minimum)	5 ft.
Adjoining Residential	15 ft.
Accessory Structures	5 ft.
Rear Setback (Minimum)	10 ft.
Adjoining Residential	15 ft.
Accessory Structures	5 ft.
Impervious Coverage (Maximum)	80%
*Front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered patios or terraces shall not be part of the adjacent buildings in determining such measurements.	

Section 312: Table of Authorized Principal Uses

A. Table 6 establishes the authorized principal uses and the Zoning Districts where the principal use is authorized and the method of authorization.

P – Permitted Use by Right

CU – Conditional Use (see General and Express Standards in Article V)

Blank cells indicate that the use is not permitted in the corresponding District.

TABLE 6: TABLE OF AUTHORIZED PRINCIPAL USES

Use	R1	R2	MU	I	IC
Airport					CU
Amphitheater			CU		P
Amusement Arcade			P		CU
Amusement Park					CU
Animal Day Care			CU		P
Animal Grooming Facility			P		P
Animal Hospitals and Veterinarian Services			P		P
Animal Shelter					P
Aquarium/Zoo					CU
Art Gallery			P		P
Arts and Craft Studio			P		P
Asphalt/Concrete Plant					CU
Bank/Financial Institution			P		P
Bar/Tasting Room			P		P
Bed and Breakfast			CU		P
Beverage Distributor					P
Billboards		Subject to Article VIII			
Boarding House					CU
Brewery, Micro-Brewery, and Brew Pub			P		P
Bus or Truck Maintenance Facility					P
Car Wash (Automobile Detail, Automatic, Self-Service)			CU		CU
Care Facilities and Senior Housing:					
Assisted Living Facility			CU		CU
Independent Living Facility			CU		CU
Life Care Community			CU		CU
Nursing Home			CU		CU
Retirement Housing Facility			CU		CU
Catering/Event Venue			P		P
Catering Facility			P		P
Cemetery and Mausoleum					CU
Clubs/Lodges (not including Commercial Recreation Uses)			P		P
College/University					P
Commercial Motor Vehicle Repair					CU
Commercial Communication Tower					P
Commercial School			P	P	P
Community Center			P	P	P
Conference Center			P		P
Construction-Related Business			CU		CU
Convenience Store			P		P
Correctional Facility					CU
Crematorium					P
Data Center Facility					CU
Day Care Center, Adult			P		P
Day Care Center, Child			P		P

Use	R1	R2	MU	I	IC
Distillery and Micro-Distillery			P		P
Distribution Center					P
Dormitories					P
Dwelling Types:					
Conversion Dwellings		CU	CU		CU
Single-Family Semidetached/Twin	CU	P	P		P
Garden Apartment		CU	P		P
High-Rise Apartment		CU	CU		CU
Manufactured Home	P	P	P		
Mobile Home					CU
Multi-Family		P	P		
Quadruplex		CU	P		P
Single-Family	P	P	P		
Tiny House					CU
Townhouse		CU	P		P
Two-Family/Duplex	CU	P	P		P
Educational Institution			P	P	
Emergency Services Facility	P	P	P	P	P
Emergency Shelter					P
Essential Services	P	P	P	P	P
Farmers Market			P		P
Fitness Center			P		P
Flea Market			P		P
Food and Grocery Store			P		CU
Forestry	P	P	P	P	P
Funeral Home			P		P
Garden Center			P		P
Gas/Fuel Station			P		P
Ghost Kitchen			CU		P
Golf Course					CU
Golf Driving Range			CU		P
Greenhouse/Nursery					P
Group Care Facility					CU
Group Home	P	P	P		CU
Halfway House					CU
Hazardous Waste Recycling Facility					CU
Heavy Equipment Repair					P
Hospital			P		P
Hotel			P		P
Kennel					CU
Laboratory			CU		P
Landscape Service Center, Retail			P		CU
Landscape Service Center, Wholesale			P		CU
Laundromat			P		P
Library	P	P	P	P	P
Live-Work Units			P		P
Magistrate Office and Court			P	P	P
Manufactured Home Park					CU

Use	R1	R2	MU	I	IC
Manufactured Home Sales					CU
Manufacturing Facility, Heavy					P
Manufacturing Facility, Light					P
Massage Therapy Establishment			P		P
Medical Clinic			P		P
Medical Marijuana Dispensary			CU		CU
Medical Marijuana Grower/Processor			CU		P
Methadone Treatment Facility					CU
Mobile Home Park					CU
Mobile Home Sales					CU
Motel					CU
Municipal Building	P	P	P	P	P
Nature Preserve	P			P	
Night Club			P		P
Office, Business and Professional			P		CU
Office, Medical			P		P
Park/Playground	P	P	P	P	P
Park, Public or Semipublic	P	P	P	P	P
Park and Ride Facility					P
Parking Garage/Structure			CU		CU
Parking Lot, Commercial					P
Parking Structure, Commercial			CU		CU
Pawn Shop					P
Personal Services			P		P
Pet Boarding			CU		CU
Pet Park			P	P	P
Pharmacy			P		P
Place of Worship	CU	CU	P	P	P
Police Station	P	P	P	P	P
Post Office			P	P	
Public Utility Building			CU	CU	P
Public Utility Transmission Facility	CU	CU			P
Railroad Facility					P
Railroad Freight Transloading and Distribution Terminal					P
Recovery Home		CU	CU		
Recreation Facility			CU	P	P
Recreation, Indoor			CU	P	P
Recreation, Outdoor			CU	P	P
Recycling Business					P
Research and Development					P
Restaurant			P		P
Restaurant, Take-Out Only			P		P
Retail Store			P		P
Roadside Stand, Principal					P
Salvage/Junk Yard					P
School			P	P	
Self-Storage Building					P

Use	R1	R2	MU	I	IC
Service Station			CU		CU
Sewage Treatment Plant					P
Sexually Oriented and/or Adult Businesses					CU
Shopping Center			P		P
Short-Term Rental, Principal		CU	CU		
Skilled Nursing Facility			P		P
Solar Energy Production Facility, Large					CU
Storage Yard, Principal					P
Student Recreational Facilities			P	P	P
Supply Yard, Principal					P
Tattoo/Body Piercing Establishment			P		P
Theater			CU		P
Towing and Other Road Services					P
Vehicle Body Repair					P
Vehicle Repair Garage			P		P
Vehicle Sales and Service					P
Vehicle Rental Facility			P		P
Vineyard			CU		CU
Warehouse and Storage Services					P
Wastewater Treatment Plant					CU
Wholesale Business			P		P
Winery			CU		P
Wind Energy Production Facility, Large					CU
Wireless Communications Facilities		Subject to Article IX			
Uses Not Listed		Subject to Article V			

Section 313: Accessory Uses and Structures

A. Applicability. This Section applies to any subordinate use of a building or other structure, or use of land that is:

1. Conducted on the same lot as the principal use to which it is related; and

2. Clearly incidental to, and customarily found in connection with, the principal use or principal structure.

B. Establishment of Accessory Uses.

1. Accessory structures, buildings, or uses shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established.

2. In no instance shall an accessory structure or use be established on a vacant lot.

Section 314: Table of Authorized Accessory Uses and Structures

A. Accessory uses shall be permitted in accordance with Table 7:

P – Permitted Use by Right

CU – Conditional Use (see General and Express Standards in Article V)

Blank cells indicate that the use is not permitted in the corresponding District.

B. All accessory structures and uses are also subject to the general standards listed in Section 314 and the supplemental regulations found in Article VI of this Ordinance.

TABLE 7: TABLE OF AUTHORIZED ACCESSORY USES AND STRUCTURES

Use	R1	R2	MU	I	IC
Accessory Dwelling Unit	CU	CU	CU		
Amphitheater			CU	CU	CU
Amusement Arcade					P
Bar/Tasting Room			P		
Billboards		Subject to Article VIII			
Carport	P	P	P		P
Community Food Bank				P	P
Data Center Accessory Use					P
Day Care, Home-Based	CU	CU	CU		CU
Deck	P	P	P		P
Drive-Through Facilities			CU		CU
Electric Vehicle Charging Station	P	P	P	P	P
Fence	P	P	P	P	P
Garage, Private	P	P	P		P
Gazebo	P	P	P	P	P
Golf Driving Range					CU
Home Occupational Business	CU	CU	P		
Loading Berth			P	P	P
No-Impact Home-Based Business	P	P	P		P
Parking Structure, Accessory			P		P
Patio	P	P	P		P
Porch	P	P	P		P
Roadside Stand, Accessory			P		P
Shed	P	P	P	P	P
Short-Term Rental, Accessory	CU	CU	CU		
Signs		Subject to Article VIII			
Solar Energy System, Small	P	P	P	P	P
Storage Building					P
Storage Yard, Accessory			CU		CU
Supply Yard, Accessory			CU		CU
Swimming Pool	P	P	P	P	P
Temporary Use or Structure			P	P	P
Trailer Construction	P	P	P	P	P
Urban Agriculture, Accessory	P	P	P	P	P
Wind Energy System, Small	P	P	P	P	P
Wireless Communications Facilities		Subject to Article IX			
Any other Building or Use that is Customarily Incidental to the Permitted Principal Use or Principal Building	CU	CU	CU	CU	CU

Section 315: General Standards for all Accessory Uses and Structures

A. Permitted Accessory Uses. Accessory uses and structures permitted by this Ordinance are listed in the Table of Authorized Accessory Uses and Structures (Table 7). Accessory uses and structures which are not specifically listed in the Table shall not be permitted in the Borough.

B. If an accessory structure or building is attached to the principal structure, then it shall be considered part of the principal structure and shall be subject to all requirements relating to the principal structure.

C. Location of Accessory Structures and Uses.

1. Accessory structures and uses, with the exception of authorized signs and fences, shall not be located in the required front yard of any lot in any Zoning District.
2. All accessory structures shall be set back a minimum of five (5) feet from any side or rear property line except where a larger setback is required elsewhere in this Ordinance or in the specific area and bulk regulations of the Zoning District in which the property is located.
3. Accessory structures in the R1, R2 and MU Districts shall not exceed 15 feet in height, except where a taller height is permitted for specific standards for accessory uses and structures in Section 316, height exceptions in Section 611, or Article IX “Wireless Communications Facilities”.
4. Accessory uses shall be conducted on the same lot as the principal use to which it is related; and clearly incidental to, and customarily found in connection with, the principal use or structure.

D. Accessory structures shall be counted towards the maximum impervious coverage on a lot and in no case shall exceed the maximum impervious coverage for the Zoning District in which it is located when considering all structures on the lot.

E. Accessory uses shall not include the conduct of trade or business unless permitted in conjunction with an authorized principal or accessory use that permits trade or business.

F. While properties can have multiple accessory structures, not more than two (2) accessory structures by type shall be permitted on an individual lot (e.g., shed, deck, pool, etc. are types of accessory structures).

G. Accessory structures shall not exceed the height of the principal structure unless the accessory structure is directly related to an agricultural operation or falls under another height classification/exemption in Section 315C(3). In addition, specific types of accessory structures shall adhere to the height restrictions included herein.

H. Accessory structures or uses shall not be constructed or established on a lot until the construction of the principal structure is completed or the principal use is established.

Section 316: Specific Standards for Accessory Uses and Structures

A. Accessory Dwelling Units.

1. Subject to the conditional use standards found in Article V of this Ordinance.

B. Carports.

1. The maximum height of carports is listed in the Table of Carport Heights (Table 8).

TABLE 8: TABLE OF CARPORT HEIGHTS

Lot size	Height of Structure
Lots ≤ 1 Acre	15 ft.
Lots > 1 Acre ≤ 2 Acres	20 ft.
Lots > 2 Acres	20 ft.

C. Day Care, Home.

1. Subject to the conditional use standards found in Article V of this Ordinance.

D. Drive-through Facilities.

1. Subject to the conditional use standards found in Article V of this Ordinance.

E. Fences and Walls.

1. Subject to the standards found in Article VI of this Ordinance.

F. Garage, Private.

1. A private garage may include the maximum storage of one (1) private vehicle not registered to family and/or individuals living within the permitted principal use.

2. No part of an accessory garage shall be occupied as a residential living area.

3. All detached private garages shall be set back a minimum of seven and one-half (7.5) feet from any property line.

4. The size/area of a Garage, Private shall be between 251 square feet and 450 square feet.

5. The maximum heights of detached private garages are listed in the Table of Detached Garage Heights (Table 9).

TABLE 9: TABLE OF DETACHED GARAGE HEIGHTS

Lot size	Height of Structure
Lots ≤ 1 Acre	15 ft.
Lots > 1 Acre ≤ 2 Acres	20 ft.
Lots > 2 Acres	20 ft.

G. Home Occupational Business.

1. Subject to the conditional use standards found in Article V of this Ordinance.

H. Restaurant, Outdoor Dining.

1. The area to be utilized as outdoor dining shall be accessory to an existing permitted restaurant and shall be located within the sidewalk or ROW of the permitted restaurant. The dining area shall not extend beyond the actual width of the building in which the restaurant is located unless a written lease is established with a property immediately adjacent to the establishment utilizing outdoor dining, and a copy of the lease is provided to the Borough

2. The portion of the sidewalk or ROW to be used shall be no greater than one-half (0.5) of the space measured between the outside face of the curb and the property line. An unobstructed pedestrian passageway of no less than five (5) feet shall be provided between the curb and the sidewalk dining area. The unobstructed area shall be clear of utility poles, traffic meters, water hydrants, street trees, planter boxes, trash receptacles, etc.

3. No obstruction shall be placed within eighteen (18) inches of the face of any curb, within five (5) feet of any fire exit, fire hydrant, building entry, building exit, or building corner or within ten (10) feet of any bus stop.

4. Outdoor dining shall not be permitted between the hours of 11 p.m. and 7 a.m.

5. The outdoor dining shall not in any way endanger the health, safety, or welfare of the public or be detrimental to surrounding property values.

6. The sidewalk dining area shall be properly maintained, and the entire sidewalk shall be kept free of litter.

7. No additional signage shall be permitted on the sidewalk.

8. Additional refuse facilities shall be provided outside for patrons within the outdoor dining area.

I. Roadside Stands, Accessory.

1. A current peddler's license shall be clearly displayed on the premises.

2. Accessory roadside stands shall be authorized by the resident and/or owner of the permitted principal structure.

3. All parking for salespeople and customers shall be on the property of the landowner, and there shall be no parking permitted on a ROW.

4. Roadside stands shall be setback a minimum of ten (10) feet from any property line or ROW.

5. No permanent signs related to the roadside stand shall be erected.

J. Sheds.

1. No part of a shed shall be occupied as a residential living area.

2. A residential accessory structure greater than 250 sq. ft. shall be considered a Private Garage and shall comply with standards set forth in Section 316F.

3. The maximum heights of sheds are listed in the Table of Shed Size and Heights (Table 10).

4. The maximum size/area of sheds shall be 250 square feet.

5. Sheds shall be constructed in a manner to prevent the harborage of rodents and other animals.

TABLE 10: TABLE OF SHED HEIGHT

Lot size	Height of Structure
Lots ≤ 0.5 Acres	15 ft.
Lots > 0.5 Acre ≤ 1 Acres	15 ft.
Lots > 1 Acres	20 ft.

K. Short-Term Rental, Accessory.

1. Short-term Rental, Accessory is a use where the Short-Term Rental is an Accessory Use to the authorized Principal Use and the Principal Use is owner occupied.

2. Subject to Section 554 of this Ordinance.

L. Solar Energy System, Small.

1. Zoning approval is required for the construction of any solar-energy facility that is an accessory use on any roof, site, or lot.

2. The zoning permit application shall indicate the location of the proposed facility, including the percentage of roof coverage, if the facility is mounted on a building.

3. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to, information regarding site selection, facility design or appearance, buffering, and screening of ground-mounted electrical and control equipment.

4. Where the installation of the facility constitutes a land development, all provisions of applicable Ordinances shall be met.

5. All solar-energy facilities shall comply with the Pennsylvania Uniform Construction Code (UCC) and the regulations adopted by the Pennsylvania Department of Labor and Industry (PA L&I).

6. Solar-energy facilities shall not display advertising, except for reasonable identification of the facility manufacturer.

7. No solar-energy facility or facilities may exceed in total 30% of the total lot or site area; said restriction does not apply for roof mounted facilities.

8. Solar-energy facilities shall meet the accessory structure setbacks that may apply in the Zoning District within which the facility is constructed, and where no such setback is specified, the facility shall be no closer than ten (10) feet to any property line.

9. No facility shall be attached to a tree, or any other natural object or structure not intended to support such a facility, except that facilities may be appropriately attached to buildings capable of accommodating them.

10. No facility shall be installed immediately adjacent to a swimming pool or other open body of water.

M. Storage Building.

1. The location of permitted storage buildings is governed by the same dimensional regulations as set forth for the principal use or principal structure or structures of the underlying Zoning District.

2. No part of an accessory storage building shall be occupied as a residential living area.

3. The maximum and height of storage buildings are listed in the Table of Storage Building Heights (Table 11).

4. The maximum size/area of a storage building shall be 5,000 square feet, refer to Sheds for structures containing 250 sq/sf or less, or Private Garage for accessory structures containing between 251 sq/ft and 450 sq/ft.

TABLE 11: STORAGE BUILDING HEIGHT

Lot size	Height of Structure
Lots ≤ 1 Acre	15 ft.
Lots > 1 Acre ≤ 2 Acres	20 ft.
Lots > 2 Acres	20 ft.

N. Storage Yard, Accessory.

1. Subject to the conditional use standards found in Article V of this Ordinance.

O. Supply Yard, Accessory Use.

1. Subject to the conditional use standards found in Article V of this Ordinance.

P. Swimming Pools (see Section 610).

1. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

2. Swimming pools must have an approved type of filtration system which will keep the water clean and sanitary at all times.

Q. Trailer Construction (Temporary Trailers, Construction or Sales).

1. Temporary construction trailers, including sales trailers, shall be permitted in any Zoning District of the Borough subject to the following restrictions:

   a. Such construction or sales trailers placed during construction activities shall be located on the lot on which construction is progressing and shall not be located within 25 feet of the boundary line of any abutting residential lot.

   b. Such construction or sales trailers shall be used only as temporary field offices and for storage of incidental equipment and supplies, and not for any dwelling use whatsoever.

   c. No combustible materials shall be stored in the construction trailer or construction shed.

   d. All construction trailers or sales trailers shall have at least ten (10) feet on all sides for clearance.

   e. Such construction or sales trailers shall not be moved to, or construction sheds erected on a construction site until the date on or after which construction actually commences and shall be removed from such site within 30 days after completion of construction. If construction is interrupted and ceases for more than 60 days, the construction trailer shall be removed until actual construction commences again.

R. Wind Energy System, Small.

1. Borough zoning approval is required prior to the construction of any wind-energy facility on any site or lot.

2. The zoning permit application shall indicate the location of the proposed facility.

3. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to, information regarding site selection, facility design or appearance, buffering, and screening of ground-mounted electrical and control equipment.

4. Where the installation of the facility constitutes a land development, all provisions of applicable Ordinances shall be met.

5. Noise from any wind energy system shall not exceed fifteen (15) dBa at the lot line, unless all affected adjacent property owners shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the office of the Recorder of Deeds of Cumberland County. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in *AWEA Standard 2.1 – 1989, titled "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier."*

6. Construction of any wind energy system shall comply with all rules, laws, and regulations of the FAA. Documentation of compliance shall be provided to the Borough.

7. To the extent applicable, all wind-energy facilities shall comply with the Pennsylvania Uniform Construction Code (UCC) and the regulations adopted by the Pennsylvania Department of Labor and Industry (PA L&I).

8. All electrical components of wind-energy facilities shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.

9. Wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety.

10. Wind energy systems shall not display advertising, except for reasonable identification of the facility manufacturer.

11. Transmission and power lines shall be placed underground or out of sight.

12. Setbacks.

    a. From Buildings. one and one-tenth (1.1) times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any movable or immobile part; except where the facility is mounted to a building, the setback shall not be required between the facility and the building to which it is attached.

    b. From Property Lines. one and one-tenth (1.1) times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any movable or immobile part.

    c. From Public Roads. one and one-tenth (1.1) times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any movable or immobile part.

13. Each vertically oriented wind-energy facility mounted on a building shall be separated from any other wind-energy facility by one and one-tenth (1.1) times the

height of the facility, measured from the point at which the facility is mounted to the building, to the highest reach of any movable or immobile part of the facility.

14. Any wind-energy facility that is an accessory structure shall meet the applicable accessory structure setbacks that may apply in the Zoning District within which the facility is constructed; and where no such setback is specified, the facility shall be no closer than ten (10) feet to any property line or the distance set forth above, whichever is greater.

15. Maximum Height. Where the facility is an independent structure and not mounted to a building, twenty (20) feet maximum height in residential Zoning Districts and 60 feet maximum height in Commercial and Industrial Zoning Districts, measured from ground level to the tip of the wind-energy facility's blade fully extended perpendicular to the ground plane. Where the facility is mounted to a building, the maximum height shall be ten (10) feet higher than the tallest point on the building.

16. Minimum vertical clearance between ground level and the lowest movable component of the wind energy systems when at its lowest point shall be fifteen (15) feet.

17. The color shall be a neutral and nonreflective tone, such as white, off-white, or gray. The facility coloring shall be solid, and any alphabetical or numerical characters shall be representative of the facility manufacturer only and shall comprise no more than five (5) sq. ft.

S. Electric Vehicle Charging Stations
    1. Electric Vehicle Charging Stations are permitted when accessory to the primary permitted use on a property. Such stations located at single-family, two-family, and multi-family land uses shall be designated for private restricted use of the property owner or occupants of the property only.

    2. Electric Vehicle Charging Stations located on single-family, two-family, and multi-family properties shall either be located in a garage/carport or shall be installed meeting setback and other standards in accordance with Section 315.

Article IV: Downtown and Airport Overlay Districts

Section 401: Downtown Overlay District

A. Purpose. The general intent of the Downtown Overlay District is to encourage the rehabilitation and reuse of existing structures and to provide for economic development through the establishment of flexible standards that promote an integrated character of downtown New Cumberland. Redevelopment opportunities advocated by this Overlay are intended to ensure efficient use of the land and public services, provide social interaction, and encourage the safety and comfort of movement for all pedestrians.

B. Eligibility. The provisions of the Downtown Overlay District shall apply to all development within the boundary of the designated area depicted on the Official Zoning Map. Where the provisions of the Downtown Overlay District conflict with other requirements of this Ordinance, the requirements of this Article shall prevail.

C. Uses. Uses permitted in the Downtown Overlay District shall include those uses permitted in the underlying Zoning District in which the subject property is located.

D. Design Guidelines. To further maintain the architectural character of the downtown, please consult the New Cumberland Borough Design Guidelines, published April 12, 2023, available online or at the Borough Office, and implement recommendations whenever possible.

Section 402: General Requirements

A. Any Historic Structure, as defined, cannot be demolished unless following a conditional use procedure as described in § 562, Demolition of Historic Structure.

B. Public utilities. All uses shall be served by public water and sewer facilities.

C. Surface parking.

1) General surface parking standards.

(a) Vehicular access. Vehicular access to surface parking shall be from an alley or side street where possible.

(b) Pedestrian access. Safe provisions for pedestrian access to and through a parking lot shall be required. Surface parking areas and pedestrian walkways connecting to them shall be well-lit.

(c) Location of surface parking:

[1] Where the applicant is to provide parking, it shall be located to the rear of the principal building or to the side (however, parking shall not be located between a building and the street). Parking shall be set back 10 feet from the legal right-of-way.

[2] Corner lots. Surface parking shall not be permitted on corner lots that are located on collector or arterial roads.

[3] Off-street surface parking shall not extend more than 70 feet in width along any pedestrian street frontage.

(2) Interconnected parking areas.

(a) Parking areas on abutting nonresidential lots shall be interconnected by access driveways, where feasible, given the location of existing buildings.

(b) Each nonresidential lot shall provide cross-access easements for its parking areas and access driveways guaranteeing access to adjacent lots. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.

(3) Off-street parking requirements.

(a) Refer to Section VII, Parking, except as provided for in Section 402C.

(b) Parking is not required for the first two residential units located in a mixed-use building. For each unit above two units in a mixed-use building, one parking space is required for each unit.

(c) Parking shall be required at 1.5 spaces per residential unit in an apartment building. This requirement may be fulfilled via a parking structure, surface parking that meets the above surface parking and interconnected parking area requirements of § 402C(1) and (2), via shared parking agreements, or any combination thereof approved by Borough Council.

D. Exterior lighting. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

E. Refuse areas. The storage of refuse shall be provided inside the building(s) or within an outdoor area enclosed by either walls or opaque fencing. Any refuse area outside of the building shall be designed to be architecturally compatible with the building(s), shall not be located in the front of the building, and shall be entirely screened by a fence or enclosure which is at least six feet high.

F. Screening.

(1) All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, landscaping or other approved means.

(2) All rooftop mechanical equipment and other appurtenances shall be concealed by or integrated within the roof form or screened from view at ground level of nearby

streets. The following, when above the roofline, requires screening: stairwells, elevator shafts, air-conditioning units, large vents, heat pumps and mechanical equipment.

(3) Parking lots visible from a street shall be continuously screened by a three-foot-high wall/fence or plantings. Parking lots adjacent to a residential use shall be continuously screened by a six-foot- high wall/fence or plantings. Screening shall include:

(a) Hedges, installed at 36 inches in height;

(b) Mixed planting (trees and shrubs); or

(c) Wall sections, with no wall break of more than nine feet, and landscaping to provide a continuous screen.

(4) Service and loading areas must be visually screened from streets and pedestrian ways. For new construction, service and loading areas must be behind the building. Loading docks shall not be on the primary street but to the side and rear of the building.

G. Signs. Signage in the Downtown Overlay District shall conform to the standards of Article VIII, Signs.

H. Street trees. Street trees are required where a building fronts on a public thoroughfare and where possible. Street trees shall match the type, size and frequency dictated by the prevailing streetscape design of the street(s) upon which the property sits and taking into account the standards in §403, Streetscape and green area standards, and any existing Shade Tree requirements of the Subdivision and Land Development Ordinance. Tree species and planting locations shall be consistent with recommendations of DCNR and the TreeVitalize program. The provision of street trees and approval of species/location will be reviewed and approved by Borough Council.

I. Outdoor dining.

(1) Planters, posts with ropes, or other removable enclosures, as well as a reservation podium are encouraged and shall be used as a way of defining the area occupied by the cafe.

(2) Must also comply with provisions of Section 316.H.

Section 403: Streetscape and Green Area Standards

The following streetscape and green area standards are required for all new developments and additions/alterations along the street frontage:

A. Streetscape and green area standards shall relate to the Borough's streetscape design and be reviewed by Borough Council. The applicant shall demonstrate that these standards are met through elevations and conceptual sketches.

B. Table 12 indicates the categories and minimum requirements for streetscape and green area standards. Category A contains planting and greening elements. Category B includes more elaborate greening elements as well as street furniture and other streetscape elements. Category C includes more extensive building elements, streetscape improvements, and open space elements. Table 13 presents the streetscape and green area items within each category.

Table 12

Streetscape and Green Area Categories	
Building Additions and Alterations	Four points from A (no more than three of one item)
Two-story new developments of 1,500 to 4,999 gross square feet in size	Four points from A (no more than three of one item)
Two-story new developments of 5,000 to 9,999 gross square feet in size	Five points from A; four points from B
New developments of 10,000 gross square feet and greater in size and/or new buildings greater than two stories	Seven points from A; five points from B; six points from C

Table 13 Streetscape and Green Area Items		
Category	**Item**	**Points**
A	Hanging basket (minimum size 12 inches in diameter)	1
A	Decorative banners/flags	1
A	Window box (as wide as windowsill and a minimum size six inches wide by six inches deep)	2
A	Additional planting area including shrubs, trees, ground covers or flowers	2
A	Street planter (minimum size 24 inches in diameter)	2
B	Building decorative lighting	1
B	Bench (at least five feet in length)	2
B	Trash receptacle	2
B	Raised planting bed	2
B	Public art/mural	2
B	Trellis, arbor or pergola (planted with vines or shrubs)	2
B	Awning for window or door	2
B	Informational Kiosk	3
C	Drinking fountain	2
C	Decorative paving	2
C	Water feature (fountain)	2
C	Balconies	3
C	Planting in curb extension (planted bulb outs/large planters)	3
C	Urban garden [see requirements in § 403.3]	3
C	Roof garden	3
C	Bus shelter	3
C	Clock tower	3
C	Decorative architectural treatments	4
C	Public plazas/squares/courtyards [see requirements in 403.4]	6
C	Facade restoration	6
C	Other amenity approved by governing body	3 to 6

C. Urban garden standards.

(1) Minimum size required is 50 square feet.

(2) An urban garden shall be located where it is visible and accessible from either a public sidewalk or pedestrian connection.

(3) Sixty percent of the garden shall be of plant materials such as trees, vines, shrubs and seasonal flowers with year-round interest. All trees shall be 3.5 inches in caliper.

(4) A water feature is encouraged.

(5) Two seating spaces are required for each 50 square feet of garden area.

D. Public plazas/squares/courtyards standards:

(1) The minimum size required is 500 square feet.

(2) The plaza shall be located where it is visible and accessible from either a public sidewalk or pedestrian connection.

(3) Thirty percent of the plaza shall be landscaped with trees, shrubs and mixed plantings with year-round interest.

(4) The plaza shall use the following paving materials: unit pavers, paving stones, or concrete. No more than 20% of the plaza shall be concrete.

(5) One seating space is required for each 30 square feet of the plaza area.

(6) The plaza shall not be used for parking, loading or vehicular access (excluding emergency vehicular access).

(7) Public art and fountains are encouraged.

(8) Trash containers shall be distributed throughout the plaza.

(9) The plaza shall provide shade by using the following elements: trees, canopies, trellises, umbrellas or building walls.

(10) One tree is required for every 500 square feet. Trees shall be of 3.5 inches in caliper.

(11) Lighting shall be provided.

(12) Plazas shall connect to other activities such as outdoor cafes, restaurants and building entries.

(13) Plazas shall be located, if possible, to have maximum direct sunlight with a south or west orientation.

(14) Plazas, if constructed by a private entity, shall have an agreement with the community for public access.

Section 404: Bonus Provisions

A. Bonus provisions. An increase of 0.5 FAR for a total floor area ratio of 2.5 is permitted for the following:

(1) For apartment buildings, where 50% or more of the first floor of the building located along the street frontage is walk-in office or retail uses.

(2) For buildings located within 2,500 feet of a transit facility or a public parking facility.

Section 405: Design Standards

A. Pedestrian design standards.

(1) Sidewalks are required along all street frontages, with a minimum width of five (5) feet.

(2) Sidewalks are required to connect the street frontage to all front building entrances, parking areas, central open space, and any other destination that generates pedestrian traffic. Sidewalks shall connect to existing sidewalks on abutting tracts and other nearby pedestrian destination points and transit stops.

(3) The sidewalk pattern shall continue across driveways.

B. Building design standards. Nonresidential buildings and apartment buildings shall meet the following requirements:

(1) Building footprint. The maximum building footprint of nonresidential buildings shall not exceed 10,000 square feet per lot.

(2) Building orientation and entrances:

(a) The front facade of buildings shall be oriented towards commercial streets, with an everyday public entrance in this front facade.

(b) When buildings are located on corners, the entrance shall be located on the corner with an appropriate building articulation, such as a chamfered corner, turret, canopy or other similar building feature. Borough Council may allow front facades to face existing side streets when these facades will extend an existing commercial district along this existing side street.

(c) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(d) All primary building entrances shall be accentuated. Entrances permitted include: recessed, protruding, canopy, portico or overhang.

(3) Walls and windows:

(a) Blank walls shall not be permitted along any exterior wall facing a street, parking area, or walking area. Walls or portions of walls where windows

are not provided shall have architectural treatments that are similar to the front facade, including materials, colors and details. At least four of the following architectural treatments shall be provided:

[1] Masonry (but not flat concrete block).

[2] Concrete or masonry plinth at the base of the wall.

[3] Belt courses of a different texture or color.

[4] Projecting cornices.

[5] Projecting metal canopy.

[6] Decorative tilework.

[7] Trellis containing planting.

[8] Medallions.

[9] Opaque or translucent glass.

[10] Artwork.

[11] Vertical/horizontal articulation.

[12] Lighting fixtures.

[13] An architectural element not listed above, as approved by the governing body, which meets the intent.

(b) Transparency:

[1] The ground-floor front facades of buildings visible from the pedestrian view shall consist of a minimum of sixty-percent window area and a maximum of 75%, with views provided through these windows into the business and/or product display windows.

[2] The bottom of any window or product display window used to satisfy the above transparency requirements may not be more than three to 4.5 feet above the adjacent sidewalk.

[3] Product display windows used to satisfy the above requirements shall have a minimum height of six feet (with twenty-four-inch transom) or seven feet and be internally lit.

[4] Upper-story windows of front facades shall not be boarded or covered and shall comprise a minimum of thirty-five-percent window area in the facade above the ground floor and a maximum of 75%.

[5] Smoked, reflective or black glass in windows is prohibited.

[6] Fenestration shall reflect a unified style of a building.

(4) Roofs. Roofs shall be in keeping with the character of adjacent buildings or shall have pitched roofs. Pitched roofs shall have a minimum slope of 4:12 and a maximum slope of 12:12. Greater pitches that reflect a style such as English Tudor may be permitted at the approval of the Zoning Officer.

(5) Building character. New infill development shall generally employ building types that are compatible to the historic architecture of the area in their massing and external treatment as described in the design standards of this Section 405, Downtown Overlay District.

(6) Architectural rhythm:

(a) New infill development shall also retain the historic architectural rhythm of building openings (including windows and entries) of the same block.

(b) New infill development shall also attempt to maintain the horizontal rhythm of the Borough's commercial facades by using a similar alignment of windows, floor spacing, cornices, awnings, as well as other elements. This rhythm shall be achieved by aligning the top, middle and base floors. Buildings shall have a distinct base at ground level using articulation or materials such as stone, masonry or decorative concrete. The top level should be treated with a distinct outline with elements such as projecting parapet, cornice or other projection.

(7) Massing:

(a) Buildings shall be similar in height and size or articulated and subdivided into massing that is more or less proportional to adjacent structures and maintains the existing architectural rhythm.

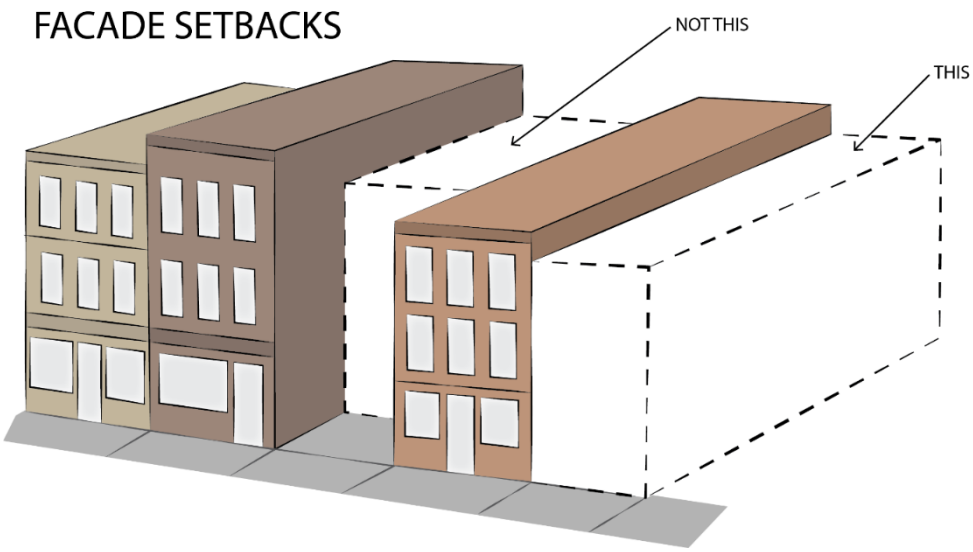
(b) The massing of any facade should generally not exceed 50 feet maximum (horizontal dimension). Shopfronts may be broken down even further. Massing variations every 30 feet or less is preferred.

(c) Nonresidential buildings must have at least a three- to five-foot break in depth in all street facades for every 50 feet of continuous facade. Such breaks may be met through the use of bay windows, porches, porticos, building extensions, towers, recessed doorways, and other architectural treatments.

(8) Functional articulation. Ground-floor retail or business functions should be distinguished from upper-floor residential or office space by a horizontal element such as a cornice or marquee. This detail shall match the style selected.

(9) Proportion. Facade articulation, fenestration and massing is to match proportions of the selected style or follow classic proportioning systems such as the golden mean.

FIGURE 2: FACADE SETBACK EXAMPLE



Section 406: First Floor Occupancy

A. Within the Downtown Overlay District, no first floor (ground level floor) shall be occupied as a residence.

Section 407: Design Review Process

A. Applicability. The designated reviewer, (hereafter, the "reviewer"), shall be the Zoning Officer, unless a different person or body is established by the Borough Council, who shall have authority to review all applications submitted to the Borough for the following, subject to the design standards set forth in Section 405:

(1) Construction of new dwellings.

(2) Additions and alterations which increase or decrease the size of the building by at least 20% of the dwelling's footprint.

(3) Modification of the exterior design features of an existing building which involves a change in the exterior materials in existence on such building. "Modification of the exterior design features," as used herein, includes but is not limited to: the addition, deletion or modification of surface materials (masonry, wood, brick, stucco), windows, doors, porches, porticos, chimneys, cornices, etc., that result in a change to the actual structure of the building. The replacement of elements that are currently part of the building's architecture for reasons of age, condition, etc., shall not require review.

(4) Design review is not required for repainting of surfaces or the repair, restoration or reconstruction of exterior design features where such work matches the original construction in material and detail and such work maintains the outer dimensions and surface relationships of the existing structure. Design review is not required

for the replacement of doors, windows or other transparent surfaces that currently exist, provided windows and transparent surfaces are not replaced with nontransparent materials and the surface area of the replacement door, window or other transparent surface does not exceed the dimensions of the existing feature by more than 10%.

B. Application process.

(1) When land development is required. For projects subject to land development review, all applications before the reviewer shall be submitted at the time of the land development application and follow the approval process outlined in the Subdivision and Land Development Ordinance of the Borough. All applications must also be submitted in writing to the reviewer who shall review the proposal and submit written comments to the applicant, the Borough Manager and Planning Commission within 30 days of receipt of such application.

(2) When land development is not required. When a land development is not required, the applicant must submit the applications to the reviewer at the time of submission of the zoning application and/or building permit. All applications must be submitted in writing to the reviewer, who shall review the proposal and submit written comments to the applicant and the Borough Manager within 30 days of receipt of such application. The applicant shall consider the recommendations of the reviewer and shall include revisions and/or responses prior to a zoning and/or building permit being issued.

(3) The written application required by this article shall be accompanied by the following data where applicable:

(a) Site plan information as required by the Subdivision and Land Development Ordinance.

(b) Building design, including:

[1] The elevation of each residential dwelling, which shall include all sides of a new dwelling or all sides to be impacted by a proposed addition. The elevations must indicate the natural color of materials to be applied, including the colors of any paint or manufactured product on the exterior buildings, walls or addition.

[2] The type and finish of all materials to be applied to the exterior surface of the building, walls or addition.

Section 408: Airport Overlay Zoning District

A. Application. The regulations and standards contained in this Section shall apply to all applications for development within the Airport Overlay Zoning District of the Borough to:

1. Erect a new structure;

2. Add to or increase the height of an existing structure;

3. Establish, erect, and/or maintain any use, structure, or object (natural or man-made) within the Airport Overlay Zoning District of the Borough.

B. Purpose and Intent. The purpose of the Airport Overlay Zoning District is to:

1. Create an overlay zoning district that considers safety issues around the Capital City Airport (CXY);

2. Regulate and restrict the heights of established uses, constructed structures, and objects of natural growth;

3. Create appropriate related zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones; and

4. Create a permitting process for certain uses, structures, and objects within said related zones.

C. Relation to Other Zoning Districts.

1. The Airport Overlay Zoning District shall not alter the boundaries of any other overlay zoning district. Where identified, the Airport Overlay Zoning District shall impose certain requirements on land use, construction, and development in addition to those contained in the applicable underlying or base zoning district and/or applicable overlay zoning district for the same area.

D. Establishment of Airport Zones.

1. The Airport Overlay Zoning District is hereby established and certain zones within the Airport Overlay Zoning District, defined in this Article relating to definitions and depicted on the FAR Part 77 Surfaces and Dimension Requirements Figure and listed in this Article relating to zoning districts and map, as follows:

a. Approach Surface Zone (ASZ).

b. Conical Surface Zone (CSZ).

c. Horizontal Surface Zone (HSZ).

d. Primary Surface Zone (PSZ).

e. Transitional Surface Zone (TSZ).

E. Permit Applications.

1. Applications; PennDOT's Bureau of Aviation (BOA) determination.

2. As regulated by Act 164[1] and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), proposals for applications to:

a. Erect a new structure;

b. Add to or increase the height of an existing structure; or

c. Establish, erect, and/or maintain any use, structure, or object (natural or man-made), in the Airport Overlay Zoning District. *Editor's Note: See 74 Pa.C.S.A. § 5101 et seq.*

3. The applicant shall first notify BOA by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof. PennDOT's BOA response shall be included with this permit application for it to be considered complete. If PennDOT's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Section of the Airport Overlay Zoning District. If PennDOT's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in Subsection F of this Section.

4. Exceptions. In the following circumstances, notification of an approval by PennDOT's Bureau of Aviation (BOA) shall not be required:

   a. No permit is required for the routine maintenance and repairs to, or the replacement of parts of existing structures, which do not enlarge or increase the height of an existing structure.

   b. In the areas lying within the limits of the horizontal zone and/or conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

   c. In the areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

   d. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.

   e. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Airport Overlay Zoning District, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

5. Variances. In addition to the provisions set forth in this Article relating to Zoning Hearing Board, any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1, as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the Federal Aviation Administration's (FAA) and PennDOT's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

    a. No objection. The subject construction is determined to not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination, a variance shall be granted.

    b. Conditional determination. The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures.

    c. Objectionable. The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the purpose and intent.

6. Use Restrictions. Notwithstanding any other provisions in this Section, no use shall be made of land, water, or structure within the Airport Overlay Zoning District in such a manner as to:

    a. Create electrical interference with navigational signals or radio communications between the airport and aircraft;

    b. Make it difficult for pilots to distinguish between airport lights and others;

    c. Impair visibility within the Airport Overlay Zoning District of the Borough

    d. Create bird strike hazards; or

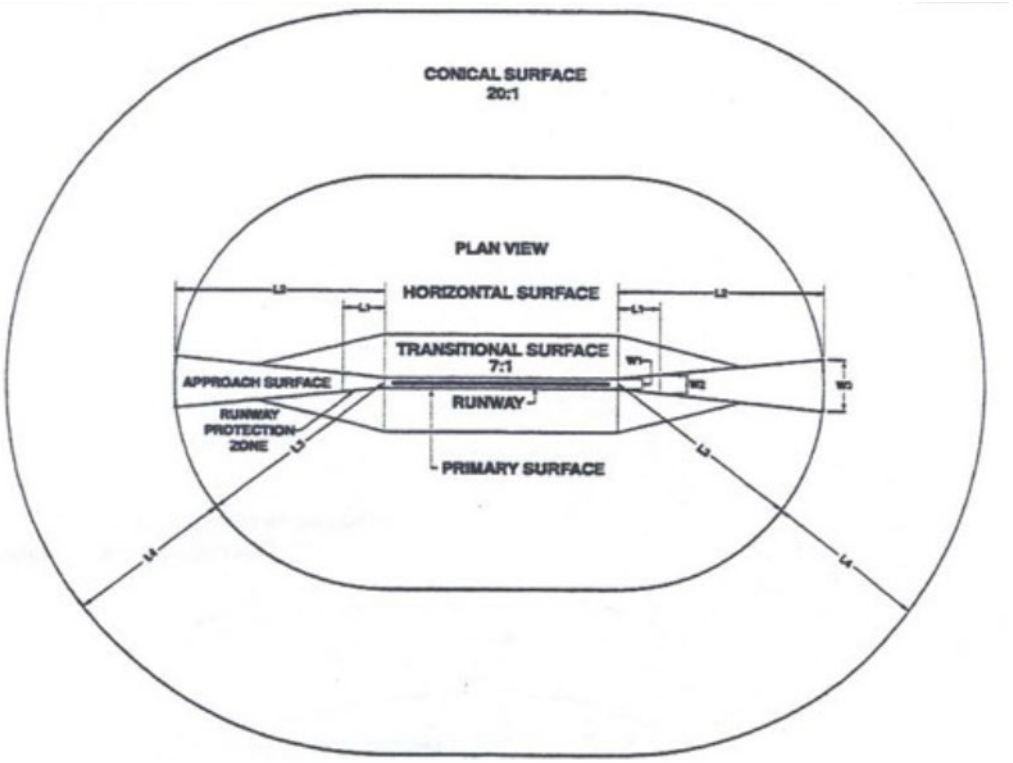
    e. Otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the airport(s).

7. Non-conforming Uses, Structures, and/or Trees. The regulations prescribed by this Section shall not be construed to require the removal, lowering, or otherwise change to, or alteration of any use, structure, and/or tree identified as non-conforming to the regulations of this Section as of the effective date of this Ordinance, or to otherwise interfere with the continuance of a non-conforming use, structure, and/or tree. No non-conforming use or structure shall be altered, nor tree

permitted to grow higher, so as to increase the non-conformity (relating to height and the use restrictions set forth in this Section). A non-conforming use, structure, or tree once abandoned or damaged or destroyed as per to the standards in this Article relating to existing non-conforming uses and structures, may only be reestablished consistent with the provisions of this Section and Article relating to existing non-conforming uses and structures.

8. Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this Section and Article of this Ordinance may be conditioned according to the process described in, to require the owner of the structure or object of natural growth in question to permit the Borough, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

FIGURE 3: FEDERAL AVIATION REQUIREMENTS (FARS) PART 77 SURFACES AND DIMENSION REQUIREMENTS



Article V: Express Standards and Criteria for Conditional Uses

Section 501: Conditional Uses

A. Purpose. Conditional use provisions apply to all uses identified as conditional uses in the Tables of Authorized Uses (Principal and Accessory). The conditional use approval process is designed to allow the Borough Council to review and approve certain uses that may have additional impacts on the community and the environment beyond those typical for uses that are allowed by right. The intent is to allow certain specified uses identified as conditional uses in the Tables of Authorized Uses (Principal and Accessory) to be reviewed by the Borough Council so that they may determine compliance with this Ordinance and attach reasonable conditions and safeguards, in addition to the standards and criteria expressed in this Ordinance as the Council may deem necessary to implement the purposes of this Ordinance.

B. Not all conditional uses authorized in the Tables of Authorized Principal and Accessory Uses have express specific standards for the use identified in this Section. In the event that express specific standards are not listed for a use identified as conditional use in the Table of Authorized Principal and Accessory Uses, the general standards for all conditional uses shall still apply. In addition, the Council may apply conditions identified in this Section, on these uses, upon a finding that the use is similar in nature to a specific use that is listed.

C. If the conditional use involves physical improvements that have not been substantially initiated within two (2) years of the date of approval or authorization approval of the conditional use, the approval shall lapse.

    1. The conditional use approval shall also lapse if, after starting construction, the construction is discontinued for a period of two (2) years.

    2. A conditional use approval shall not lapse if the conditional use is associated with a current land development approval.

Section 502: Conditional Use Procedure for Approval

A. Procedure. Borough Council shall consider the conditional use application and render its decision in accordance with the requirements of the MPC and this Ordinance and subject to the following:

    1. If a land development approval is required for the conditional use, the application for conditional use approval and the application for approval of a land development required by the Borough's adopted SALDO may be processed concurrently or separately at the discretion of the applicant, provided that all application requirements of both ordinances for a conditional use and the land development plan are met.

B. Application Procedure. The applicant shall submit an application for development for approval of a conditional use to the Zoning Officer or designated staff person of the Borough. The application for development shall indicate the Section of this Ordinance under which the conditional use is sought and shall state the grounds upon which it is requested.

C. Application Content. An application for approval of a conditional use shall include the following:

1. One (1) copy of the application form provided by the Borough and completed by the applicant. If the applicant is someone other than the landowner, the landowner's authorization of the application and the nature of applicant's interest in the site shall accompany the application.

2. Five (5) paper copies and one (1) electronic copy of a site plan meeting the requirements for a preliminary plan for land development as set forth in the SALDO and, in addition, demonstrating conformity with all requirements of this Ordinance.

3. The Borough Council may charge fees for expenses related to the public hearing pursuant to Article IX of the MPC and as established by resolution of the Council.

D. Administrative review and determination of complete application. Within seven (7) working days after a conditional use application is submitted, the Borough shall review the conditional use application for completeness of required submission items. Within said time, the Borough shall notify the applicant in writing if the conditional use application is incomplete and rejected, stating the deficiencies in the application and returning the filing fee. The applicant may reapply, submitting the fee and missing material at any time.

E. The Borough shall submit the complete conditional use application to the Planning Commission for review and recommendations. The Planning Commission shall review the application and make a written recommendation to the Council. If the proposed development is also a land development, the Planning Commission shall also make a recommendation under the provisions of the SALDO.

F. The Council shall hold a hearing, in accordance with §913.2 of the MPC, 53 P.S. 10913.2, and public notice shall be given as defined in this Ordinance and in accordance with §908(1) of the MPC. The hearing shall be commenced by the Council within 60 days from the date of receipt of the applicant's completed application unless the applicant has agreed in writing to an extension of time.

G. Conditions. In considering any conditional use, the Council may attach reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as the Council deems necessary to implement the purposes of the MPC and this Ordinance. A violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance.

H. Written Decision in Accordance with §908(10) of the MPC. The Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons, therefore. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date. To all other persons who have filed their name and address with the Borough Council not later than the last day of the hearing, the Borough Council shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

I. Expiration. Conditional use approval shall expire automatically without written notice to the applicant if no application for subdivision and land development, zoning approval for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the conditional use approval has been submitted within twelve (12) months of said approval, unless the Council, in their sole discretion, extend the conditional use approval upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be a one (1) year or twelve (12) month extension. The Council may grant an extension for good cause shown by the applicant and provided that the extension will not be contrary to the purposes of this Ordinance.

J. Effect on Prior Approvals. Conditional use approval, granted prior to the effective date of this Ordinance, shall expire automatically without written notice to the developer if no application for subdivision and land development, zoning approval for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the conditional use approval has been submitted within one (1) year or twelve (12) months of the effective date of this Ordinance or as specified in the approval, unless the Council, in its sole discretion, extends the conditional use approval upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one (1) twelve (12) month extension.

K. All provisions of the SALDO which are not specifically modified by the Council in approving a conditional use, shall apply to any conditional use involving subdivision and land development.

L. Burden of Proof. In any application for conditional use, the applicant shall have the persuasion burden and presentation duty to show compliance with this Ordinance, and the applicant shall have the persuasion burden to show the applicant's request is not detrimental to the health, safety, and welfare of the neighborhood.

Section 503: General Standards for all Conditional Uses

A. When considering applications for conditional uses the following general standards for all conditional uses shall be met:

1. In accordance with the Comprehensive Plan the use shall be consistent with the spirit, purposes, and the intent of this Ordinance.

2. Compliance with this Ordinance. The applicant shall establish by credible evidence that the application complies with all applicable requirements of this Ordinance. The applicant shall provide sufficient plans, studies, or other data to demonstrate compliance.

3. Compliance with other laws. The approval may be conditioned upon the applicant demonstrating compliance with other specific applicable local, state, and federal laws, regulations, and permits.

4. The application shall include proper site layout, internal circulation, parking, buffering, and all other elements of proper design as specified in this Ordinance.

5. The applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and

congestion and provide adequate access arrangements after considering any improvements proposed to be made by the applicant as a condition on approval. Ingress, egress, and internal traffic circulation shall be designed to minimize congestion during peak usage of the facility.

6. The proposed use shall not substantially alter the character of any surrounding residential neighborhood after considering any proposed conditions upon approval.

7. The proposed use shall not create a significant hazard to the public health, safety, and welfare.

8. The proposed use shall be suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.

9. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

Section 504: Accessory Dwelling Unit

A. Accessory dwelling units are only permitted in conjunction with owner occupied properties, when the owner occupies one of the dwellings on the lot, and the property shall be deed restricted in such a manner indicating that one unit must be owner occupied; an occupancy permit for the new unit will not be issued until proof is provided that the updated deed has been recording with Cumberland County.

B. Only one (1) accessory dwelling unit is permitted on a lot.

C. Accessory dwelling units shall meet all the setback, bulk, and area requirements of the principal use of the lot.

D. The minimum number of required parking spaces for an accessory dwelling unit shall be added to the minimum number of required parking spaces for the principal use (see Table 14).

Section 505: Airport

A. The minimum lot size shall be twenty (20) acres.

B. Additional setbacks of 500 feet are required for side and rear yards.

C. Ingress, egress, and internal traffic circulation shall be designed to minimize congestion during peak usage of the facility.

D. A traffic report shall be submitted with the application for development which identifies traffic control measures within the site and at the points of ingress and egress warranted at peak usage of the facility. The traffic report shall be reviewed and approved by the Borough Traffic Engineer.

E. Lighting shall be oriented away from adjacent properties and shall not exceed one (1) footcandle of illumination when measured from an adjacent lot line. As part of its decision, the Borough Council may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.

F. The site shall be serviced by public water and sewer systems.

G. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.

H. The vehicular and pedestrian circulation system shall be designed to minimize conflicts between vehicular and pedestrian circulation.

Section 506: Amphitheater

A. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhoods.

B. The primary visitor drop-off and pick-up area shall be located in a manner that minimizes detrimental traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood and subject property.

C. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

D. The scale, massing, and building design shall be compatible with the surrounding neighborhood.

E. Applicants must clearly demonstrate that the use will be compatible with the existing neighborhood, particularly with regard to traffic circulation, parking, and appearance.

Section 507: Amusement Arcade

A. Noise levels from amusement devices within an amusement arcade shall not exceed 50 dBa, measured along the property boundary of the amusement arcade.

B. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

Section 508: Amusement Park

A. Ingress, egress, and internal traffic circulation shall be designed to minimize congestion during peak usage of the facility.

B. A traffic report shall be submitted with the application for development which identifies traffic control measures within the site and at the points of ingress and egress warranted at peak usage of the facility.

C. No direct beams or rays of light from exterior lighting fixtures, signs, or vehicles maneuvering on the development site shall be permitted to shine into the private living areas and associated open spaces of adjacent residential properties.

D. Access to the development site shall be provided from nonresidential streets and shall not require the use of any residential collector or residential local streets.

E. Noise levels from amusement devices within an amusement park shall not exceed 50 dBa, measured along the property boundary of the amusement park.

F. Outdoor lighting, if any, shall be shielded and/or reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

Section 509: Animal Day Care

A. Ingress, egress, and internal traffic circulation shall be designed to minimize congestion during peak usage of the facility.

B. A traffic report shall be submitted with the application for development which identifies traffic control measures within the site and at the points of ingress and egress warranted at peak usage of the facility.

C. No direct beams or rays of light from exterior lighting fixtures, signs, or vehicles maneuvering on the development site shall be permitted to shine into the private living areas and associated open spaces of adjacent residential properties.

D. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffuse or reflected light, enters adjoining properties.

Section 510: Aquarium / Zoo

A. The minimum lot size shall be ten (10) acres.

B. The minimum side setback shall be 100 feet, the minimum rear setback shall be 150 feet, and the minimum front setback shall be 50 feet.

C. Applicants must clearly demonstrate that the use will be compatible with the existing neighborhood, particularly with regard to traffic circulation, parking, and appearance.

D. Drop off areas may be located in the front yard but shall maintain character and appearance consistent with the area.

E. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

F. Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.

G. All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

H. The scale, massing, and building design shall be compatible with the surrounding neighborhood.

Section 511: Asphalt/Concrete Plant

A. If materials are to be stored, they shall be screened sufficiently from adjacent properties and the public ROW.

B. All batch plants (permanent or temporary) shall have an effective dust collection system approved by the Borough.

C. The Borough requires the use of wheel washers or other means of cleaning trucks/vehicles before entering public streets.

D. Batch plants shall have an approved sediment pond before washing out water is discharged into any waterway.

E. Borough Council may impose restrictions on access to the facility, storage of vehicles or materials on the premises, hours of operation, and other such matters as they deem necessary to ensure that there is no adverse impact upon the functioning of the Zoning District or adjacent parcels.

F. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties.

Section 512: Bed and Breakfast

A. The operator shall be a full-time resident of the dwelling in which the bed and breakfast inn is located.

B. No meals, other than breakfast, shall be served on the premises. Food may be prepared on the premises for consumption off the premises by overnight guests. Food shall not be served to any customers who are not overnight guests.

Section 513: Boarding House

A. Public ingress and egress to the boarding house shall be through one (1) common exterior entrance. Ingress and egress for boarders shall be through common exterior entrances.

B. Entry access to all boarding sleeping rooms shall be through the interior of the building. No exit doors from individual boarding sleeping rooms shall lead directly to the exterior of the building.

C. All required parking shall be located in the rear or side yard of the lot and screened from surrounding parcels.

Section 514: Car Wash (Automobile Detail, Automatic, and Self-Service)

A. A car wash shall provide a minimum of five (5) stacking spaces per washing bay.

B. Paved off-street stacking spaces shall be arranged in an orderly fashion so as not to cause blockage of any means of ingress or egress and to ensure that the traffic flow on the public right-of-way is not endangered in any way. A separate means of ingress shall be

established and clearly marked, as shall by a separate means of the egress from the car wash. It shall be the responsibility of the owner to avoid any congestion in the public right-of-way by directing traffic away from the facility by posting a "Temporarily Closed" sign of other means. Traffic studies and associated improvements may be required by the Borough as a condition of approval.

C. The car wash shall have direct access to an arterial or collector road and shall have a point of ingress/egress from a public or private street within the lot of a shopping center. The road shall have sufficient capacity to handle traffic generated by the facility.

D. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. The use shall comply with the performance standards of this Ordinance.

E. All equipment related to the operation of the car wash shall be properly screened to minimize nuisances to adjoining lots.

F. A car wash shall be subject to the bufferyard and screening requirements for uses in the IC and MU Districts as outlined in Article VI of this Ordinance.

Section 515: Care Facilities and Senior Housing

A. All care facilities or senior housing must comply with the density of development limits of the MU Mixed-Use District.

B. The facility shall be duly licensed by the Commonwealth of Pennsylvania and shall operate in accordance with the regulations of the licensing agency.

C. The site shall be served by public water and public sewer systems.

D. The facility shall have its principal traffic access from a public street with sufficient capacity to handle the traffic generated by the use. A traffic study shall be required in accordance with the SALDO.

E. Ingress, egress, and internal traffic circulation shall be designed to ensure access by emergency vehicles.

F. The parking and circulation plan shall be referred to the appropriate Fire Company for comments regarding traffic safety and emergency access.

G. Ambulance, delivery, and service areas shall be obscured from the view of adjacent residential properties by fencing, screening, or planting as approved by the Borough.

Section 516: Cemetery and Mausoleum

A. Expansion and/or establishment of cemeteries must be in conjunction with and adjacent to existing cemeteries or religious facilities.

B. Adequately funded programs and provisions which meet the approval of the Borough Solicitor shall be provided to guarantee perpetual care of all cemetery grounds. This provision shall apply to existing cemeteries for which expansions are proposed.

C. All garages, equipment shelters, offices, and similar structures shall be screened from adjacent streets and residential properties by appropriate planting or fences approved by the Borough Council on the basis of design, aesthetic quality, and general adequacy.

Section 517: Commercial Motor Vehicle Repair

A. All use and equipment related to the facility operations and the repair/maintenance of the permitted vehicles shall be conducted entirely within a building.

B. Outside storage or parking of any disabled, wrecked, unlicensed, or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any 30-day period.

C. Vehicles awaiting repair outside and wrecked, or junk vehicles shall be screened and a view of them from adjacent properties and streets shall be obscured with a solid vegetative landscape buffer or opaque fencing of at least six (6) feet in height.

D. When vehicles are to be stored on the site awaiting repair, there shall be a designated storage area that shall not include required parking for the site, and which shall not cause traffic hazards or blocking of traffic flow to occur.

E. No building, structure, canopy, gasoline pump, or storage tank shall be located within 25 feet of a Residential Zoning District.

F. All motorized vehicles not in operating condition shall be kept in fully enclosed buildings except as noted above.

G. The Borough Council may impose restrictions on access to the facility, storage of vehicles or materials on the premises, hours of operation, and other such matters as they deem necessary to ensure that there is no adverse impact upon the functioning of the Zoning District, municipal infrastructure, or adjacent land uses.

Section 518: Construction-Related Business

A. All supplies and equipment shall be stored within a completely enclosed building.

B. Exterior display and sales of building materials and/or equipment associated with the permitted principal use shall require an approval of a supply yard as an accessory use.

C. Exterior storage of building materials and/or equipment associated with the permitted principal use shall require an approval of a storage yard as an accessory use.

D. The use shall be accessed directly from an arterial or collector street.

Section 519: Correctional Facility

A. All applicable County, State, and Federal permits shall be applied for prior to issuance of Borough permits. Documentation of application shall be made a part of the conditional use application.

B. Lighting shall be required throughout the property for safety purposes. Such lighting shall be oriented away from adjacent properties and shall not exceed two (2) footcandles of illumination at the property boundary line.

C. All structures shall be a minimum of 150 feet from all property lines.

D. Access shall be from the collector street only.

E. An evacuation plan shall be submitted for review and approval by the Borough Council and/or Emergency Management Coordinator.

***Data Center – See Section 564**

Section 520: Day Care, Home-Based

A. The facility shall be registered with or licensed by the Commonwealth. Proof of this valid license shall be provided to the Borough prior to the Borough's issuance of a zoning occupancy permit for the use. Copies of this valid license shall also accompany the annual operating report to be filed with the responsible Police Department and Borough Fire Departments.

B. The use shall be subordinate to the facility's primary use as a family residence.

C. The use must be in compliance with all requirements of applicable Building Codes and Fire Codes as adopted by the Borough, and the Rules and Regulations of the Pennsylvania Department of Public Welfare relating to Home-Based Day Care, and all other applicable laws, ordinances and regulations.

D. To the extent that those picking-up and/or dropping-off their children do so by use of vehicles, adequate provision for off-street parking shall be provided and/or sufficient on-street parking must be available, as determined by the Borough Council, so as not to result in traffic congestion, facilitate traffic movement and provide for maximum safety and protection on the abutting residential streets.

E. Provide day care services to no more than 6 children.

Section 521: Drive-Through Facilities

A. Each window, bay, or area designed for drive-through service shall provide five (5) reservoir vehicle stacking spaces per window, bay, or area; such space shall not encroach into any other required aisles or spaces.

B. Drive-through lanes shall be located to the rear of buildings unless the Borough Council determines that drive-through lanes located on the side of the building will have less impact on adjacent uses, vehicular and pedestrian circulation, and safety.

C. Drive-through lanes shall be screened from view by landscaping, grading treatments, architectural features, or a combination of the above.

D. A drive-through shall be located so that it does not conflict with pedestrian or vehicular movement.

E. Drive-through lanes shall be distinctly marked by traffic islands a minimum of five (5) feet in width. A separate circulation drive shall be provided for passage around and escape from the outermost drive-through service lane. The Borough Council may consider alternative designs when it is demonstrated that the drive-through is screened from view and that traffic and pedestrian circulation is improved.

F. A drive-through shall have no more than two (2) service lanes and a passage around and escape from the outermost drive-through service lane, except that a financial institution may have a minimum of three (3) service lanes.

Section 522: Dwelling Types

A. Conversion Dwelling Units.

1. Each living unit shall contain a minimum of 500 sq. ft. of habitable living area.

2. Each living unit shall contain one (1) bathroom and three (3) habitable rooms, at least one (1) of which shall be a bedroom.

3. Each unit shall have separate living, sleeping, kitchen, and sanitary facilities.

4. Fire and safety provisions shall be certified to be adequate with respect to the Borough's Building and Fire Codes.

5. Each unit shall have a separate entrance, either directly from the outside or from a common corridor inside the structure.

6. Conversion of detached garages or other accessory structures to dwelling units shall not be considered conversion dwellings and shall not be permitted.

B. Two-Family or Duplex

1. Parking shall be provided on the same lot upon which the dwelling is located.

2. Parking shall not be oriented in the front lawn of the lot.

C. Garden Apartment

1. Infill garden apartments shall be consistent in size, architecture, and character with neighboring structures.

2. A visual structural break in façade shall be provided between every garden apartment dwelling unit to eliminate long flat walls.

3. Garages shall not front on arterial or collector roads.

4. Off-street parking areas shall meet the requirements outlined in Article VII of this Ordinance.

5. Balconies, if provided, shall not extend into any required yard and shall not extend more than eight (8) feet from the face of any principal building.

6. Chimneys, spires, tanks, or similar architectural projections may exceed the prescribed height by not more than 25%.

D. High-Rise Apartments.

1. Parking spaces shall be located no more than 300 feet from the high-rise apartment's primary entrance.

2. The means of a building's ingress and egress shall meet requirements as outlined in the Borough's Building Code.

3. A 24-foot-wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.

4. All dumpsters and/or waste collection areas shall be located on the interior of the high-rise apartment structure.

5. The primary vehicular entrance to a high-rise apartment development shall, at a minimum, have direct access to a collector road.

6. The maximum height of lighting for outdoor parking areas and roadways shall be 25 feet.

7. As a part of all land development, the landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

8. Bufferyards between apartment developments and any other adjacent residential lot shall be increased by ten (10) feet in addition to the Borough's required bufferyard width. Landscaping, within this additional width, shall be provided according to spacing, quantity and type of plants specified by the Planning Commission or Borough Council.

E. Manufactured Homes

a. Must show compliance with the Borough's Floodplain Ordinance.

1. Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Code or the United States Department of Housing and Urban Development's Permanent Foundations for Manufactured

Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 Pa. Code Ordinances 401 to 405.

2. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC, or the most recent revisions thereto, and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed installation.

F. Mobile Homes.

1. A mobile home shall contain at least 750 sq. ft. of floor area.

2. A mobile home shall be placed on a complete permanent, walled foundation and shall meet all standards and requirements of the Borough's Building Code.

G. Quadruplex. A quadruplex shall be a permitted conditional use subject to the following express minimum standards and criteria:

1. The minimum lot size shall be 4,000 square feet per unit.

2. The maximum site density shall be ten (10) units per acre.

3. All quadruplex dwellings shall be connected to public water and sewer systems.

4. The site must possess direct access to an arterial or collector street.

H. Tiny Houses.

1. A tiny house as a principal use on a lot shall only be located in a manufactured home park.

2. A tiny house as an accessory use shall meet the standards and requirements for an "Accessory Dwelling Unit" as outlined in this Section.

I. Townhouse.

1. The site must possess direct access to an arterial or collector street.

2. Area and bulk requirements are subject to the requirements as outlined per Zoning District in Article III of this Ordinance.

3. Groupings of multifamily structures shall be situated no closer than thirty (30) feet to one another or the separation required by the Borough's Building Code, whichever is greater. No more than six (6) units shall be joined in a group by two party walls allowing for up to 8 units in a group.

Section 523: Food and Grocery Store

A. The landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for

security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

B. A food and grocery store shall have a maximum of two (2) points of ingress/egress to an arterial or collector street as defined by this Ordinance.

Section 524: Ghost Kitchen

A. The standards for "Restaurant, Take-Out Only" in this Article shall apply.

Section 525: Golf Course

A. Any off-street parking and loading areas shall be screened with the appropriate bufferyard as required by this Ordinance.

B. The outer safety zone of all golf holes, as recommended by the United States Golf Association, shall be a minimum of 50 feet from all adjacent residential lots.

C. Hours of operation and activities must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance, or interruption.

D. The owner(s) and operator(s) of a golf course shall be responsible for the conduct and safety of the members, visitors, or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors, and guests.

E. The site shall be served by public water and public sewer systems.

F. No storage or transfer of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemicals, liquids, gases, or solids is permitted with the exception of lawn chemicals and gasoline, diesel fuel, and oil for the operations and maintenance of motorized vehicles and equipment.

Section 526: Golf Driving Range

A. Any off-street parking and loading areas shall be screened with the appropriate bufferyard as required by this Ordinance.

B. The landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

C. Hours of operation must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance, or interruption. Any facility located

within 200 feet of a property line adjoining a residential use or Residential Zoning District shall cease operations at 12 Midnight.

D. The owner(s) and operator(s) of a golf driving range shall be responsible for the conduct and safety of the members, visitors, or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors, and guests.

Section 527: Group Care Facility

A. The landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

B. The location of buildings and facilities, traffic circulation and parking areas on the site shall be designed to provide adequate access for emergency vehicles.

C. All applicable County, State, and Federal permits shall be applied for prior to issuance of Borough permits. Documentation of the County, State, and/or Federal approval shall be submitted as part of the conditional use application.

Section 528: Group Home

A. The Borough Council may reduce the required minimum lot area dimensions when the building proposed to house such facility is an existing building that has been established as appropriate for such an institution through pre-existing use.

B. Whenever a party or parties seeks to occupy a dwelling or other building as a group living facility, the party or parties shall file a detailed statement of intent describing the proposed use of the dwelling or building. The statement shall detail the proposed number and nature of the anticipated occupants, with the Borough Zoning Officer. A license or certification shall also be obtained from the Commonwealth of Pennsylvania or Cumberland County prior to issuance of an occupancy permit. If an appropriate licensing or certifying agency does not exist, the landowner and/or the developer shall demonstrate to the Borough Zoning Hearing Board that the proposal satisfies a demonstrative need and shall be constructed in a responsible manner without detriment to surrounding lots.

C. The sponsoring agencies or owner of the facility shall file for certification annually with the Borough Zoning Officer to indicate that the facility continues to satisfy the conditions for original approval.

Section 529: Halfway House

A. A halfway house shall not be located within 3,000 feet of any existing halfway house.

B. Halfway houses shall be located only on property with direct access to arterial streets.

C. The maximum number of residents shall be twelve (12). No more than two (2) residents shall be allowed to reside per bedroom in the halfway house.

D. Minimum setbacks shall be 50 feet from property unless abutting a residential district in which case the minimum setback shall be 100 feet.

E. Halfway houses must supply the Borough (and keep current) the name of the manager and/or other person responsible for responding quickly to a complaint filed by the Borough.

F. Halfway houses must be licensed by the appropriate state, federal, and county agencies when required, but in all cases must be supervised on a 24-hour basis.

Section 530: Hazardous Waste Recycling Facility

A. A hazardous waste recycling facility shall be a permitted conditional use subject to the following express minimum standards and criteria:

1. Operations shall be regulated so that nuisances such as visual blight, noise, odors, blowing debris, and dust shall not be created.

2. Adequate off-street parking shall be provided for loading and unloading of recyclable materials. Under no circumstance shall loading vehicles, trucks, or other business equipment be parked on a public ROW.

3. All materials shall be stored within a completely enclosed building or screened from adjacent lots and public ROW with an eight (8) foot high opaque fence.

4. A hazardous waste recycling facility shall have direct access to a collector or arterial road with sufficient capacity to handle traffic generated by the facility.

5. The Borough Council may impose restrictions on access to the facility, hours of operation, or other such matters as they deem necessary to ensure that there is no adverse impact upon the function of the Zoning District or any adjacent lots.

Section 531: Home Occupational Business

A. The use shall be subordinate to the facility's primary use as a residential unit.

B. The use must be in compliance with all requirements of applicable Building Codes and Fire Codes as adopted by the Borough.

C. The parking shall meet the requirements of Article VII based on the combined requirements for the residential unit and the proposed business.

D. D. Shall be conducted primarily by a permanent resident of the dwelling and shall involve no more than one person working on-site at any one time who does not reside within the dwelling.

E. Shall be conducted indoors. No outdoor storage or display related to the home occupation shall be permitted. No changes shall occur to the exterior of a building that would reduce its residential appearance as viewed from a street.

F. Shall occupy an area that is not greater than 25% of the total floor area of the principal dwelling unit. The use shall clearly be secondary to the residential use.

G. Shall not require delivery or pickup by tractor-trailer trucks.

H. Shall limit number of deliveries or pick-ups to 1 (one) each per day related to the Home Occupational Business use (small parcels related to a residential use, such as online e-commerce purchases or personal grocery deliveries are excluded from the delivery limit).

I. No excavating equipment, landscaping equipment, or related commercial vehicles shall be parked overnight on a residential lot or an adjacent street as part of a home occupation.

J. No equipment or machinery shall be permitted that produces noise, noxious odor, vibration, glare, fumes, electrical or electronic interference detectable on another property. The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts typically found on a residential property. The use shall not involve the storage or use of "toxic" or "highly hazardous" substances as defined by OSHA.

K. Shall not be conducted in a manner that is perceptible to other residents between the hours of 9:00 p.m. and 7:00 a.m.

L. Any tutoring or instruction shall be limited to a maximum of four students at a time.

M. Shall comply with all sign requirements in Article VIII.

N. Shall comply with all parking requirements in Article VII.

Section 532: Kennel

A. The operator or owner of any kennel must hold all current state and local licenses and permits for the location, activity, and number of animals so specified.

B. The minimum lot area for a kennel shall be two (2) acres.

C. Kennels shall be located within a completely enclosed building and soundproofed to reduce noise impacts on adjacent properties.

D. Outdoor runs and similar facilities shall be constructed for easy cleaning, shall be maintained in a safe condition, and shall be secured by a fence with a self-latching gate.

E. Outdoor runs, pens, coops, and similar facilities shall be located at least 300 feet from any occupied dwelling on adjoining property and shall be visually screened from adjoining lots.

Section 533: Laboratory

A. The laboratory area shall not exceed a maximum of 15,000 square feet of gross floor area.

B. Laboratories that store EPA regulated substances with Reportable Quantities over 100 pounds are prohibited.

C. Laboratories that store EPA regulated substances with Reportable Quantities equal to or less than 100 pounds, which are also liquids or gases at ambient conditions, in quantities greater than the respective reportable quantity are prohibited.

D. Laboratories with the following then current North American Industry Classification System ("NAICS") categories are prohibited: (1) All Other Animal Production (Code 112990); (2) Biological Testing Laboratories or Services (under Code 541380); (3) Veterinary Testing Laboratories (Code 541940); and (4) Laboratory Equipment Manufacturing (Code 339113).

E. Laboratories shall be designated by the owner with applicable NAICS categories.

F. Laboratories shall meet all necessary ventilation rate requirements per local, County, State, and Federal standards, as applicable.

G. The Borough Council shall determine that such use will not create detrimental impacts on the surrounding properties, taking into consideration the location and orientation of the laboratory's probable traffic generation, parking needs, generation of noise, dust, odor, vibration, pollution, light or other disturbance or interruption.

H. The location of buildings and structures shall be designed to minimize impact on adjacent residential properties.

I. The owner and operator of the facility shall be responsible for the conduct and safety of the employees, customers, visitors, and guests and shall be available to respond to inquiries and promptly resolve any issues caused by the employees, customers, visitors, and guests.

Section 534: Landscape Service Center, Retail and Wholesale

A. All supplies and equipment shall be stored within a completely enclosed building.

B. Exterior display and sales of building materials and/or equipment associated with the permitted principal use shall require an approval of a supply yard as an accessory use.

C. Exterior storage of building materials and/or equipment associated with the permitted principal use shall require an approval of a storage yard as an accessory use.

D. The use shall be accessed directly from an arterial or collector street.

Section 535: Manufactured Home Park

A. A manufactured home park shall contain a minimum of eight (8) acres.

B. The maximum density for a manufactured home park is eight (8) units per acre.

C. A minimum of 5,000 square feet is required for each manufactured home space.

D. Each manufactured home space shall be a minimum of 40 feet in width and 125 feet in length, indicated by permanent flush markers at each corner.

E. There shall be at least 2,500 feet of common open space for each acre or major fraction of an acre in the park.

F. All home spaces shall be accessible by an interior roadway at least 66 feet wide, with unobstructed access to a public road. Roads shall comply with Ordinance 154 - Subdivision Regulations.

G. Site design shall ensure safe, predictable vehicular access and movement onto and off of the site.

H. Parking. Two (2) parking spaces per unit shall be provided on or adjacent to each manufactured home space, with car stops for head-in parking, in addition to adequate turn-around space. Parking space may be provided on one (1) side of a private driveway at least 34 feet in width, and on both sides of a private driveway at least 43 feet in width.

I. All manufactured home sites and other facilities associated with the manufactured home site shall be setback a minimum of 100 feet from all property lines and the road ROW.

J. Unit Setbacks and Clearances. Each manufactured housing unit shall have the following setbacks:

    1. Front yard: 25 feet.

    2. From abutting driveway: fifteen (15) feet.

    3. From adjacent units: twenty (20) feet on the side and rear.

    4. Accessory structures shall be at least four (4) feet from the unit space line and twenty (20) feet from common buildings such as offices or laundry facilities.

K. Buffers. A buffer of at least 50 feet in width is required along the rear and side property lines of all manufactured home parks.

L. Park Occupancy. Construction of required driveways, utilities, unit spaces and other improvements shall be completed for at least 25% of the manufactured home spaces shown on the site plan before any part of the park is occupied.

Section 536: Manufactured Home Sales

A. Manufactured home sales and display lots shall confirm with all applicable development standards contained in this Ordinance.

B. Manufactured home units placed on a sales or display lot shall not be occupied as a residential unit.

C. One (1) unit used for sale or display purposes on the lot may be utilized as a sales office.

D. Individual units for sale or display shall not be connected to a public or private sewer or water system.

E. Individual units for sale or display are not required to be placed on permanent foundations. However, skirting of the units shall be required.

F. All applicable screening and buffering requirements as required by this Ordinance shall be met.

G. The number of units for sale or display shall be limited to three (3) units per acre.

Section 537: Medical Marijuana Dispensary (Dispensary)

A. The applicant shall demonstrate compliance with all facility regulations in §802 of the Medical Marijuana Act, as amended in additional to all other requirements of this Ordinance.

B. The dispensary shall meet all other land use requirements as other commercial facilities that are located in the underlying District.

Section 538: Medical Marijuana Grower / Processor

A. In addition to all requirements of this Ordinance, applicant shall demonstrate compliance with all facility regulations outlined in §702 of the Medical Marijuana Act, as amended (Act 16, Pennsylvania Law 84, No.16).

B. The grower/processor facility shall meet all other land use requirements as other manufacturing, processing, and production facilities that are located in the underlying District.

Section 539: Methadone Treatment Facility

A. For any building (or portion thereof) which is proposed to contain a methadone treatment facility, the lot upon which such building (or portion thereof) sits shall not be located closer than 500 feet (or the then current Pennsylvania statutory-provided distance, whichever is greater) to a lot utilized for an existing school, public playground, public park, residential housing area, residential lot, single-family dwelling, child care facility, church, meeting house, or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment.

B. Notwithstanding Subsection A above, a methadone treatment facility may be established and operated closer than 500 feet (or the then current Pennsylvania statutory-provided distance, whichever is greater) to a lot utilized for an existing school, public playground, public park, residential housing area, residential lot, single-family dwelling, child care facility, church, meeting house, or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment, if, by majority vote, the Borough Council approves a use for said facility at such location. At least fourteen (14) days prior to any such vote by the Borough Council, one (1) or more public hearings regarding the proposed methadone treatment facility location shall be held within the Borough pursuant to public notice. All owners of real property located within 500 feet of the proposed location shall be provided written notice of said public hearing(s) at least 30 days prior to said public hearing(s) occurring.

C. All buildings proposed to contain a methadone treatment facility shall fully comply with the requirements of the Borough's Construction Code.

D. Each building or portion thereof proposed for use as a methadone treatment facility shall have a separate and distinct entrance utilized solely for direct entrance into the methadone treatment facility. Such separate and distinct entrance shall face a major street thoroughfare. Access to the methadone treatment facility shall not be permitted via a shared building entrance or from a shared interior corridor within the building in which it is located.

Section 540: Mobile Home Park

A. A mobile home park shall have a gross area of at least ten (10) contiguous acres of land.

B. The location shall not be subject to any hazard or nuisance such as flooding, excessive noise, vibration, smoke, toxic matter, radiation, heat, odor, or glare.

C. An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such an enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure and shall be installed at the same time that the mobile home unit is installed.

D. Safe and convenient vehicular and pedestrian access shall be provided from abutting public streets or roads.

E. All mobile homes and mobile home parks shall comply with the standards found in the Borough SALDO Article VII.

Section 541: Mobile Home Sales

A. The minimum lot area required shall be five (5) acres.

B. The property shall have frontage on and direct vehicular access to an arterial or collector street.

C. The minimum dimensions of the area devoted to the display of each vehicle shall be sixteen (16) feet wide by 24 feet deep.

D. The area used for display of merchandise offered for sale and the area used for parking of customer and employee vehicles shall be continuously paved and maintained in either concrete over a base of crushed stone compacted to not less than six (6) inches in depth or other surfacing of equivalent or superior character as approved by the Borough Engineer.

E. The handling and disposal of motor oil, battery acid and any other substance regulated by federal statute and the PA DEP shall be in accordance with all permits and requirements of that agency or its successor agency. Any suspension, revocation, or violation of the PA DEP permits shall be a violation of this Ordinance.

F. All lots used for the outdoor display of vehicles shall have a completely enclosed building on the same lot which has not less than 2,000 square feet of gross floor area where all sales, servicing repair and customer car washing shall be performed.

G. No vehicle offered for sale shall be parked on adjacent property or in any public street ROW.

C. All lights and light poles shall be located at least ten (10) feet from any street ROW or property line and all lighting shall be shielded and reflected away from adjacent streets and properties. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

H. No oscillating or flashing lights shall be permitted on the lot, on any of the structures or poles on the lot or on any merchandise displayed outdoors.

I. No strings of lights or flags, flashers or other display paraphernalia shall be permitted on the lot, on any of the structures or poles or on merchandise displayed outdoors, except for such signs as may be otherwise allowed by Article VIII of this Ordinance.

J. All required off-street parking spaces shall be reserved exclusively for the parking of customer and employee vehicles and shall not be used for the display of merchandise.

K. The required bufferyard as defined by Article VI of this Ordinance shall be provided along all property lines adjoining residential use or Residential Zoning District classification.

Section 542: Motel

A. Drop-off / temporary parking areas shall remain free and clear of obstructions for the general safety and fire department access.

B. A twelve (12) foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site of the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.

C. Service of meals and/or beverages (alcoholic/nonalcoholic) must be secondary to the principal use of room or suite rental.

D. Secondary eating establishments serving alcohol beverages or secondary bars, or nightclubs must be licensed by the Pennsylvania Liquor Control Board.

E. The owner(s)/operator(s) of a motel shall be responsible for the conduct and safety of the renters and guests and shall be available to respond to inquiries and promptly quell any disturbances caused by renters or guests.

Section 543: Office, Business or Professional

F. All parking, loading, and access areas shall be screened from adjacent residential properties per the requirements of this Ordinance.

G. All required parking shall be at the rear of the structures, where feasible.

H. All property not covered by structures or paving shall be landscaped and maintained and shall include pervious surfaces.

I. All structures within 100 feet of the perimeter property lines shall be screened from adjacent residential properties as required by this Ordinance.

J. The site shall be served by public water and public sewer systems.

K. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.

L. The vehicular and pedestrian circulation system shall be designed to minimize conflicts between vehicular and pedestrian circulation.

M.

Section 544: Parking Garage/Structure

A. The use shall comply with Article VII of this Ordinance.

B. Lighting shall be oriented away from adjacent properties and shall not exceed one (1) footcandle of illumination when measured from an adjacent lot line. Lighting levels shall meet the requirements as outlined in the Borough SALDO. As part of its decision, the Borough Council may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.

C. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.

D. The vehicular and pedestrian circulation systems shall be designed to minimize conflicts between vehicular and pedestrian circulation.

E. The location of buildings and structures shall be designed to minimize impact on adjacent residential properties.

F. The owner and operator of the facility shall incorporate best management practices (BMPs) for erosion and sedimentation control as described in the DEP Erosion and Sediment Pollution Control Program Manual (March 2012, as amended), and stormwater management as described in the DEP Stormwater Best Management Practices Manual, as amended, in order to minimize nonpoint pollution from the activity. The applicant shall submit a report describing the BMPs that will be used on the site and notify the Borough whenever a change is made to those BMPs. Whenever a change is made to the BMPs used on the site, the owner and operator shall certify that the new BMPs provide equal or greater pollution prevention protection than the former management practice.

Section 545: Parking Structure, Commercial

A. Lighting shall be oriented away from adjacent properties and shall not exceed one (1) footcandle of illumination when measured from an adjacent lot line. Lighting levels shall meet the requirements as outlined in the Borough SALDO. As part of its decision, the

Borough Council may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.

B. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.

C. The location of buildings and structures shall be designed to minimize impact on adjacent residential properties.

D. The owner and operator of the facility shall incorporate best management practices (BMPs) for erosion and sedimentation control as described in the DEP Erosion and Sediment Pollution Control Program Manual (March 2012, as amended), and stormwater management as described in the DEP Stormwater Best Management Practices Manual, as amended, in order to minimize nonpoint pollution from the activity. The applicant shall submit a report describing the BMPs that will be used on the site and notify the Borough whenever a change is made to those BMPs. Whenever a change is made to the BMPs used on the site, the owner and operator shall certify that the new BMPs provide equal or greater pollution prevention protection than the former management practice.

E. The use shall comply with Article VII of this Ordinance.

Section 546: Pet Boarding

A. The minimum lot size required is one (1) acre in the MU and IC Zoning District.

B. No additional residential use may be established on land designated for use as a pet boarding facility.

C. The operator or owner of the pet boarding facility must hold all current and applicable state and local licenses and permits (including but not limited to those relating to maximum capacity, minimum space per animal, enclosure or cage specifications, and noise and odor control requirements).

D. Any exterior fenced in area wherein animals exercise or are otherwise exposed must be located a minimum of 200 feet from any adjoining lot line.

E. The perimeter of any outdoor runs or exercise areas must be fenced with weatherproof material, a minimum of six (6) feet in height, and accessible only through a self-latching gate or a manual latch with a locking pin.

F. The portion of the building or structure used to house animals (including such portions that are below grade level) shall be equipped with code-approved non-toxic, noise dampening material, or acoustic tile to minimize noise impact on adjacent uses or structures.

G. All shelter or kennel areas for animals shall be located completely indoors.

H. Outdoor runs and similar facilities, where permitted, shall be constructed for easy cleaning, shall be adequately secured by a fence as required herein, and shall be screened with the appropriate bufferyard as required by this Ordinance.

Section 547: Place of Worship

A. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhoods.

B. All outdoor lighting shall be shielded and reflected away from adjacent properties and shall meet the lighting requirements outlined in Section 603.J of this Ordinance.

Section 548: Public Utility Building

A. Power generation plants shall be located at least 500 feet from any property line adjoining a residential use or Residential Zoning District and at least 250 feet from a property line adjoining any other Zoning District.

B. Operations shall be regulated so that nuisances such as visual blight, noise, odors, blowing debris, and dust shall not be created.

C. The Borough Council may impose restrictions on access to the facility, storage of vehicles or materials on the premises, and other such matters as they deem necessary to ensure that there is no adverse impact upon the functioning of the District or adjacent parcels.

D. Outdoor lighting, if any, shall be shielded and reflected away from adjoining properties so that no direct beam of light, but only diffused or reflected light, enters adjoining properties.

Section 549: Public Utility Transmission Facility

A. Ingress to and egress from the facility shall be permitted by roads to serve only the public utility building or transmission facility, unless approved by the Borough Council.

B. A non-climbable security fence at least eight (8) feet in height shall be installed around all portions of the facility.

C. Lighting shall be oriented away from adjacent properties and shall meet the lighting requirements outlined in Section 603.J of this Ordinance. As part of its decision, the Borough Council may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.

Section 550: Recovery Home

A. A recovery home shall not be located within 1,500 feet of any existing recovery home, as measured in a straight line.

B. Minimum setbacks shall be 15 feet from property line, except when a reduction is authorized by Section 550D.

C. A recovery home cannot be established in an accessory building or unit unless the primary building or dwelling unit serves the same purpose.

D. The Borough Council may reduce the required minimum lot area dimensions, including minimum setbacks established by Section 550B, when the building proposed to house such facility is an existing building that has been established under a pre-existing use.

E. Whenever a party seeks to occupy a dwelling or other building for use as a recovery home facility, the party shall file a detailed statement of intent describing the proposed use of the dwelling or building with the Borough Zoning Officer. The statement shall detail the proposed number and nature of the anticipated occupants, along with proof that the building(s) size and layout is in compliance with the applicable building and zoning codes for maximum number of individuals intended to be housed in the building(s).

F. The maximum number of residents shall be eight (8) individuals inclusive of any staff residing at the property. No more than two (2) residents shall be allowed to reside per bedroom in the recovery home. A bedroom shall contain a permanent closet, at least one window, and be comprised of not less than 70 square feet for one occupant and 120 square feet for two occupants.

G. The recovery home facility shall maintain proper registration with the Commonwealth of Pennsylvania and at all times maintain compliance with all regulations for licensure or certification as promulgated by the Department of Drug and Alcohol Programs in accordance with 71 P.S. §613.13, as amended or such other Commonwealth agency or department as authorized by law.

H. The recovery home facility must provide evidence of policies, procedures, and regulations to the Borough Zoning Officer. Evidence of rules and regulations that prohibit the use of any alcohol or any non-prescription drugs (other than those legal to purchase as over-the-counter medications) at the recovery home or by any recovering addict either on or off site shall also be provided.

I. At all times the operator must provide the Borough with the current name and contact information of the recovery home facility manager and/or other person responsible for the enforcement of the recovery home rules and regulations.

J. The recovery home facility manager shall be responsible for ensuring compliance with all applicable provisions of the Borough Code, as well as addressing any issues that may arise from individuals participating in the recovery home program in a timely manner. In the event of violations of the Borough Code or participant-related issues, the facility manager will be the primary point of contact and will take appropriate corrective action to resolve the situation in a timely and satisfactory manner.

K. The sponsoring agencies or owner of the facility annually shall file with the Borough Zoning Officer appropriate documentation certifying that the facility continues to satisfy the conditions for original approval and licensure.

Section 551: Recreation Facility, including Recreation, Indoor and Recreation, Outdoor

A. Uses that feature outdoor entertainment and/or recreational activities shall provide all applicable bufferyards as required by this Ordinance. Additional screening may be

required as determined appropriate by the Borough Council in order to reasonably contain noise, light, fumes, objects, or other materials to the site of the proposed use.

B. All ingress and egress to and from the site shall be so situated as not to interfere with through traffic movements on adjacent streets.

C. No lighting, noise, or other aspect of the recreation development shall, in the opinion of the Borough Council, produce any nuisance factor to residential or public uses which are in proximity.

Section 552: Service Station

A. Access driveways to the service station shall be at least 30 feet from the intersection of any public streets.

B. The ingress and egress shall not create hazardous conditions or undue congestion of traffic circulation in the immediate area.

C. Air towers and water outlets may be located outside an enclosed building, provided that no portion of these facilities shall be closer than ten (10) feet from any property line.

D. All automobile parts and supplies shall be stored within a building.

E. All canopy lighting must be fully recessed within the canopy.

Section 553: Sexually Oriented and/or Adult Businesses

A. Sexually oriented and/or adult businesses shall also meet or exceed the following setback requirements. The building shall be setback as follows:

1. The building shall be at least 250 feet in any direction from any residential single-family or two-family dwellings, also at least 500 feet from any public park property (including such uses in adjacent municipalities).

2. The building shall be at least 1,000 feet in any direction from any school property, church property, preschool property, or child day care center property (including such uses in adjacent municipalities).

3. The building shall be at least 100 feet in any direction from any hotel or motel (including such uses in adjacent municipalities).

4. The building shall be at least 2,500 feet in any direction from any other building which is utilized for any other adult business which is defined in this Section (including such uses in adjacent municipalities).

B. All activities pertaining to the sexually oriented and/or adult business shall be conducted entirely within the confines of the building. No theater which shows adult-related films shall project the film outside the confines of a building. No music or sound emitting from the business shall be audible to normal human hearing, at any time, at any exterior property line of the business.

C. Any sexually oriented and/or adult business which has liquor for sale shall abide by all rules and regulations of the LCB. If any of the applicable regulations of the LCB are more stringent than the regulations specified in this Section, those regulations shall be adhered to by the applicant.

D. Unless governed by more stringent regulations by the LCB, the following hours of operation shall be adhered to by all sexually oriented and/or adult businesses.

1. The sexually oriented and/or adult business shall not be open from 2:00 a.m. to 11:00 a.m. daily.

2. The sexually oriented and/or adult business shall not be open on Sundays and holidays except that an adult business open on Saturday may remain open until 2:00 a.m. on Sunday morning.

E. The maximum gross floor area of any building which is utilized for the sexually oriented and/or adult business shall be 5,000 sq. ft.

F. No sexually oriented and/or adult business shall display an exterior sign which displays obscene materials, or which depicts nudity or sexually explicit activities. All other regulations pertaining to commercial signs shall be complied with.

G. Parking, landscaping, exterior lighting, and other required site improvements shall be in accordance with the applicable Sections of this Ordinance.

H. To ensure the regulations of this Section are adhered to by the applicant, the following information shall be provided with the application for a conditional use.

1. A site survey of the property and building proposed for the sexually oriented and/or adult business and a survey illustrating the distance to the location, size, and type of all buildings and uses within 2,500 feet of the building proposed for the adult business. The survey shall be prepared and sealed by a surveyor licensed by the Commonwealth of Pennsylvania and shall be at a scale no less than one (1) inch to 100 feet. The survey shall indicate the scale, date drawn, north point, tax parcel number of all parcels illustrated, the names of any roads or highways illustrated, and shall be on paper measuring 24 inches by 36 inches. Five (5) paper copies and one (1) electronic copy of the survey shall be submitted with the application.

2. The above-referenced site survey shall indicate the proposed parking layout, landscaping, lighting, sign location, building location, and any other exterior improvements.

3. If liquor for sale is proposed, a copy of the license issued by the LCB shall be submitted.

I. In addition to a conditional use permit, a land development plan shall be required for the development of the site. Requirements for the land development plan are in the SALDO.

J. An applicant proposing the sexually oriented and/or adult business shall satisfy all requirements of the Zoning Ordinance which relate to general requirements for approval of conditional uses.

Section 554: Short-Term Rental (Accessory or Principal)

A. All short-term rental units shall be licensed with the Borough in accordance with the Borough code and the Borough rental ordinance prior to listing. The Borough's rental license number shall be included in any listing for the short-term rental and all units are subject to rental inspection.

B. The underlying HOA, if applicable and in existence, shall provide approval of short-term rental units. This approval shall be submitted with the application for conditional use.

C. The number of overnight visitors to a short-term rental unit shall not exceed the guest sleeping capacity of the unit.

D. Accessory or principal use short-term rental units shall provide the required off-street parking as specified in Article VII of this Ordinance.

E. The owner and operator of the short-term rental shall be responsible for the conduct and safety of guests and shall be available to respond to inquiries and promptly resolve any issues caused by guests. A primary emergency contact for the property along with an alternative local contact shall be provided in writing as part of the Short-term rental license.

F. The owner shall provide emergency contact/alternate contact information for an individual or individuals to be available 24 hours and can be on site within 2 hours, when necessary.

G. Short-term rental operators must provide proof of registration with Cumberland County for collection of appropriate hotel tax revenue.

H. In order to protect neighborhood character within the Borough the following limitations on number and density of Short-Term Rentals shall apply:

    1. There shall be no more than ten (10) Short-Term Rentals (inclusive of both principal and accessory) in any zoning district

    2. When a Short-Term Rental is located in the R-2 zoning district there must be a minimum of five hundred (500) feet from any other property containing a Short-Term Rental, as measured in a straight line.

    3. In a building or property containing more than one residential unit, no more than one unit may be utilized as a Short-Term Rental.

    4. Accessory Short-Term Rentals must be limited to one bedroom and may not occupy more than 30% of the total square feet of the dwelling.

Section 555: Solar Energy Production Facilities, Large

A. The layout, design, and installation of large solar energy production facilities shall conform to applicable industry standards, including those of the ANSI, Underwriters Laboratories, the American Standards Technical Manual, or other similar certifying organizations, and shall comply with the UCC, Act 45 of 1999, as amended and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.

B. All on-site utility and transmission lines extending to and from the large solar energy production facility shall be placed underground.

C. All large solar energy production facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street ROW.

D. The owner shall provide evidence in the form of stamped plans certified by a professional engineer that the roof is structurally sound.

E. All ground-mounted and freestanding solar collectors of large solar energy production facilities shall be completely enclosed by a minimum eight (8) ft. high fence with a self-locking gate.

F. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.

G. The surface area of ground-mounted systems, regardless of the mounted angle of any portion of the system is considered impervious surface and shall be calculated as part of the impervious coverage limitations for the Zoning District in which it is located.

H. Vacation, Abandonment, and/or Decommissioning of Solar Facilities.

1. The solar energy production facility owner is required to notify the Borough immediately upon cessation or abandonment of the operation.

2. Discontinuation/abandonment is presumed when a solar system has been disconnected from the net metering grid for a period of six (6) continuous months or has not produced electricity for a period of six (6) months. The burden of proof in the presumption of discontinuation/abandonment shall be upon the Borough.

3. The solar facilities and all solar related equipment must be removed within twelve (12) months of the date of discontinuation or abandonment or upon the determination of the useful life of the solar system.

4. For ground-mounted and building-mounted systems, removal includes removal of all structural and electrical parts of the ground or building-mounted system and any associated facilities or equipment and removal of all net metering equipment.

5. The owner or operator of the solar facility, upon issuance of all final occupancy permits and approvals by the Borough and any associated permitting agencies, shall provide a form of financial security satisfactory to the Borough, in the form of a bond or a letter of credit, for potential use of decommissioning the facility.

6. If the owner fails to remove or repair the vacated, abandoned or decommissioned solar facilities within the twelve (12) month period outlined above, the Borough reserves the right to enter the property, remove the system, and use the financial security in place mentioned in Subsection (5) above by the owner or pursue other legal action as may be necessary to have the system removed at the owner's expense.

7. Any unpaid costs resulting from the Borough's removal of a vacated, abandoned, or decommissioned solar system, if not covered by the financial security posted, shall constitute a lien upon the property against which the costs were charged. Each such lien may be continued, recorded, and released in the manner provided by the general statutes for continuing, recording, and releasing property tax liens.

I. At the time of issuance of the permit for the construction of the large solar energy production facility, the owner shall provide financial security in form and amount acceptable to the Borough to secure the expense of dismantling and removing said structures.

Section 556: Storage Yard (Accessory)

A. The applicant shall provide to the Borough at the time of application the following information:

1. A narrative describing the materials that will be stored in the proposed storage yard.

2. A site plan of the lot and/or parcel including the location of the proposed storage yard and the materials to be stored.

B. All storage yards related to the principal use are permitted only in the rear yard and at least 100 feet from any residential dwelling unit.

C. The designated storage area shall not include the required parking for the permitted principal use.

D. Storage areas shall not create traffic hazards or block pedestrian and vehicular circulation.

E. The storage yard shall be screened from the adjoining parcels as required; a storage yard shall be considered an industrial use when interpreting the required bufferyard requirements outlined in Section 601 of this Ordinance.

F. Storage yards shall not be used to:

1. Service, repair, or conduct similar repair activities of any of the items stored at the outdoor storage yard.

2. Be occupied or used for living or sleeping purposes.

3. Conduct vehicle sales or retail sales of any kind.

4. Conduct any other commercial or industrial activity.

5. No outdoor storage shall be permitted in the required setback areas.

6. All organic rubbish or waste materials shall be stored in airtight vermin-proof containers.

7. Outdoor storage of vehicles, including but not limited to automobiles, buses, motorcycles, watercraft, and similar machines shall conform to the following standards:

    a. All operable vehicles stored in identified storage areas shall have current vehicle registration and/or inspection, as required.

8. Any repossessed, disabled, wrecked, unlicensed or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any 30-day period.

9. The storage yard shall be paved with a minimum of three (3) inches of gravel and maintained in a dust-free manner.

10. The storage yard shall be set back a minimum of 100 feet from any property bearing any residential dwelling unit.

Section 557: Supply Yard (Accessory)

A. The applicant shall provide to the Borough at the time of application the following information:

    1. A narrative describing the material that will be stored, displayed, and/or sold in the proposed supply yard.

    2. A site plan of the lot and/or parcel including the location of the proposed supply yard and materials to be stored.

B. Supply yards shall not be used to:

    1. Be occupied or used for living or sleeping purposes.

    2. Conduct vehicle sales or retail sales of any kind.

C. No outdoor storage and/or sale of materials shall be permitted in the required setback areas.

D. Outdoor display and/or sale of materials and/or equipment shall be incidental to a principal use in the district in which it is permitted.

E. Only the business or entity occupying the principal structure may sell merchandise in the outdoor supply yard.

F. Areas to be used for outdoor display, and/or sales shall not occur on pedestrian and/or vehicular circulation areas or in required parking lots.

G. The supply yard shall be screened from the adjoining parcels by a bufferyard as required, supply yards shall be considered an industrial use when interpreting the required bufferyard requirements outlined in Section 601 of this Ordinance.

H. The supply yard shall be paved with a minimum of three (3) inches of gravel and maintained in a dust-free manner.

I. The supply yard shall be set back a minimum of 50 feet from any property bearing a single-family detached dwelling.

Section 558: Theater

A. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhoods.

B. The primary visitor drop-off and pick-up area shall be located in a manner that minimizes detrimental traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood and subject property.

C. The landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall not exceed two (2) footcandles. All exterior lighting shall be designed to prevent glare onto adjacent properties. Pedestrian pathways need to be clearly marked and well-lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall be consistent with existing decorative street lighting fixtures, where applicable.

D. Applicants must clearly demonstrate that the use will be compatible with the existing neighborhood, particularly with regard to traffic circulation, parking, and appearance.

E. Vehicular and pedestrian access to the proposed development shall be designed and provided to maximize pedestrian and vehicle safety.

Section 559: Vineyard/Winery

A. Vehicular access to and from a vineyard and/or winery shall be conducted from an arterial or collector road.

B. Vineyard and/or winery operations shall be conducted in accordance with all applicable Federal, State, County, and Borough laws and regulations governing the production of crops and related operations.

C. No storage or transfer of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemicals, liquids, gases, or solids shall be permitted on the lot(s), with the exception of gasoline, diesel fuel, and oil for the operation and maintenance of motorized vehicles and equipment.

Section 560: Wastewater Treatment Plant

A. The minimum lot size required is five (5) acres.

B. The site and facility shall be fenced and gated so that members of the general public cannot access the site or the facility.

C. Setbacks. The following setbacks shall be maintained for the treatment facilities or water withdraw and distribution facilities and any truck parking or staging areas.

1. 300 feet to adjoining properties and public road ROWs.

2. 500 feet to any existing adjoining residential structure.

3. 200 feet to any body of water, stream, or wetland.

D. On-site holding tanks shall be provided to collect and store water produced during the treatment process.

1. Proof of all applicable and required Federal, State, County, Borough, and/or local approvals, permits, licenses, and/or registrations shall be provided to the Borough, including but not limited to permits from PA DEP.

2. Reporting Requirements. For any facility approved by the Borough, the operator shall submit to the Borough a copy of all PA DEP-required or PA DEP-issued documents and reports associated with the operation within seven (7) days of the date of the document or report.

Section 561: Wind Energy Production Facility, Large

A. The layout, design, and installation of large wind energy production facilities shall conform to applicable industry standards, including those of the ANSI, Underwriters Laboratories, the American Standards Technical Manual, or other similar certifying organizations, and shall comply with the UCC, Act 45 of 1999, as amended and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.

B. Large wind energy production facilities shall not generate noise which exceeds 55 dBa measured at any property line.

C. All on-site utility and transmission lines extending to and from the large wind energy production facility shall be placed underground.

D. All large wind energy production facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Staff regulation shall not be considered a sufficient braking system for overspeed protection.

E. Large wind energy production facilities shall not be artificially lighted, except to the extent required by the FAA.

F. Wind turbines and towers shall not display advertising, except for reasonable identification of the large wind energy production facility's manufacturer. Such sign shall have an area of less than four (4) sq. ft.

G. Wind turbines and towers shall be a non-obtrusive color such as white, off-white, or gray.

H. All large wind energy production facilities shall, to the extent feasible, be sited to prevent shadow flicker on any occupied building on adjacent lot.

I. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.

J. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

K. No portion of any large wind energy production system shall extend over parking areas, access drives, driveways, or sidewalks.

L. All large wind energy production facilities shall be independent of any other structure and shall be located a minimum distance of one and one-tenth (1.1) times the turbine height from any inhabited structure, property line, street ROW, or overhead utility line.

M. The minimum height of the lowest position of the wind turbine shall be 30 feet above the ground.

N. All large wind energy production facilities shall be completely enclosed by a minimum eight (8) ft. high fence with a self-locking gate, or the wind turbines' climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the wind turbines' climbing apparatus shall be fully contained and locked within the tower structure.

O. The large wind energy production facility owner is required to notify the Borough immediately upon cessation or abandonment of the operation. The large wind energy production facility owner shall then have twelve (12) months in which to dismantle and remove the large wind energy production facility from the lot. At the time of issuance of the permit for the construction of the large wind energy production facility, the owner shall provide financial security in form and amount acceptable to the Borough to secure the expense of dismantling and removing said structures.

Section 562: Winery

A. The standards for "Vineyard/Winery" in this Article shall apply.

Section 563: Demolition of Historic Structure

A. General and Legal Authorization.

1. This section is to provide for the protection and preservation of historic structures within the Borough by discouraging their demolition. Demolition of historically and architecturally significant historic structure/s shall be as a conditional use that may be denied or allowed by New Cumberland Borough Council, after a recommendation from the New Cumberland Borough Planning Commission and review by the Pennsylvania Historical and Museum Commission. In making a decision on the conditional use application, Borough Council may attach reasonable conditions and safeguards as it may deem necessary to implement the purposes of these demolition provisions and any other provisions of the Zoning Ordinance. Whenever possible remediation of the Historic Structure is preferred.

2. This section is created pursuant to authority contained in the Act of 1968, P.L. 805, No. 247, as enacted and amended, known as the Pennsylvania Municipalities Planning Code (Sections 603, 604, and 605). This section is created in order to: (1) promote, protect, and facilitate the preservation of areas of historic significance; (2) preserve the historic values in the community; (3) provide for the protection of historic features and resources; and (4) protect places having unique historical, architectural or patriotic interest or value.

B. Purpose and Intent. It is the purpose and intent of the Borough to preserve and protect buildings of historic value that exist within the Borough. Preservation of the historic structures and other historically significant buildings is in the best interest of the health, prosperity, welfare, cultural and environmental values of the people of the Borough by enhancing property values, and improving aesthetics of the built and natural environment.

C. Conditional Use Approval Criteria. In considering conditional use approval, Council shall presume that the demolition of the Historic Structure is not warranted. Council shall consider the historical and architectural significance of the building, as well as its current use, size, location, visibility and cultural value. Council may seek testimony and documentary evidence from persons knowledgeable about historic resources in the Borough, and may, based on the evidence presented, deny the applicant's request for a conditional use permit to demolish the building. Council shall also consider the testimony of the applicant and the applicant's representative(s) including any documentary evidence that may justify, structurally or financially, that the historic structure should be demolished.

1. If, based on the evidence, Council determines that demolition of the building is acceptable, it may impose any or all of the following conditions and safeguards on the applicant in order to implement the purposes of this ordinance:

(a) A waiting period of up to 90 days may be imposed. The waiting period may be used to meet with the applicant to review alternatives to demolition. No demolition may occur during this waiting period.

(b) The applicant may be required to adequately record and document the historical and architectural features of the building proposed for demolition, including but not limited to, photographs, floor plan, a videotaped recording, a site plan, a historical narrative, or a written architectural description of the building. Council may also require that recording and documentation of the building be carried out by a qualified historic preservation consultant. Council may require the applicant to provide a sufficient number of copies of the complete record and documentation as required in this paragraph to the Borough.

(c) The applicant may be required to move the historic structure to another location in the Borough that has an acceptable setting and environment. Moving the historic structure shall not be undertaken without adequate investigation, including the adequacy of the route to the proposed new location and the structural integrity of the building.

(d) The applicant may be required to remove distinctive exterior architectural or historical features from the building and donate them to the Borough, local museum, or non-profit for use or display within the Borough.

(e) The applicant may be required to design the new building on a property vacated by demolition of a historic structure in such a manner so as to preserve and protect the surrounding historic structures. The design of the new building shall be in harmony with the shape, size, materials, color, and architectural style of existing historic structures in the area. The applicant may also be required to follow other architectural standards or guidelines as recommended by Council.

(f) Council may require that properties where new buildings are not immediately proposed after the demolition of an historic structure (such as properties proposed to be used as vacant lots, parking lots, open space or parks) be appropriately landscaped. Council may require landscape features, elements and vegetation that are appropriate to the architectural qualities and amenities of the surrounding historic structures.

(g) Other reasonable conditions and safeguards may be imposed upon the applicant in order to implement the purposes of this section.

2. If the applicant does not agree with the conditions of the conditional use approval, Council may choose to not approve the conditional use application, thereby denying the demolition.

Section 564: Data Center Facility

A. Data Center facilities shall provide the required off-street parking as specified in Article VII of this Ordinance.

B. 100ft building setback from a property line adjoining any other Zoning District

C. Site shall be fenced and gated by a non-climbable security fence 8ft in height so that members of the general public cannot access the site or the facility.

D. Lighting shall be oriented away from adjacent properties and shall meet the lighting requirements outlined in Section 603.J of this Ordinance. As part of its decision, the Borough Council may further regulate outdoor lighting for the facility in order to prevent adverse impacts on adjoining properties.

E. Where a commercial or industrial use adjoins the Residential District or a residential use, a buffer yard of not less than 10 feet in width shall be provided, in addition to the required setback for the zoning district, along the abutting lot lines

F. At no point beyond the boundary of any lot shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 80 dBA.

G. Provide documentation that the water and electricity supply needed can be supplied without detrimental reductions of such to the municipality and its residents.

Section 565: Uses Not Listed

A. It is the intent of this Ordinance to group similar or compatible land uses into specific Zoning Districts. Uses which are not specifically listed in the Tables of Authorized Uses (Principal and Accessory) may be permitted upon finding by the Borough that the proposed use is similar to a use listed in the Tables of Authorized Uses (Principal and Accessory).

B. If a property owner or user asserts that a proposed use is not provided for in the Table of Authorized Uses (Principal and Accessory) the property owner or user shall file an application for conditional use with the Borough and which shall review and make a determination if the proposed use is similar to another use contained in the Tables of Authorized Uses (Principal and Accessory).

C. If the Borough finds the use is similar to an existing use contained in the Table of Authorized Uses (Principal and Accessory), it may permit the use subject to the same conditions and requirements of that use including the District in which it may be located.

D. In considering if a proposed use is similar to an existing use contained in the Table of Authorized Uses (Principal and Accessory) the Borough in not limited to assertions of the applicant that the use is similar to a specific listed use, but instead may consider all uses (Principal and Accessory) contained in the Tables of Authorized Uses (Principal and Accessory).

E. If the Borough finds the use is similar to an existing use all other provisions of this Ordinance and all codes and Ordinances of the Borough shall apply.

Article VI: Supplemental Regulations

Section 601: Screening and Landscaping

A. Bufferyards.

1. Buffer areas required. Buffer areas are required under the following circumstances:

    a. Parking Lots and Loading Areas. A landscape buffer will be required around the perimeter of parking lots and loading areas in all Zoning Districts.

    b. Adjacent Uses. Bufferyards are intended to minimize impacts of differing land uses on adjacent sites or properties. When new development is proposed, bufferyards will be required along the perimeter of the site in IC, I, and MU Districts. Bufferyards in the IC, I, and MU Districts may be relaxed or eliminated at the discretion of the Borough where the development proposes reuse of existing structures on the site and where such site does not provide adequate area for the addition of a buffer.

    c. Where a commercial or industrial use adjoins the Residential District or a residential use, a bufferyard of not less than 10 feet in width shall be provided along the abutting lot lines.

    d. Where the express standards and criteria for a conditional use in Article V of this Ordinance specify that a bufferyard is required.

2. Applicants shall demonstrate through the submission of a landscape plan that sufficient landscaping and buffering is provided to minimize impact to adjacent land uses. When required, a minimum of two (2) deciduous trees and three (3) evergreen trees shall be required for every 100 feet of property line where buffering is required. In addition, five (5) shrubs shall be provided for every 100 feet of property line where buffering is required. Bufferyards are required to be a minimum of ten (10) feet in width. The Borough encourages flexibility in design and will entertain alternative buffering plans where the applicant demonstrates the buffering plan is equal to or better than the requirements of this ordinance and meets the intent of this Section. The use of decorative walls, decorative fences, and landscape mounds are allowable in an effort to meet the requirements of this Section.

3. Bufferyards shall be maintained and kept free of debris and rubbish.

4. No structure, parking, processing activity, or storage of any materials shall be permitted in a bufferyard. However, access roads, service drives, and utility easements may cross a bufferyard.

5. Bufferyards shall be included on applicable subdivision and land development plans for review and approval. The plans shall show the location of all the bufferyards and the placement, species, and size of all vegetative material to be planted therein.

B. General Provisions.

1. Openings for driveways shall be permitted to cross a required buffer area. Plantings in required buffer areas shall be located so as to not obstruct visibility for traffic entering or leaving the site.

2. Maintenance Required. It shall be the responsibility of the owner/applicant to assure the continued growth of all required landscaping and/or to replace the same in the event of frost, vandalism, disease, or other reasons for the discontinued growth of the required trees, shrubs, and bushes. Replacement shall be no later than the subsequent planting season.

3. Conflict between buffer areas and building setback requirements. When the width of a required buffer area is in conflict with the minimum building setback requirements of this Ordinance, the greater distance shall apply. The buffer area planting requirement shall be adhered to regardless of the setback requirement.

4. Stormwater management facilities in buffer areas. Stormwater management facilities and structures may be maintained within a buffer area, but the existence of such facilities or structures shall not be a basis for a failure to meet the planting requirements.

C. Plant Sizes.

1. Deciduous Trees. All trees required to be planted shall be a minimum of two (2) inches in diameter at a point one (1) ft. above the ground. All required trees shall be a minimum of six (6) feet in height at time of planting measured from the ground adjacent to the planted tree to the top of the tree.

2. Evergreen Trees. All evergreen trees required to be planted shall be a minimum of six (6) feet in height at the time of planting measured from the ground adjacent to the planted tree to the top of the tree.

3. Shrubs. All shrubs required to be planted shall be a minimum of 24 inches in height at planting.

D. Screening

1. Screen planting shall be provided where a commercial or industrial use adjoins the R1 or R2 Districts, Mixed-Use District or a residential use. Screen plantings shall also be provided in any other instance where screening is required by this Ordinance. They shall be located in the exterior portion of a required bufferyard(s) or in the side setback(s) and shall be in accordance with the following requirements:

    a. Plant material used in screening shall be at least four (4) feet high when planted, except for trees which shall be six (6) feet in height, shall spread not more than three (3) feet apart, and be sufficient height and density to reasonably conceal the structures and uses from the view of adjacent use. Ultimately, a year-round visual screen of at least six (6) feet in height should be achieved.

    b. Screening shall be maintained permanently. Any vegetation which does not live shall be replaced within one (1) year by the developer or property owner.

    c. The screen plantings shall be so placed that at maturity it will not be closer than three (3) feet from any ultimate right-of-way or property line.

d. A clear sight triangle shall be maintained at all street intersections and at all points where vehicular access ways intersect public streets.

e. The screen planting shall be broken only at points of vehicular or pedestrian access.

f. Vegetative screening shall include a variety of deciduous and evergreen species which are indigenous to the area as to provide a year-round visual buffer.

Section 602: Environmental Performance Standards

A. Floodplains. All development and use of land and structures in the base flood and/or floodway areas, as delineated on the FEMA Flood Insurance Rate Maps shall comply with the most recently adopted floodplain management ordinance of the Borough, as may be amended from time to time, and with applicable State regulations, specifically Ordinance 105, Title 25 of the Pennsylvania Code.

B. Steep Slopes. In areas of steep slopes, i.e., those above fifteen percent (15%), the following standards shall apply:

1. 16%-25%: No more than 60% of such areas shall be developed and/or regraded or stripped of vegetation.

2. 26% or more: Earth Disturbance Activities are generally restricted except as authorized by the Borough Engineer.

C. Ponds, Watercourses, or Wetlands. No development, filling, grading, piping, or diverting shall be permitted except for required roads and utility line extensions, unless authorized and permitted by the appropriate State, County, or other regulatory agency.

D. Stormwater Drainage and Management. For all development and construction activities that result in an increase of impervious area in excess of 1,000 sq/ft, permit applications shall comply with the provisions of State and local stormwater management regulations in effect at the time of Zoning Permit application. Stormwater Management Facilities shall be utilized to the greatest extent possible in order to retain stormwater on Lot.

E. Fats, Oils, and Grease. Residential, commercial, and/or industrial properties located within the Borough shall not be permitted to dump fats, oils, and/or grease into the public sewer system.

F. Soil Erosion and Sedimentation. With any earth disturbance, there shall be control of erosion and the protection of streams and ponds from sedimentation in accordance with the “Clean Streams Law P.L. 1987”, Chapter 102 of Title 25 of the Pennsylvania Code, and the “Soil Erosion and Sedimentation Control Manual” of the DEP. As a minimum, where sediment can be transported away from the disturbed area, a silt fence or straw bale barrier shall be erected and maintained in working order until vegetation is fully established, or erosion resistant ground cover has been installed. Additional sediment pollution control measures may be required where land development is more extensive and/or if a land development requires an NPDES permit.

Section 603: General Performance Standards

A. Noise. The ambient noise level of any operation, other than those exempted below, shall not exceed the dBA levels prescribed. The sound pressure level or ambient level is the all-encompassing noise associated with a given environment, being a composite of sounds from any source, near and far. For the purpose of this Ordinance, ambient noise level is the average dBA level recorded during observations taken in accordance with industry standards for measurement and taken at any time when the alleged offensive noise is audible, including intermittent, but recurring, noise.

1. No operation or activity shall cause or create noise in excess of the sound levels prescribed below:

    a. Residential Districts. At no point beyond the boundary of any lot within these Districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 70 dBA, or 10 dBA above ambient sound level, whichever is higher.

    b. Nonresidential Districts. At no point on or beyond the boundary of any lot within these Districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 80 dBA.

    c. Where two (2) or more Zoning Districts in which different noise levels are prescribed share a common boundary, the most restrictive noise level standards shall govern.

2. The following uses or activities shall be exempted from the noise regulations:

    a. Noises emanating from general construction activities (generally those activities conducted by contractors) between 7:00 a.m. and 7:00 p.m., Monday through Friday; Saturday 8:00 a.m. to 5:00 p.m.; and Sunday 9:00 a.m. to 5:00 p.m.

    b. Noises emanating from household power tools, lawn mowers, snow blowers, or similar activities conducted by the homeowner between 7:00 a.m. and 9:00 p.m.

    c. Noises caused by safety signals, warning devices, and other emergency-related activities or uses.

    d. Noises emanating from Borough approved public recreational uses or special events between 7:00 a.m. and 9:00 p.m.

    e. Normal public utility and public works activities between the hours of 7:00 a.m. and 7:00 p.m., and emergency operations at any time.

3. In addition to the above regulations, all uses and activities within the Borough shall conform to all applicable County, State, and Federal regulations. Whenever the regulations contained herein are at variance with any other lawfully adopted rules or requirements, the more restrictive shall govern.

B. Vibrations. No operation or activity shall cause vibrations detectable without instruments except for the following:

   a. Vibrations emanating from general construction (generally those activities conducted by a contractor) activities between 7:00 a.m. and 7:00 p.m., Monday through Friday; Saturday 8:00 a.m. to 5:00 p.m.; and Sunday 9:00 a.m. to 5:00 p.m.,

   b. Vibrations emanating from household power tools, lawn mowers, snow blowers, or similar activities conducted by the homeowner between 7:00 a.m. and 9:00 p.m.

   c. No business or commercial facility conducting regular operations shall be permitted to allow vibrations to emanate on any other property.

   d. The prohibition on vibrations shall also be subject to any other separate ordinance adopted by the Borough.

C. Glare. There shall be no direct or sky-reflected glare, whether from floodlights or from high-temperature processes (for example, combustion or welding), so as to be visible from within any District.

D. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

E. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

F. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

G. Discharge. No discharge at any point into any private sewage disposal system or stream or into the ground, of any materials in such a way or in such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements or the accumulation of solid wastes conducive to the breeding of rodents or insects is permitted.

H. Heat, Cold, Dampness, or Movement of Air. No activities producing heat, cold, dampness, or movement of air are permitted which shall produce any material effect on the temperature, motion, or humidity of the atmosphere at and/or beyond the lot line.

I. Air Pollution. No pollution by air by fly ash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling. Ultimately, air pollution may be acceptable provided that the use complies with all regulations or requirements of the DEP, EPA, and all other regulatory agencies.

J. Lighting standards.

   1. Lighting shall be shielded to meet the following requirements:

(a) No light shall shine directly into the windows of a building on abutting property.

(b) No light shall shine directly from a light source onto the ground or improvements of an abutting property, although incidental light may be permitted to fall on abutting property.

(c) No light shall shine directly onto public roads.

2. Where the abutting property is residentially zoned or used, nonresidential uses shall direct light fixtures toward the proposed development and shield the residential properties from direct lighting or glare. The light source itself must not be visible from the abutting residential property.

3. No parking lot lighting standard or building fixture shall exceed 25 feet in height from grade level, and no pedestrian lighting standard shall exceed 16 feet in height from grade level.

4. Light fixtures located closer to a side or rear lot line than the side or rear yard setback, shall be no more than 10 feet high, and shall direct the light source away from the property line.

5. Light fixtures located along a residential property line shall be set back a minimum of 20 feet from the property line.

K. Determination of Compliance with Performance Standards. During the review of an application for zoning approval, the applicant may be required to submit data and evidence documenting that the proposed activity, facility, or use will comply with the provisions of this Section. In reviewing such documentation, the Borough may seek the assistance of any public agency having jurisdiction or interest in the particular issues and the Borough may seek advice from a qualified technical expert. All costs of the expert's review and report shall be paid by the applicant. A negative report by the technical expert and the applicant's refusal or inability to make alterations to ensure compliance with this Section shall be a basis for denying approval of the application.

Section 604: Outdoor Storage

A. Outdoor storage of any kind shall not be permitted unless it is accessory to and consistent with the associated principal use conducted on the premise.

B. When permitted, all storage shall be completely enclosed and screened from view through use of a fence or screen planting.

C. No storage shall be permitted in a front yard.

D. In Nonresidential Zoning Districts, including MU, I and IC, outdoor storage shall be regulated by the conditional use provisions applicable for Storage Yard, Accessory or Storage Yard, Principal, as applicable to the specific use, except for residential properties located within a Nonresidential Zoning District, where the provisions of Section 604.E shall apply.

E. In Residential Districts, and properties zoned as residential or mixed-use, any material or equipment stored outside an enclosed building, except for the purposes identified above, shall be incidental to the principal use of the lot and shall be stored to the rear of the building or an alternative location which screens the storage area from public view from the street. Buffering as identified in the bufferyard requirements of Article VI of this Ordinance, may be required to screen material or equipment stored outside and shall be decided upon the discretion of the Zoning Officer.

F. In all Zoning Districts organic rubbish, recyclable materials, and discarded waste shall be contained in tight, vermin-proof containers. Trash and recycling storage containers shall not be stored in any front yard and shall be placed so as to not be readily visible from public rights of way, except for the period of time permitted for these containers to be placed at the curb for collection by the hauler. For residential properties containing seven (7) or more units and all non-residential properties, any outdoor area used for storage of trash, refuse, or similar materials shall be completely enclosed by a six (6) foot opaque fence, masonry wall, or dense compact evergreen hedge; trash enclosures shall be designed to integrate with the site design, using the same materials and architectural details as the primary structures.

G. No lot or premises shall be used as a garbage dump or a dead animal rendering plant. No manure, rubbish, or miscellaneous refuse may be stored in the open within any Zoning District where the same may be construed as a menace to public health or safety. No exceptions shall be made except by official government action.

Section 605: Temporary Uses

A. Permit Required. A Zoning Permit/occupancy permit is required for any temporary use of land and/or a structure.

1. Authorized Temporary Uses, Residential Districts.
    a. Model home in a plan of homes used temporarily as a sales office which shall terminate upon the sale or rental of the last unit.
    b. Rental or sales office in a multi-family residential complex.
    c. Other temporary uses, as approved by the Borough Council.
2. Authorized Temporary Uses, all Other Zoning Districts.
    a. Community events.
    b. Outdoor fairs, exhibits.
    c. Temporary sales events.
    d. Outdoor fair, exhibit, show, or other special event that is sponsored by a nonprofit organization.
    e. Those uses listed as Authorized Temporary Uses, Residential Districts
    f. Other temporary uses, as approved by the Borough Council.

B. Conditions of Approval for Temporary Uses.

1. Adequate traffic and pedestrian access and off-street parking areas must be provided to the extent possible.

2. Any licenses and permits required to sell products or food or approvals from other governmental agencies shall be submitted prior to the issuance of the occupancy permit.
3. A Certificate of Insurance must be provided from the organizing entity, either showing proof of insurance for the property, or if not the property owner, providing evidence that the owner has been identified as a named insurance for the proposed event date/s.
4. As required, a Special Events Permit must be obtained. When a Special Events Permit must be obtained, a Zoning Permit/occupancy permit will not be required.
5. If the applicant does not own the land on which the temporary use is to be located, a letter of agreement and/or permission between the applicant and the landowner shall be submitted.
6. The applicant shall be responsible for conducting the temporary use or activity in a safe manner within the conditions set forth by the Borough. This includes, but is not limited to, provisions for security, trash pick-up, and daily maintenance of the grounds.
7. The Zoning Officer may refer any application for a temporary use to the Planning Commission for review and recommendation prior to issuance of the occupancy permit.
8. The provisions of this Section in no way shall be deemed to authorize the outdoor display or sale of automobiles, trailer, or equipment rentals, used furniture, appliances, plumbing or building materials, or similar display or sale in any District except as specifically authorized by this Ordinance.

Section 606: Open Burning

A. Open burning shall comply with the open burning regulations as outlined in the Borough's Building and Fire Codes and all applicable ordinances, as may be amended from time to time.

Section 607: Essential Services

A. Essential services, as defined in this Ordinance, shall be permitted in all Zoning Districts, subject to the restrictions approved by the Planning Commission and Borough Council with respect to use, design, yard area, setbacks, and height.

Section 608: Projections into Building Setbacks

A. The following architectural features may project into the building setbacks as established herein:
    1. Steps or stoops not exceeding 24 sq. ft. in area.
    2. Eaves, cornices, sills, and belt courses shall not exceed 24 inches.
    3. Open fire escapes shall not exceed 54 inches.
    4. Chimneys and ventilation pipes shall not exceed 36 inches.

Section 609: Fences and Walls

A. Fences and Walls Accessory to Residential Use. The following fences and walls may be erected as an accessory structure to a residential use:

1. Front Yards.

    a. Split rail and any other fence with 25% or less of the surface area being opaque open type style, not exceeding four (4) feet in height.

    b. Masonry wall or fence with 50% or more of the surface area being opaque open type style, not exceeding three (3) feet in height.

    c. The finished side of a fence shall face the adjacent property.

2. Side and Rear Yards.

    a. Masonry or concrete wall, not exceeding three (3) feet in height.

    b. Any other type of fence, not exceeding six (6) feet in height.

    c. Security fence for a swimming pool, not exceeding six (6) feet in height.

    d. Barbed wire fences shall not be permitted in conjunction with a residential use.

    e. The finished side of a fence shall face the adjacent property or street.

B. Fences and Walls Accessory to a Nonresidential Use. The following fences and walls may be erected as an accessory structure to a nonresidential use in any side and rear yards:

1. Masonry or concrete wall, not exceeding three (3) feet in height.

2. Fences with 50% or less of the surface area being opaque open type style, not exceeding eight (8) feet in height. Fences eight (8) feet in height bordering a residentially zoned property shall be setback from the property line a minimum of five (5) feet.

3. Fences not exceeding six (6) feet in height.

4. Commercial building fencing shall be made of wood slated materials or vinyl and the finished side of the fence shall face the adjacent property or street.

C. General Requirements for Fences and Walls.

1. No fence in any District shall be erected in such a manner so as to obstruct visibility at a street or driveway intersection, in accordance with this Ordinance.

2. Retaining Walls.

    a. When the adjoining grade is not higher than the natural level, the person causing an excavation to be made shall erect, when necessary, a retaining wall at his own expense and on his own land. Such wall shall be built to a height sufficient to retain the adjoining earth, shall be properly coped and shall be provided with a guardrail or fence not less than four feet in height. A fence shall not have openings in excess of four inches.

b. Walls built to retain or support the lateral pressure of earth, water or other superimposed loads shall be designed and constructed of approved masonry, reinforced concrete, steel sheet pilings or other approved materials within the allowable stresses of engineering practices, and subject to the approval of the Borough Engineer and the Building Code Official, and in conformance with this Ordinance, and all other Borough Ordinances.

c. A retaining wall of approved construction, designed by a registered civil engineer or architect, shall be required for all permanent landfills or excavations which exceed three feet in height or depth along a property boundary line, unless a 1:1 natural slope of the land can be maintained entirely within the boundaries of the excavated or filled property.

3. Fences shall be erected only at the natural grade of the property and shall not be erected on berms or artificial mounds.
4. Fences and walls shall be maintained and installed so that they are straight and do not sag, lean in any direction, or extend over the property line outward from the lot into a right-of-way or other pedestrian-accessed area on which the fence or wall is located.
5. Temporary fences. A temporary fence may be constructed with wire, rolled plastic, wood or other suitable material as determined by the Code Enforcement or Zoning Officer. The maximum height shall be six feet unless a height in excess of six feet is required by the International Building Code for the protection of a construction site that has been issued proper permits by the Borough or for the protection of a deemed hazard by the Code Inspector or Zoning Officer. The Code Inspector or the Zoning Officer shall establish the time duration for a temporary fence. All temporary fences, prior to installation, must first have the approval of the Code Inspector or the Zoning Officer.
6. The tops of fence posts or vertical supports shall be no more than six inches above the approved fence height, unless authorized by a special exception by the Zoning Hearing Board.
7. Gates or other points of entry in fences and walls shall not swing outward across the property line.
8. No fence or wall shall impede the natural flow of water in any watercourse, ditch, or swale.
9. In any front yard, including side yards adjacent to a street for corner properties, chain-link or wire-mesh fences are not permitted, except by special exception of the Zoning Hearing Board after conducting a public hearing, and where granted, the fence shall be landscaped in such a manner as to be indiscernible from such landscaping from any viewpoint on adjacent properties and street.
10. Fences generally shall be made of natural material, wood, wrought iron, architectural-grade plastic, aluminum, or other architectural-grade material.

Section 610: Swimming Pools

A. Swimming Pools. Swimming pools shall be permitted in all Zoning Districts subject to the requirements below and all applicable Building Codes and Ordinances, including:

1. In residential areas, pools and accessory decks attached to a pool shall be erected only in a side and/or rear yard, provided that they are no closer than five (5) feet to any lot line.

2. In-ground pools, in all Zoning Districts shall be enclosed by a fence, constituting a barrier to small children, at least four (4) feet in height and equipped with a gate and a lock. Fencing for a pool shall comply with the requirements of this Ordinance and applicable Building Codes.

3. Above-ground pools and collapsible pools in all Zoning Districts having vertical walls over four (4) feet above ground level and removable steps are not required to be fenced, provided the owner shall remove said steps when the pool is not in use to prevent access by small children. All other above-ground swimming pools shall be fenced in accordance with this Section and applicable Building Codes.

Section 611: Height Exceptions

A. Chimneys, spires, elevator penthouses, tanks, satellite dishes and similar vertical projections shall not be included in calculating the height of a building.

B. Flagpoles shall be limited to twenty (20) feet. Flagpoles shall not be placed in any side or rear yard when adjacent to or surrounded by residential parcels.

Section 612: Signs

A. Signs shall conform with all Borough Codes and shall comply with Article VIII of this Ordinance.

Section 613: Off-Street Parking

A. Parking shall conform with Article VII of this Ordinance.

Section 614: Parking of Commercial Vehicles

A. Buses, commercial trucks, truck tractors, truck trailers, and other similar large motor vehicles. In all zoning districts, unless provided for elsewhere in Borough Ordinances, the temporary unenclosed parking of buses and commercial trucks, truck tractors, truck trailers, and other similar large motor vehicles or trailers shall be subject to the following criteria:

1. The temporary unenclosed parking of buses and commercial trucks, truck tractors, truck trailers, and other similar large motor vehicles shall be permitted on residential lots and within the Residential Zoning Districts or Mixed-Use Zoning District in accordance with the following:

a. Such vehicle is used by residents of the dwelling pursuant to their occupation and/or to travel to and from work.

b. The parking of commercial vehicles is not permitted on Borough streets or in any required front, side, or rear yards of a lot.

c. The maximum number of vehicles per lot shall be one (1) vehicle; and

d. The maximum aggregate gross vehicle weight of the vehicle shall be fourteen thousand (14,000) pounds.

e. No truck trailers shall be parked on any property or in any street.

2. The temporary unenclosed parking of buses and commercial trucks, truck tractors, truck trailers, and other similar large motor vehicles shall be permitted on:

a. Non-residential lots in the IC, MU, or I Zoning Districts; and

b. All lots with agricultural uses where the parking of said vehicles is incidental to the agricultural operation(s).

c. No truck trailers shall be parked on any street and may only be parked on non-residential properties when consistent with an approved and related zoning use.

B. The requirements of Section 614A shall not apply to any commercial vehicles parked temporarily for the purpose of loading, unloading, or rendering services to an adjacent property.

Section 615: Parking of Recreational Vehicles, Boats, Campers, and Trailers

A. For purposes of this section, recreational vehicles, travel trailers, utility trailers, boats (including trailers), and other trailers used solely for the transport of the resident's recreational vehicle(s), are divided into two separate categories, as follows:

(1) Category 1

(2) Category 2

B. The temporary parking, or permanent storage or parking of a Category 1 Recreational Vehicle shall be permitted, subject to the following requirements:

(1) The storage of Category 1 recreational vehicles shall be permitted, provided that the vehicle storage area is located on a paved or gravel parking space behind the building setback line and at least five feet from the side and rear lot lines.

(2) The designated vehicle storage areas occupied by Category 1 recreational vehicles shall be paved and maintained in mud-free conditions, the vegetation shall be properly trimmed, and debris or litter shall be disposed of on a regular basis.

(3) Category 1 recreational vehicles shall be maintained to prevent the leakage of fuels, lubricants, or other contaminants onto the ground or any waterway.

(4) When required by the Motor Vehicle Code, Category 1 recreational vehicles shall be required to maintain valid licenses and obtain current inspections.

(5) No more than two Category 1 recreational vehicles shall be permitted on a lot, with only one Category 1 recreational vehicle being permitted in excess of ten (10) feet in length.

C. The temporary parking of one Category 2 Recreational Vehicle for periods not exceeding 72 hours during any seven-day period is permitted on a paved or gravel surface in any yard, so long as the vehicle is set back more than 10 feet from any street right-of-way, and more than five feet from any adjoining property lines.

D. The permanent storage or parking of a Category 2 recreational vehicle shall be permitted, subject to the following requirements:

(1) The storage of Category 2 recreational vehicles shall be permitted, provided that the vehicle storage area is located on an improved parking space behind the building setback line and at least 10 feet from the side and rear lot line.

(2) The designated vehicle storage areas occupied by Category 2 recreational vehicles shall be paved and maintained in mud-free conditions, the vegetation shall be properly trimmed, and debris or litter shall be disposed of on a regular basis.

(3) Category 2 recreational vehicles shall maintain shall be maintained in order to prevent the leakage of fuels, lubricants, or other contaminants onto the ground or any waterway

(4) Category 2 recreational vehicles shall be required to maintain valid licenses and obtain current inspections.

(5) In no case shall the vehicle contain more than 320 square feet, as measured to the vehicle's outermost edges, nor exceed a height of 12 feet, as measured from the ground to the highest point of the vehicle's main body. The vehicle height shall not be measured on vehicle accessories (air conditioners, vents, hatches, antennas, masts, outrigging fishing poles), but will be measured to the highest point of any flybridge or other boat console.

(6) No more than one Category 2 recreational vehicle shall be permitted on a lot.

(7) The vehicle storage area shall be screened with fencing or landscaping materials along any adjacent side and rear lot lines. Such screening shall not extend into the required front yard.

F. Unless otherwise permitted by the Borough, the on-street parking or storage of a Category 1 recreational vehicle or Category 2 recreational vehicle shall not be permitted.

G. No Category 1 or Category 2 recreational equipment shall be utilized for living, housekeeping or similar activities when parked or stored on any lot within the Borough.

H. A recreational vehicle may not be parked in any manner that restricts visibility from any adjacent street or driveway.

Section 616: No-Impact Home-Based Business

A. Where permitted, all no-impact home-based businesses shall comply with the following standards of operation:

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
2. The business shall employ no employees other than family members residing in the dwelling.
3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
4. There shall be no outside appearance of a business use, including but not limited to, parking, signs, or lights.
5. 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.
6. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
7. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
8. The business may not involve any illegal activity.

Section 617: Driveways and Access Drives

A. Driveways that are residential in nature must meet the following regulations:

1. Entrances shall be approximately perpendicular to the roadway and shall be angled 75 degrees to 105 degrees with intersecting streets and alleys.

2. The roadway between the right-of-way of the street and the cartway shall be paved of either asphalt or concrete. All curb cuts shall be constructed to the satisfaction of the Borough Engineer.

3. Driveways shall be constructed of a durable and dust-free surface (macadam, concrete, brick, and pervious pavers (examples include pervious concrete, pervious asphalt, and plastic/concrete grid paver system). Driveways constructed of soil or stone will not be permitted.

4. Driveways at the right-of-way line shall have a minimum width of ten (10) feet and a maximum width of twenty (20) feet, excluding any parking bay or turn-around. The maximum curb cut shall be twenty (20) feet.

5. No driveway shall be constructed within 100 feet of another driveway on the same property.

6. Driveways shall not exceed a maximum slope of eight (8) percent on an arterial street and 10% on a collector or minor street.

7. Driveways shall have a minimum side yard setback of five (5) feet.

8. Vehicle parking areas shall be set back ten (10) feet from the curb line or edge of roadway. In no instance shall a vehicle be parked in a manner that would block or partially block any sidewalk or roadway.

B. Access Drives that are commercial in nature must meet the following regulations:

1. Entrances shall be approximately perpendicular to the roadway and shall be angled 75 degrees to 105 degrees with intersecting streets and alleys.

2. The roadway between the right-of-way of the street and the cartway shall be paved. All curb cuts shall be constructed to the satisfaction of the Borough Engineer.

3. Access Drives shall be constructed of a durable and dust-free surface, (macadam, concrete, brick, and pervious pavers). Driveways constructed of dirt or stone will not be permitted.

4. No Access Drives shall be constructed within 100 feet of another entrance on or exit on the same property.

5. Access Drives at the right-of-way line shall have a minimum width of sixteen (16) feet for one-way directional traffic and 22 feet for two-way directional traffic. They shall have a maximum width of 30 feet, excluding any parking bay or turn-around. The maximum curb cut shall be 30 feet. Access drives must be located at least 50 feet from any other Access Drive on the same property.

6. Access Drives or private streets servicing a commercial or industrial use shall be located at least 10 feet from an intersection at any right-of-way.

7. The grades on access drives shall not exceed 8%.

Section 618: Dumpsters

A. Dumpsters.

1. Dumpsters may be placed only in the side or rear yards.

2. Dumpsters may not occupy any areas required for parking spaces.

3. Dumpsters must be completely screened from adjoining roads and properties through the use of a fence (See Section 615) or screen planting (See Section 601).

4. Setbacks from Dwellings. Dumpsters shall be kept a minimum of fifteen (15) feet from an abutting dwelling.

5. All waste containers shall be completely enclosed, and lids shall be kept in place.

6. The location of all dumpsters shall be shown on all site plans and land development plans submitted to the Borough.

7. This Section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premise.

Section 619: Through and Corner Lots

A. Corner Lots.

1. For a corner lot, a front yard shall be required along each street on which the lot abuts.

2. Corner lots shall have two side yards established for lot lines not adjacent to a street.

B. Through Lots.

1. Where a lot extends from street to street, the applicable front setback regulations shall apply on both street frontages.

Section 620: Sports Courts

A. Sports courts shall not be permitted unless the court is located no less than ten (ten) feet from any property line and must be protected by a permanent fence eight (8) feet in height.

Section 621: Self-Storage Buildings

A. Self-storage buildings shall be a permitted use in the IC District only.

B. Self-storage buildings shall be equipped with an automatic, self-latching and locking gate or door to enter and exit the facility.

C. All self-storage buildings shall have adequate fencing that conforms with the requirements set forth in this Article.

D. Hours of operation of self-storage buildings shall be reviewed and approved by the Borough Zoning Officer and Chief of Police.

E. Exterior finishes of the self-storage buildings shall be compatible with the character of the development of adjoining properties.

F. Sight distance at access points that provide ingress and egress to the self-storage buildings shall meet the Borough's minimum standards and shall be reviewed by Borough staff.

Section 622: Urban Agriculture, Accessory

A. The keeping of livestock or other farm animals is not permitted within the Borough, except for chickens and beekeeping, when in compliance with this Section and all other Borough codes and Ordinances.

B. Regulations Specific to Chickens

1. Coops shall be provided for shelter and a zoning permit must be obtained prior to construction or placement of any coop. Coops shall be stationary, enclosed on all sides, have a solid roof, and vents to ensure adequate ventilation. Coops shall be predator proof and provide shelter from moisture and extreme temperatures.

2. Coops shall be constructed as to prevent rodents from being harbored underneath or within the enclosure.

3. Outside runs shall be enclosed in a way to contain the chickens and shall be predator proof.

4. Coops and outside runs shall be cleaned of hen droppings, uneaten feed, feathers, and other waste on a regular basis and as necessary to ensure they do not become a health, odor, or other nuisance.

5. Any coop or outside run must be located in the rear yard, shall be set back a minimum of ten (10) feet from the property line(s), and must be placed at least fifty (50) feet from any occupied structure.

6. A maximum of six (6) chickens are allowed on a residential property.

7. Roosters are strictly prohibited.

C. Beekeeping and honeybee apiaries are permitted as an accessory use when in compliance with the Pennsylvania Bee Law (3 Pa.C.S.A. § 2101- §2117, as amended), and subject to the following regulations.

1. A maximum of two (2) hives may be kept on a property following issuance of a zoning permit.

2. Apiaries must be located in the rear yard, shall be set back a minimum of ten (10) feet from the property line(s), and must be placed at least fifty (50) feet from any occupied structure.

3. For all colonies located on a property, a flyway barrier at least six (6) feet in height consisting of a solid fence or dense hedge parallel to the property line and extending at least ten (10) feet beyond the apiary in each direction is required.

4. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

5. Hives must be located within a secured area to protect the colony and prevent direct access by the public. In any instance in which a hive exhibits unusually aggressive characteristics it shall be the duty of the beekeeper to destroy or requeen the hive.

6. No person shall keep or maintain honeybees in any hive other than a modern moveable frame hive which permits thorough examination of every comb to determine the presence of bee disease.

D. No processing of products grown on the site is permitted.

E. All structures shall be subject to any required setbacks of the Zoning District in which it is located but, in all cases, shall be a minimum of ten (10) feet from any property line.

F. All seed, fertilizer, or similar products shall be stored in a secured, rodent-proof container and housed within an enclosed structure.

Article VII: Parking

Section 701: Intent

It is the intent of this article to:

A. Allow flexibility in addressing parking, loading and access by permitting construction of a reduced number of parking spaces under appropriate conditions.

B. Set reasonable standards and provide reasonable controls to assure sufficient parking capacity for the uses or potential uses of land in the Borough.

C. Prevent hazards to public safety caused by the intrusion of parking upon public rights-of-way.

Section 702: General Requirements

A. Parking areas for new development must meet the requirements of the Subdivision and Land Development Ordinance whenever those provisions are more restrictive.

B. Pedestrian access. Safe provisions for pedestrian access to and through a parking lot shall be required.

C. Exterior lighting. All exterior lighting shall be designed to prevent glare onto adjacent properties. Surface parking areas and pedestrian pathways need to be clearly marked and well lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites. The height of fixtures shall be a maximum of 20 feet for parking lots and 14 feet for pedestrian walkways and shall comply with the Borough's Design Guidelines, where applicable.

D. Vehicular access. Vehicular access to surface parking shall be from an alley or side street where possible.

E. Location of surface parking. Parking shall be set back 10 feet from the street right-of-way or property line.

F. Parking space dimensions. Any required off-street parking space shall be nine feet in width and 18 feet in length exclusive of any access drives, aisles, or columns.

G. Interconnected parking areas. New parking areas on abutting nonresidential lots should be interconnected by access driveways. Each nonresidential lot shall provide cross-access easements for its parking areas and access driveways, guaranteeing access to adjacent lots for future connections. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.

H. For the purposes of this section, a required motor vehicle parking space shall consist of not less than 162 square feet of usable area, shall have dimensions of not less than nine feet in width and 18 feet in length, exclusive of aisles, driveways, and maneuvering areas, and shall be suitable for the parking of a motor vehicle. Spaces in parking lots, wherever possible, shall be physically separated from a street or sidewalk by a barrier or buffer area

and shall have access to a street or alley by way of an approved curb opening. Aisle space between rows of parked vehicles shall be not less than 24 feet for 90° parking and not less than 20 feet for 60° (or less) parking. In lots without a parking attendant, spaces for customers and clients shall be located with free access to exit aisles. Outdoor parking spaces, and the approaches thereto, shall be paved.

I. In all Districts parking of vehicles shall only be permitted on approved driveways and parking areas with an impervious surface; vehicles shall not be parked in grass, dirt or other pervious area except for temporary loading and unloading for a period not exceeding eight (8) hours.

J. Dead end parking lots/areas are discouraged, but when approved, must contain a turnaround area adequately designed and sized for vehicles to safely turn-around.

Section 703: Parking Use Requirements

Parking space requirements by use or multiple uses on a site shall follow the standards found in the Table 14 below, follow the standards from Section 707, On-Site Parking Reduction by Special Exception (refer also to Downtown overlay district parking provisions), or the applicant may choose to utilize a Parking Demand Analysis from Section 714 to satisfy the parking use requirements.

TABLE 14: PARKING RATIOS

Parking Ratios	
Land Use/Activity	**Minimum Vehicle Spaces**
Airport	Determined as per Parking Demand Analysis (Section 714)
Amphitheater	Determined as per Parking Demand Analysis (Section 714)
Amusement Arcade	Determined as per Parking Demand Analysis (Section 714)
Amusement Park	Determined as per Parking Demand Analysis (Section 714)
Animal Day Care	1 per every 600 sq ft of gross floor area plus 1 per employee
Animal Grooming Facility	2 per grooming station plus 1 per employee
Animal Hospitals and Veterinarian Services	1 per employee and 2 per exam room
Animal Shelter	1 per each employee on the maximum shift and 1 per each 200 sq ft of area devoted to the kennel area
Aquarium/Zoo	Determined as per Parking Demand Analysis (Section 714)
Art Gallery	1 per every 1,000 sq ft of gross floor area
Arts and Craft Studio	1 per every 200 sq ft of gross floor area
Asphalt/Concrete Plant	1 per employee plus 1 per vehicle stored on lot
Bank/Financial Institution	1 per every 300 sq ft of gross floor area
Bar/Tasting Room	1 per every 75 sq ft of gross floor area
Bed and Breakfast	1 space per each guest room, plus 2 spaces per permanent dwelling unit
Beverage Distributor	1 per each 2 seats in the main seating area
Billboards	1 per billboard
Boarding House	1 space per rental unit, plus 2 spaces per permanent dwelling unit
Brewery, Micro-Brewery, and Brew Pub	Determined as per Parking Demand Analysis (Section 714)
Bus or Truck Maintenance	3 per repair bay and 1 per each employee
Car Wash (Automobile Detail, Automatic, Self-Service)	1 per lane for drying and/or vacuuming areas plus 1 per employee on peak shift
Care Facilities and Senior Housing:	
Assisted Living Facility	1 per 6 beds plus 1 per employee on peak shift
Independent Living Facility	2 per dwelling units
Life Care Community	1 per 3 rooms plus 1 per employee on peak shift
Nursing Home	1 per 6 beds plus 1 per employee on peak shift
Retirement Housing Facility	1 per 3 dwelling units
Catering/Event Venue	1 per every 300 sq ft of gross floor area
Catering Facility	1 per employee

Land Use/Activity	Minimum Vehicle Spaces
Cemetery and Mausoleum	1 per each employee and ample accessways to the cemetery sections to allow parking on the access way for gravesite services and visitation, and 1 per every 3 seats
Clubs/Lodges (not including Commercial Recreation Uses)	1 per every 5 members
College/University	1 per 4 students
Commercial School	1 space per employee and 1 per every 10 students
Commercial Motor Vehicle Repair	3 per repair bay and 1 per each employee
Community Center	1 space per 3 seats, where the capacity is not determined by the number of fixed seats, 1 space per every 60 square feet of floor area that is devoted for patron use
Community Food Bank	Determined as per Parking Demand Analysis (Section 714)
Conference Center	1 per 5 seats or 1 per 300 sq ft of gross floor area if no permanent seats
Construction-Related Business	1 per every 1,000 sq ft of gross floor area
Convenience Store	1 per every 300 sq ft of gross floor area
Correctional Facility	1 per employee on maximum shift, 1 per service vehicle
Crematorium	Determined as per Parking Demand Analysis (Section 714)
Data Center Facility	1 per employee on a peak shift and 1 per service vehicle stored on property.
Day Care Center, Adult	1 per every 375 sq ft of gross floor area
Day Care Center, Child	1 space per employee, plus 1 space per 10 children, based upon the maximum number of children who could lawfully on the premise at any time
Distillery and Micro-Distillery	Determined as per Parking Demand Analysis (Section 714)
Distribution Center	1 per every 1,000 sq ft of gross floor area
Dormitories	1 per 4 students
Dwelling Types:	
Conversion Dwellings	2 per dwelling unit
Single-Family Semidetached/Twin	2 per dwelling unit
Garden Apartment	1 per dwelling unit
High-Rise Apartment	1 per dwelling unit
Manufactured Home	2 per dwelling unit
Mobile Home	2 per dwelling unit
Multi-Family	1.5 per dwelling unit
Quadruplex	2 per dwelling unit
Single-Family	2 per dwelling unit
Tiny House	1 per dwelling unit

Land Use/Activity	Minimum Vehicle Spaces
Townhouse	2 per dwelling unit
Two-Family	2 per dwelling unit
Educational Institution	Determined as per Parking Demand Analysis (Section 714)
Emergency Services Facility	1 per employee
Emergency Shelter	1 per employee
Essential Services	Determined as per Parking Demand Analysis (Section 714)
Farmers Market	1 per every 300 sq ft of gross floor area
Fitness Center	1 per every 200 sq ft of gross floor area and 1 per employee on peak shift
Flea Market	1 per every 300 sq ft of gross floor area
Food and Grocery Store	1 per every 200 sq ft of gross floor area
Forestry	None
Funeral Home	1 space per every 5 seats provided the patron use by design capacity, plus 1 additional space for each full-time employee and for each vehicle maintained on the premise
Garden Center	1 per every 1,000 sq ft of gross floor area
Gas/Fuel Station	1 per every 375 sq ft of gross floor area including service bays, wash tunnels, and retail areas
Ghost Kitchen	1 per employee on peak shift plus 2 additional spaces
Golf Course	4 per hole and 1 per employee on peak shift
Golf Driving Range	1 per golf tee box plus 1 per employee
Greenhouse/Nursery	1 per every 375 sq ft of gross floor area
Group Care Facility	1 per 3 beds plus 1 for each employee
Group Home	1 space per 3 beds, plus 1 space for each employee
Halfway House	1 space per 3 beds, plus 1 space for each employee
Hazardous Waste Recycling Facility	1 per employee
Heavy Equipment Repair	1 per employee and 3 per repair bay
Home Occupational Business	1 per every 200 sq ft of gross floor area of business space, plus 1 per non-resident employee, in addition to residential use parking requirements
Hospital	1 per every 3 beds plus 1 for each employee
Hotel	1 space per guest room, plus 1 space for every employee on the largest employment shift
Kennel	1 per employee on peak shift plus 1 for every 200 sq ft of area devoted to the kennel
Laboratory	1 space per every 500 square feet of gross floor area
Landscape Service Center, Retail	1 per every 375 sq ft of gross floor area

Land Use/Activity	Minimum Vehicle Spaces
Landscape Service Center, Wholesale	1 per every 1,000 sq ft of gross floor area
Laundromat	1 space per every 3 washing machines, plus 1 space per employee
Library	1 space per 300 square feet of gross floor area
Live-Work Units	Combined total for the dwelling type plus the nonresidential use
Magistrate Office and Court	1 per every 300 sq ft of gross floor area
Manufactured Home Park	2 per dwelling unit
Manufactured Home Sales	1 per every 300 sq ft of gross floor area of sales building
Manufacturing Facility, Heavy	1 per employee
Manufacturing Facility, Light	1 per employee
Massage Therapy Establishment	1 per employee and 1 per 200 sq ft of gross floor area
Medical Clinic	1 space per 100 square feet of gross floor area.
Medical Marijuana Dispensary	1 per every 200 sq ft of gross floor area
Medical Marijuana Grower/Processor	1 per every 800 sq ft of gross floor area
Methadone Treatment Facility	1 per every 200 sq ft of gross floor area
Mobile Home Park	2 per dwelling unit
Mobile Home Sales	1 per every 300 sq ft of gross floor area of sales building
Motel	1 per employee on peak shift and 1 per sleeping unit and additional regulations for restaurant/bar/conference room accessory use or open to general public
Municipal Building	1 per every 300 sq ft of gross floor area
Nature Preserve	1 per every 5 acres of land if open to the public
Night Club	1 per every 2 seats
Office, Business and Professional	1 per every 400 sq ft of gross floor area
Office, Medical	3 spaces per exam room and 1 per employee on peak shift
Park and Ride Facility	Not applicable
Park, Public or Semipublic	Not applicable
Park/Playground	Determined as per Parking Demand Analysis (Section 714)
Pawn Shop	1 space per every 400 sq ft of gross floor area
Personal Services	1 space per every 400 square feet of gross floor area, plus 1 space per employee on the largest employment shift
Pet Boarding	1 per employee and 1 per 1000 sf
Pet Park	1 per each 3 users at maximum utilization
Pharmacy	1 per every 200 sq ft of gross floor area

Place of Worship	1 space per every 5 seats. Where the capacity is not determined by the number of fixed seats, 1 space per every 60 square feet of primary area devoted to worship services
Land Use/Activity	**Minimum Vehicle Spaces**
Police Station	1 per employee, 1 per each 3 volunteer personnel on a normal shift, and 1 per every 200 sq ft of usable office space
Post Office	Determined as per Parking Demand Analysis (Section 714)
Public Utility Building	1 per employee on peak shift plus 1 per service vehicle stored on the lot
Public Utility Transmission Facility	1 per employee on a peak shift and 1 per service vehicle stored on lot
Railroad Facility	1 per employee
Railroad Freight Transloading and Distribution Terminal	Determined as per Parking Demand Analysis (Section 714)
Recovery Home	1 space per 2 beds, plus 1 space for each employee
Recreation Facility	1 per 200 sq ft of gross floor area and 1 per employee on peak shift
Recreation, Indoor	1 space per every 200 square feet of gross floor area, plus 1 space per employee on peak shift
Recreation, Outdoor	1 per each 3 participants at maximum utilization
Recycling Business	1 per employee
Research and Development	1 per every 500 sq ft of gross floor area
Restaurant	1 space per every 4 seats of designed capacity or 1 space per every 75 square feet floor area accessible to the public plus 1 space per employee on the largest employment shift
Restaurant, Take-Out Only	1 per every 75 sq ft of gross floor area
Retail Store	1 per every 300 sq ft of floor area accessible to the public
Roadside Stand, Principal	1 per employee plus 4 reservoir stacking spaces
Salvage/Junk Yard	1 per employee on peak shift, plus 1 per every 200 sq ft of gross floor area used for office or administrative function
School	Determined as per Parking Demand Analysis (Section 714)
Self-Storage Building	1 per every 100 storage units plus 3 for management staff
Service Station	Determined as per Parking Demand Analysis (Section 714)
Sewage Treatment Plant	1 per employee
Sexually Oriented and/or Adult Businesses	1 per every 200 sq ft of gross floor area
Shopping Center	1 per every 300 sq ft of gross floor area other than non-leasable space such as shared lobbies
Short-Term Rental, Principal or Accessory	1 per bedroom
Skilled Nursing Facility	1 per 3 rooms

Solar Energy Production Facility, Large	1 per employee
Storage Yard, Principal	1 per employee
Supply Yard, Principal	1 per employee plus 5 additional spaces for customers
Land Use/Activity	**Minimum Vehicle Spaces**
Tattoo/Body Piercing Establishment	1 per 200 sq ft of gross floor area
Theater	1 per 5 seats
Towing and Other Road Services	1 per employee and 1 per each vehicle parked on the lot
Vehicle Body Repair	1 per employee and 3 per repair bay
Vehicle Rental Facility	1 per 375 sq ft of gross floor area of sales and service building
Vehicle Repair Garage	1 per employee and 3 per repair bay
Vehicle Sales and Service	1 per each 2,000 sq ft of lot area for employee and customer parking (excludes vehicle display area)
Vineyard	Determined as per Parking Demand Analysis (Section 714)
Warehouse and Storage Services	1 for each 2 employees on the largest shift, plus 1 per each 3,000 sq ft of gross floor area
Wastewater Treatment Plant	1 per employee
Wholesale Business	1 per employee on peak shift
Wind Energy Production Facility, Large	1 per employee
Winery	Determined as per Parking Demand Analysis (Section 714)
Wireless Communications Facilities	1 per employee
Uses Not Listed	Determined as per Parking Demand Analysis (Section 714)

Section 704: Continuation of Existing Off-Street Parking

Existing off-street parking facilities provided at the effective date of this article and actually being used at that date for the parking of vehicles in connection with the operation of an existing building or use shall not be reduced until a time when the building or use is changed. A building with an existing permitted use shall not be required to provide additional parking unless the approved use changes to a use requiring additional parking spaces or the building is expanded by adding additional gross-floor area. The new building or use will be required to comply with the standards herein.

Section 705: Bicycle Parking

Parking lots containing more than 10 parking spaces shall provide one bicycle parking space for every 10 parking spaces in bike racks in close proximity to the building entrance.

Section 706: Maximum Parking

No more than 120% of the required minimum parking is permitted.

Section 707: On-Site Parking Reduction by Special Exception

Recognizing that parking is a significant problem in the commercial areas of the Borough, the provision of alternative parking solutions may be a more practical way of meeting the parking needs for the nonresidential uses in the Mixed Use and Industrial/Commercial Districts. For each nonresidential use in these zoning districts, the Zoning Hearing Board can approve a reduction in the number of required spaces provided on site up to 100% by a special exception. Parking can be reduced up to 100% if the necessary requirements are met by one or a combination of the following criteria. Parking spaces shall only be counted once.

A. The use is located within 750 feet walking distance from a public parking facility which has available parking spaces for the subject property.

B. On-street parking is provided directly in front of or directly behind the building.

C. Fee-in-lieu of parking spaces, per the requirements of § 708 below.

D. Shared parking, per the requirements of § 709 below.

Section 708: Fee-in-lieu of Parking Spaces

Recognizing that the Mixed Use and Industrial/Commercial Districts are already largely built out; that lot sizes and shapes cannot be easily altered to meet modern commercial needs; that the demolition of buildings in the commercial core to provide parking is in conflict with the intent to preserve the existing character and streetscapes of these districts, meeting all parking requirements on site or adjacent to the subject property may not be feasible.

A. If a new use or change in use cannot meet the minimum on-site parking requirements for a proposed property or use in the Mixed Use and Industrial/Commercial Districts, Borough Council may allow the payment of a fee-in-lieu of parking per parking space through an annual zoning permit to meet all or part of the reduction allowed in § 707, On-site parking reduction by special exception.

   (1) The fee shall be payable in accordance with the Borough Council's administrative policies for zoning permits.

   (2) Said fee (annual zoning permit) may be adjusted in the future should, at any time, the landowner provides some or all the required parking being paid for either on site or through another option in § 707, On-site parking reduction by special exception.

B. The fee-in-lieu shall be an annual fee per space for each parking space reduction requested. The fee amount shall be in accordance with a fee schedule adopted from time to time by resolution of the Borough Council upon the enactment or as such schedule may be amended by resolution of the Borough Council. Said fee schedule will be kept on file at the Borough Office.

   (1) The amount of said fee-in-lieu shall be based on the estimated cost of renting a parking space within the Borough at the time of adoption of the fee resolution.

(2) Said fee-in-lieu and all interest earned thereon shall be placed in the Borough Parking Fund, which shall be held in an interest-bearing account in a bank authorized to receive deposits of Borough funds.

(3) The fee shall be collected when a land development agreement is finalized or, if no land development agreement is required, before final building permits are issued, and annually from thereon.

C. The Borough Parking Fund shall be used for:

(1) Planning, land acquisition, engineering and design, development, construction, and financing of a new parking facility;

(2) Non-routine capital repairs, expansion, and debt service on an existing municipal parking facility; or

(3) Reducing the need for parking serving these zoning districts by improving transit, pedestrian and/or bicycle access to the area.

Section 709: Shared Parking

Shared parking is permitted for two or more properties to provide the parking spaces required when two or more establishments share the same parking area, whether on the same lot or abutting lots, subject to the following conditions:

A. A shared parking agreement (for two uses) or a shared parking district (for more than two uses), which involves a contractual agreement between users, is required and recorded. A shared parking agreement allows users an opportunity, if they choose, to redesign parking lots to be more efficient in serving multiple users. This may consist of making new curb cuts between parking lots, restriping lots, or redesigning internal traffic circulation and pedestrian walkways.

B. That some portion of the shared parking area lies within 750 feet from a regularly used entrance into the building served by the shared parking arrangement.

C. That sufficient area shall be set aside for the remainder of the required spaces, according to § 707, On-site parking reduction by special exception, above.

D. The minimum amount of shared parking required shall be calculated according to the following formula (see Table 15 below):

(1) Calculate the minimum amount of parking required for each land use as if it were a separate use.

(2) To determine peak parking requirements, multiply the minimum parking required for each proposed land use by the corresponding percentage in the table below for each of the six time periods.

(3) Calculate the column total for each of the six time periods.

(4) The column (time period) with the highest value shall be the minimum parking requirement.

Table 15

Shared Parking Calculation Table

	Monday to Friday			Saturday and Sunday		
	8:00 a.m. to 6:00 p.m.	6:00 p.m. to Midnight	Midnight to 8:00 a.m.	8:00 a.m. to 6:00 p.m.	6:00 p.m. to Midnight	Midnight to 8:00 a.m.
Uses						
Residential	60%	100%	100%	80%	100%	100%
Office	100%	10%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	60%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Institutional (nonreligious institution)	100%	40%	5%	10%	10%	5%
Religious Institution	20%	40%	5%	100%	50%	5%

Section 710: Proof of Parking Spaces

If spaces are leased or licensed, the Borough shall require proof of the leasing or licensing arrangement and use of the spaces to be kept on file in the Borough Office. Proof of ongoing leases or licenses and use of the spaces will be required to be updated annually. Parking spaces designated for one use shall never be used to satisfy parking requirements for another use.

Section 711: Parking Requirements for Additions to Existing Structures/Uses

The following standards shall apply when any existing use or structure is proposed for an addition or expansion that increases the unit(s) of measurement (such as number of dwelling units, gross or leasable floor area, seating capacity, building or portion of building maximum occupancy/capacity, or number of employees) used for computing the required parking facilities for that use.

A. When a lawful building or use not meeting the requirements for motor vehicle parking is increased in gross floor area by 50% or less, then only the addition shall be required to meet the standards of this Article. The existing building or use is not required to come into compliance with the standards of this Article.

B. When a lawful building or use not meeting the requirements for motor vehicle parking is increased in gross floor area by more than 50%, then both the existing building or use and

the addition shall be required to meet the standards of this Article. This provision shall be cumulative and shall apply to any single or group of successive increases that occur after the effective date of this Ordinance.

Section 712: Parking Garages/Structures

A parking structure must conform to all setback, height, bulk, and landscaping requirements for buildings within the district in which it is located. Parking structures are a conditional use only in the Mixed Use and Industrial/Commercial Districts.

A. Where possible, vehicular access to parking garages shall be taken from alleys or driveways off the street or located behind or to the side of a building.

B. For all parking garages, retail storefronts or other business uses on the street level shall be required for 100% of the street frontage. These retail and service spaces shall incorporate display windows, canopies/awnings, and recessed entrance doors to enhance the parking structure.

   (1) Entrances and/or exits to parking structures shall be allowed only where Borough Council determines that this is the only frontage reasonably available for such entrances and/or exits. In such cases, 100% of the first-floor frontage shall still be maintained for walk-in retail and service uses, excluding the vehicular and pedestrian access ways.

C. When the parking garage is situated with one or more of its facades facing a street, 100% of the first-floor frontage of each street-facing facade shall be maintained for walk-in retail and service uses, excluding the minimum area necessary for vehicular and pedestrian access ways to such garage structure. These retail and service spaces shall incorporate display windows, canopies/awnings, and recessed entrance doors to enhance the parking structure.

D. Utilitarian appearances of parking structures are not permitted. Structures shall have design treatments such as colonnades, arcades, awnings, landscaping, street furniture, and other public amenities to create the appearance of an occupied building. Blank walls are not permitted.

E. Cars shall be visually screened from adjacent buildings and the street, and such screening shall be in keeping with the rest of the building's architectural style and materials. Any portion of a parking garage that fronts a street shall have all openings (second story and above) screened along the entire facade of such structure. Screening techniques may include the use of display windows, decorative grillwork, decorative glass, decorative masonry or a combination of these methods or similar methods so as to ensure that vehicles within the garage are screened from the view of cars and pedestrians.

F. Deck structure visible from the street must be horizontal rather than sloping.

G. Parking structure facades that are visible to the public shall consist of high-quality materials such as brick, concrete banding, glass block banding or other materials characteristic of the Borough's architecture. Upper levels must use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.

Section 713: Loading

A. For new construction, service and loading areas must be to the side and rear of the building. Loading docks shall not be on the main street and shall be visually screened from the street and pedestrian ways. The Borough Zoning Officer shall have the authority to designate the area considered to be the main street.

B. The location and size of loading areas shall be adequate for the safe maneuvering and parking of trucks, so that ingress and egress can occur on the lot without backing out onto a public street.

C. Loading areas shall be lit to provide security and safety; however, lighting shall be shielded to prevent glare onto adjacent properties.

Section 714: Parking Demand Analysis

A. Parking Demand Analysis. Off-street parking shall be provided to meet the demand for the proposed land use. The applicant shall calculate this demand based on accepted standards, such as published in the Institute of Transportation Engineer's Parking Generation Reports.

1. The Applicant shall prepare a parking demand analysis for approval by the Borough Council and the Borough Engineer that determines the appropriate level of parking. In such instances, the applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:
    a. Type of uses.
    b. Number of employees.
    c. Building design capacity.
    d. Building occupancy load.
    e. Sq. ft. of sales area and service area.
    f. Parking spaces proposed on site.
    g. Number of accessible parking spaces proposed on site.
    h. Parking spaces provided elsewhere.
    i. Hours of operation.

B. The parking demand projections and methodologies shall be subject to approval by the Borough.

C. The landowner or developer shall update the Borough-approved Parking Demand Analysis upon changes to existing buildings:

1. When land development approval is required, or
2. When any project proposes an increase in the number of dwelling units, or
3. When a zoning permit is required for a change of use.

Article VIII: Signs

Section 801: Purpose & Intent

It is recognized that signs perform an important function in identifying properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this Article is to regulate all signs within the Borough to ensure they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and to protect the public health, safety, and general welfare by:

A. Setting standards and providing controls that permit reasonable use of signs and enhance the character of the Borough.

B. Prohibiting the erection of signs in such numbers, sizes, designs, and locations as may create a hazard to pedestrians and motorists.

C. Avoiding excessive competition for large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.

D. Establishing a process for the review and approval of sign permit applications.

E. Ensuring sign design that builds on the traditional town image and visual environment the Borough seeks to promote.

Section 802: Prohibited Signs

The following signs are unlawful and prohibited:

A. Abandoned signs and abandoned billboards.
B. Snipe signs. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this Ordinance.
C. Vehicle signs. This regulation does not include the use of signage on vehicles primarily and actively used for business purposes and/or personal transportation.
D. Mechanical movement signs, including revolving signs.
E. Pennant strings and streamers.
F. Animated signs, flashing signs, or signs that scroll or flash text or graphics.
G. Inflatable devices or balloon signs, with the exception of balloons used in temporary, non-commercial situations.
H. Any signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, or signals.
I. Signs which prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part. No sign other than a safety sign, no greater in size than 1 sq/ft, shall be attached to a standpipe or fire escape.
J. Signs which emit smoke, visible vapors, particulate matter, sound, odor or contain open flames.

K. Reflective signs or signs containing mirrors.
L. Interactive signs (An electronic or animated sign that reacts to the behavior or electronic signals of drivers).
M. Signs incorporating beacon or festoon lighting.
N. Any banner or sign of any type suspended across a public street, without the permission of the owner of the property or road.
O. Roof signs.
P. Unofficial signs on Borough property.
Q. Signs erected without the permission of the property owner.
R. Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of the Borough Zoning Ordinance.
S. Signs that exhibit statements, words, or pictures generally regarded as obscene or pornographic subjects.
T. Any sign that promotes illegal activity.
U. Feather flags or feather banners, including teardrop banners, or similar vertical pole mounted banners, except for temporary use as regulated in Section 807.
V. Any sign, banner, or flag in excess of 4 sq/ft installed or attached directly on a fence unless located on Borough property and approved by the Borough. See also Section 803.R.

Section 803: Signs Exempt from Permit Requirements

The construction or display of the following sign types will be allowed without a permit. Exempt signs shall, however, conform to all other applicable regulations:

A. Official traffic signs.
B. Government/regulatory signs.
C. Signs inside a building or other enclosed facility that are not meant to be viewed from the outside and are located greater than three (3) feet from the window.
D. Address signs - Up to two (2) signs indicating the address, number and/or name of occupants of the premises that do not exceed three (3) sq. ft. in area per side, and do not include any commercial advertising or other identification.
E. Menu signs - One (1) sign displaying the menu of a sit-down restaurant, not to exceed two (2) sq. ft. in area.
F. Public signs - Signs erected or required by government agencies or utilities, including traffic, utility, safety, railroad crossing, and identification signs for public facilities.
G. Private Drive Signs - One (1) sign per driveway entrance, not to exceed two (2) sq. ft. in area.
H. Security and Warning Signs – One (1) sign not to exceed two (2) sq. ft. in area. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with state law.
I. Flags:
    1. *Location.* Flags and Flagpoles shall not be located within any required yard setbacks.

2. *Height.* Flag poles shall be limited in height to 20 feet above grade level.
3. *Number.* No more than two (2) flags per lot in residential districts, no more than three (3) flags per lot in all other districts.
4. *Size.* Maximum flag size is 15 sq. ft. in residential districts, 24 sq. ft. in all other districts.
5. Flags containing commercial messaging may be used as a permitted freestanding or projecting sign, and, if so used, the area of the flag shall be included in, and limited by, the computation of allowable area for signs on the property.

J. Legal notices.

K. Vending machine signs.

L. Memorial signs, public monuments or historical identification signs erected by the Borough.

M. Signs which are a permanent architectural feature of a building or structure existing at the time of adoption of this ordinance.

N. Signs advertising the variety of crops growing in a field. Such signs shall be removed after the growing season.

O. Incidental signs, including incidental window signs.

P. Directional signs provided such signs do not contain any commercial messaging.

Q. Temporary signs in accordance with §807, Regulations by Sign Type (Temporary Signs).

R. Signs or banners erected in connection with municipal or school district sports activities and sponsorships shall be permitted on athletic fields and surrounding fences only during the season of each sport or activity. All related signs or banners shall be one (1) sided, shall be evenly sized and spaced, and shall not exceed twenty-five (25) sq/ft unless a larger size is approved by the Borough.

Section 804: General Sign Regulations

A. Nuisance. No sign shall create a public nuisance by emitting smoke, visible vapors, particulate matter, sound, odor, or open flames.

B. Sign location.

1. No sign shall be placed in such a position as to endanger pedestrians or traffic on a street by obscuring the view or by interfering with official street signs or signals by virtue of position or color.
2. No sign, except official traffic signs or those approved by the Borough, is permitted within the right-of-way (often the prohibited area is the grass space between the curb and sidewalk).
3. No projecting sign shall extend into the right-of-way, or be less than eight (8) feet above a pedestrian way.

4. No freestanding sign may occupy an area designated for parking, loading, walkways, driveways, fire lane, easement, the right-of-way, or other areas required to be unobstructed.
5. No sign may occupy a sight triangle.
6. Awnings and/or canopies shall not extend into the street right-of-way.
7. No signs shall be erected or maintained so as to prevent free ingress and egress to or from any door, window, or fire escape. No sign in excess of 1 sq/ft shall be attached to a standpipe or fire escape.
8. Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground utility and communications lines or equipment.

C. Sign Materials & Construction. Every sign permitted in this Article shall be constructed of durable materials, using non-corrosive fastenings, shall be structurally safe, erected or installed in strict accordance with the PA Uniform Construction Code, and shall be maintained in safe condition and good repair at all times so that all sign information is clearly legible.

D. Sign Area.

1. The “area of a sign” shall mean the area of all lettering, wording and accompanying designs, logos and symbols, together with the background on which they are displayed, whether open or enclosed. The area of a sign shall not include any supporting framework, bracing or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
2. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, wall, or window, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.
3. Signs may be multi-sided. In determining the area of a multi-sided sign, only one side shall be considered, provided that the faces are not more than 18 inches apart. Where the faces are not equal in size, the larger sign face shall be used as the basis for calculating sign area. When the interior angle formed by the faces of a multi-sided sign is greater than 45 degrees, or the faces are greater than 18 inches apart, all sides of such sign shall be considered in calculating the sign area.
4. Signs that consist of, or have attached to them, one or more three-dimensional or irregularly shaped objects, shall have a sign area of the sum of two adjacent vertical sign faces of the smallest cube encompassing the sign or object.
5. If elements of a sign are movable or flexible, such as a flag or banner, the measurement is taken when the elements are fully extended and parallel to the plane of view.

E. Sign Height.

1. Sign height shall be measured as the distance from the highest portion of the sign to the mean finished grade of the street closest to the sign. In the case of a sign located greater than 100 feet from a public street, height shall be measured to the mean grade at the base of the sign.
2. All wall, projecting, awning, and canopy signs shall have a maximum height equal to the bottom of the second story window sign or the eave line, whichever is lower.
3. All marquee signs shall have a maximum height equal to the eave line.
4. Clearance for freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other structural elements.

F. Sign Spacing. The spacing between sign structures shall be measured as a straight-line distance between the edges of each sign face closest to each other.

G. Sign Illumination.

1. Signs may be illuminated, unless otherwise specified herein, consistent with the following standards:

a. Location/Allowed Illumination Standards by Location.

i. Residential (R1 and R2 Districts) – No Illumination (Excludes institutional and government uses)

ii. Business Districts and Institutional (MU and I Districts) – External Illumination

iii. Industrial/Commercial (IC) District – External Illumination, Internal Illumination

iv. Off-Premises – External Illumination, Internal Illumination

b. Illumination by Sign Type.

i. Temporary Signs – No Illumination

ii. Portable Signs – No Illumination

c. Light sources to illuminate signs shall neither be visible from any street right-of-way, nor cause glare hazardous to pedestrians or vehicle drivers or create a nuisance to adjacent properties. All ground-mounted lighting fixtures must be obscured by landscaping or architectural features such as walls.

d. No more than 0.2 foot-candle of light shall be detectable at the boundary of any abutting property.

e. Brightness: Message center signs and digital displays are subject to the following brightness limits:

i. During daylight hours between sunrise and sunset, luminance shall be no greater than five thousand (5,000) nits.

ii. At all other times, luminance shall be no greater than two hundred fifty (250) nits.

iii. Each sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with the limits set here within.

f. The length of time each message or image may be displayed on a message center sign, digital display, or Tri-Vision Board sign shall be no less than fifteen (15) seconds.

2. Types of Illumination: Where permitted, illumination may be:

a. *External:* Externally illuminated signs, where permitted, are subject to the following regulations:

i. The source of the light must be concealed by translucent covers.
ii. External illumination shall be by a steady, stationary light source, shielded and directed solely at the sign. The light source must be static in color.

b. *Internal:* Internally illuminated signs, where permitted, are subject to the following regulations:

i. Neon lighting or other visible light emanating gas tubes may be used only for signs located in non-residential districts and shall not exceed ten (10) percent of the sign area for any given sign.
ii. Internal illumination must be static in intensity and color.

3. Message center signs are subject to the following regulations, in addition to all other illumination requirements established in this Section.

a. *Sign Type*: Message center signs are permitted in the form of freestanding, monument, and wall signs, both on-premises and off-premises, in accordance with the regulations established in Sections 7 and 8 for on-premises and off-premises signs.

b. *Height*: A message center sign shall have the same height limits as other permitted signs of the same type and location.

c. *Area*:

i. When used as an on-premises sign, message center signs shall not exceed 50% of the sign area for any sign and shall not exceed more than 30% of the total area for all signs permitted on a property.

ii. When used as an off-premises sign, message center signs may be used for the full permitted sign area.

d. *Maximum Number*: Where permitted, one (1) message center sign is permitted per street frontage, up to a maximum of two (2) message center signs per property.

e. *Message Display*:

i. No message center sign may contain text which flashes, pulsates, moves, or scrolls. Each complete message must fit on one screen.

ii. The content of a message center sign must transition by changing instantly (e.g., no fade-out or fade-in.)

iii. *Default Design*: The sign shall contain a default design which shall freeze the sign message in default position if a malfunction should occur.

f. Conversion of a permitted non-message center sign to a message center sign requires the issuance of a permit pursuant to Section 815 Permits and Applications.

g. The addition of any message center sign to a non-conforming sign is prohibited.

h. *Public Service Announcements*: The owner of every message center sign shall coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.

4. Digital display signs are subject to the following regulations in addition to all other requirements established in this Section.

a. *Sign Type*: Digital displays are permitted in the form of freestanding, monument, and wall signed, both on-premises and off-premises, in accordance with the regulations established in Sections 7 and 8 for on-premises and off-premises signs.

b. *Height*: A digital display shall have the same height limits as for other permitted signs of the same type and location.

c. *Area*:

i. When used as an on-premises sign, digital displays shall not exceed more than 30% of the total sign area permitted on the site.

ii. One message/displace may be brighter than another, but each individual message/display must be static in intensity.

iii. The content of a digital display must transition by changing instantly, with no transition graphics (e.g., no fade-out or fade-in.)

iv. *Default Design*: The sign shall contain a default design which shall freeze the sign message in one position if a malfunction should occur.

f. Conversion of a permitted non-digital sign to a digital sign requires the issuance of a permit pursuant to Section 815 Permits and Applications.

g. The addition of any digital display to a non-conforming sign is prohibited.

5. Electrical Standards.
   a. Permits for illuminated signs will not be issued without an approved electrical permit. Applications for electrical permits shall be filed at the same time as the sign permit application.
   b. All work shall be completed in full compliance with the Borough Electrical Code as set forth in the PA Uniform Construction Code.
   c. The electrical supply to all exterior signs, whether to the sign itself or to lighting fixtures positioned to illuminate the sign, shall be provided by means of concealed electrical cables. Electrical supply to freestanding signs shall be provided by means of underground cables.

6. Glare Control. Glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields, and baffles, and appropriate application of fixture mounting height, wattage, aiming angle, and fixture placement. Vegetation screens shall not be employed to serve as the primary means for controlling glare.

Section 805: Regulations by Sign Type (On-Premises Signs)

A. Wall Signs.

1. No portion of a wall sign shall be mounted less than eight (8) feet above the finished grade or extend more than twelve (12) inches from the building wall on which it is affixed. If the wall sign projects less than three (3) inches from the building wall on which it is affixed, the eight-foot height requirement need not be met.

2. Illumination. Wall signs may be illuminated subject to the regulations in §804.G. Sign Illumination.

3. Sign Height.

   a. No portion of a wall sign shall extend vertically higher than the bottom of the second story windowsill or the eave line, whichever is lower.

B. Window Signs.

1. Incidental window signs displaying pertinent business information such as the business' hours of operation and credit cards accepted, shall be excluded from area calculations for window signs.

2. Illumination. Window signs may be illuminated subject to the regulations in §804.G. Sign Illumination.

C. Projecting Signs.

1. No portion of projecting signs shall project more than four (4) feet from the face of the building.
2. The outer-most portion of a projecting sign shall extend no closer than five (5) feet from a curb line or shoulder of a public street.
3. Illumination. Projecting signs may be illuminated subject to the regulations in §804.G. Sign Illumination.
4. Sign Height.
    a. No portion of projecting signs shall extend vertically higher than the bottom of the second story windowsill or the eave line, whichever is lower.
    b. The lowest edge of a projecting sign shall be at least eight (8) feet above the finished grade.

D. Canopy or Awning Signs.

1. A canopy or awning without lettering or other advertising shall not be regulated as a sign.

2. Canopy or awning signs must be centered within or over architectural elements such as windows or doors.

3. No awning or canopy sign shall be wider than the building wall or tenant space it identifies.

4. Sign Placement.

    a. Letters or numerals shall be located only on the front and side vertical faces of the awning or canopy.
    b. Logos or emblems are permitted on the top or angles portion of the awning or canopy up to a maximum of three-square feet. No more than one emblem or logo is permitted on any one awning or canopy.

5. Illumination.

    a. External illumination from above

6. Sign Height.

    a. No portion of an awning or canopy sign shall extend vertically above the eave line.
    b. The lowest edge of the canopy or awning sign shall be at least eight (8) feet above the finished grade.

7. Any ground-floor awning projecting into a street right-of-way must be retractable.

8. Awnings above the ground floor may be fixed, subject to a maximum projection of four (4) feet from the face of the building.

9. Multi-tenant Buildings. If the awning or canopy sign is mounted on a multi-tenant building, the awning or canopy sign shall be similar in terms of height, projection, and style to all tenants in the building.

E. Marquee Signs.

1. Such signs shall be located only above the principal public entrance of a building facing a public street.
2. No marquee shall be wider than the entrance it serves, plus two (2) feet on each side thereof.
3. No marquee shall extend closer to the curb than three (3) feet.
4. Illumination. Marquee signs may be illuminated subject to the regulations in §804.G. Sign Illumination.
    a. Electronic message center signs and digital displays shall be permitted as part of a marquee sign, subject to the regulations in §804.G. Sign Illumination.
5. Sign Height.
    a. No portion of a marquee sign shall extend vertically above the eave line.
    b. The lowest edge of the marquee sign shall be at least ten (10) feet above the finished grade.

F. Freestanding Signs.

1. The lowest edge of any freestanding pole sign shall be either less than four (4) feet or greater than seven (7) feet above the ground.
2. Freestanding ground signs (i.e., monument signs) shall be supported and permanently placed by embedding, anchoring, or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
3. Illumination. Freestanding signs may be illuminated subject to the regulations in §804.G. Sign Illumination.

G. Manual Changeable Copy Signs

1. Manual changeable copy signs are permitted only when integrated into a freestanding, marquee, or portable sign.
2. Commercial messages must advertise only goods and services available on the premises.
3. The changeable portion of the sign shall not exceed 40% of the total allowable sign face area for any single on-premises freestanding sign.

Section 806: Regulations by Sign Type (Off-Premises Signs)

A. Locations Permitted.

1. Off premises signs are permitted in the following locations:

    a. Industrial/Commercial District
2. Institutional Off-premises signs are subject to the following regulations.

B. Sign Size. An off-premises advertising sign shall not have a sign area greater than 100 sq. ft.

C. Height and Location of Sign.

1. The Sign Area of any off-premises sign shall not exceed 16 feet in length or be greater than 12 feet in height above ground elevation.

D. Spacing.

1. May not be located closer than 25 feet from any street measured from the ultimate right-of-way of such street.
2. May not be located closer than 25 feet from any property line.
3. May not be located within 50 feet of any building, structure, or on-premises sign located on the same property.
4. May not be located closer than 500 feet from another off premises sign on either side of the road measured linearly.
5. May not be located within 500 feet of any intersection, interchange, or safety rest area.
6. May not be permitted within 1,000 feet of any property line abutting a public park, playground, religious institution, cemetery, school, or residential district.
7. No off-premises sign shall be attached to the external wall or otherwise affixed to any part of any building and shall not extend over any public property or right-of-way.

E. Number of Signs per Lot. There shall be no more than one off-premises sign per lot.

F. Multi-Sided Off-Premises Signs. Signs may be single or double sided, in accordance with §804.D.3.

G. Message Sequencing. Message sequencing is prohibited.

H. Identification of Sign Owner. All off-premises signs shall be identified on the structure with the name, address, and phone number of the owner of such sign.

I. Additional Regulations. All off-premises signs shall comply with any and all applicable zoning regulations of Borough, and any and all municipal, state and/or federal regulations.

J. Illumination and Changeable Copy of Off-Premises Signs.

1. Off-premises signs may be illuminated, provided that:

    a. All light sources shall be designed, shielded, arranged, and installed to confine or direct all illumination to the surface of the sign and away from

adjoining properties. Light sources shall not be visible from any street or any adjoining properties.

b. Off-premises signs are in accordance with the lighting requirements established in §804.G.

K. Safety. If applying for special exception relief, the applicant bears the burden of proof to establish that the proposed off-premises sign will not create a public health or safety hazard in the matter and location that it is proposed and in the manner by which it is to be operated.

Section 807: Regulations by Sign Type (Temporary Signs)

A. Temporary Signs, as defined, located on private property, are exempt from standard permit requirements; however, they are required to comply with the regulations set forth below. The requirements listed below shall apply to both commercial and non-commercial signs, unless otherwise stated within a particular subsection.

B. Size and Number:

1. Non-Residential Zones (MU, I, and IC):

a. Large Temporary Signs: Two (2) large temporary signs are permitted per property in all non-residential zones.

(i) Type: Ground, window, and banner signs.

(ii) Area: Each large temporary sign shall have a maximum area of 16 sq. ft.

(iii) Height:

a. Temporary Ground signs shall have a maximum height of four (4) feet.
b. Banner signs shall hang at a height no greater than 24 feet.

b. Small Temporary Signs: In addition to the large temporary sign(s) outlined above, four (4) small temporary signs are permitted per property in all non-residential zones.

(i) Type: Ground, window, and banner signs
(ii) Area: Each small temporary sign shall have a maximum area of four (4) sq. ft.
(iii) Height: Small temporary signs shall have a maximum height of three (3) feet.

c. No more than six (6) temporary signs are permitted at the same time on any one property.

2. Residential Zones (R1 and R2):

a. Large Temporary Signs: Not permitted in residential zones.

b. Small Temporary Signs: Four (4) small temporary signs are permitted per property.

(i) Type: Ground , window, and banner signs
(ii) Area: Each small temporary sign shall have a maximum area of four (4) sq. ft.
(iii) Height: Small temporary signs shall have a maximum height of three (3) feet.

C. Duration and Removal:

1. All temporary signs and banners shall be installed no more than 30 days prior to the event or activity and shall be removed by the sign owner within ten (10) days after the occurrence of the event or activity. Where no specific event or activity is scheduled, a temporary sign or banner shall be displayed no more than two (2) times per year for not more than 40 consecutive days, with 7 days in between each time the sign is permitted to be displayed, not to exceed 80 days in that year (the Borough and any entity of the Borough is exempt from this provision).

2. The Borough or property owner may confiscate signs installed in violation of this Ordinance and dispose of it. The property owner is not responsible for notifying sign owners of confiscation of an illegal sign.

D. Permission

1. The party posting the temporary sign is solely responsible for obtaining the permission of the property owner before posting a temporary sign.

E. Borough Notification

1. Temporary signs are exempt from the standard permit requirements, but the Borough must be notified of the location, size, and timing associated with any temporary sign that is larger than four (4) square feet in size. This notification must include a contact person's name, address, and telephone number.

F. Installation and Maintenance

1. All temporary signs must be installed such that in the opinion of the Borough's Building Official, they do not create a safety hazard.
2. All temporary signs must be made of durable materials and shall be well-maintained.
3. Temporary signs that are frayed, torn, broken, or that are no longer legible will be deemed unmaintained and required to be removed.

G. Illumination: Illumination of any temporary sign is prohibited.

Section 808: Regulations by Sign Type (Portable Signs)

A. General Provisions.

1. Illumination: Illumination of any portable sign is prohibited.
2. Hours of Display.
    a. Signs shall not be displayed on any premises before 6:00 AM and shall be removed each day at or before 10:00 PM. However, all portable signs must be taken in during hours of non-operation of the business being advertised.
    b. All portable signs must be taken in during inclement weather.

B. Sandwich Board or A-frame Signs.

1. Number: One (1) sandwich board sign is permitted per establishment.
2. Area: Each sign shall have a maximum area of seven (7) sq. ft. per sign face.
3. Height: Signs shall have a maximum height of three and one-half (3.5) feet.
4. Sign Placement.
    a. If a sign is located on a public or private sidewalk, a minimum of 36 inches of unobstructed sidewalk clearance must be maintained between the sign and any building or other obstruction.
    b. The sign must be located on the premises and within 12 feet of the primary entrance of the establishment it advertises.
    c. Portable signs shall be weighted, temporarily secured, or strategically placed so as to avoid being carried away by high winds.
5. Manual Changeable Copy.
    a. Manual changeable copy signs are permitted when integrated into a sandwich board sign.

C. Vehicular Signs and Mobile Billboards: Vehicular Signs and Mobile Billboards are subject to the regulations found in the Pennsylvania Vehicle Code.

Section 809: Signs in Residential Districts

The following numbers and types of signs may be erected in the R1 and R2 Residential Districts, subject to the conditions specified here and in Sections 804 through 807.

A. Any temporary sign as defined and regulated in Section 807. Regulations by Sign Type (Temporary Signs).

B. Residential Properties.

1. One (1) freestanding sign shall be permitted subject to the following regulations.
    a. Area: Each sign shall have a maximum area of six (6)

sq. ft. per sign face.

b. Height: Signs shall have a maximum height of six (6) feet.

2. One (1) wall or projecting sign shall be permitted, up to two (2) square feet in area.

C. Freestanding signs for residential developments containing more than ten units shall be permitted subject to the following regulations.

1. Number: One (1) sign per street frontage.
2. Area: Each sign shall have a maximum area of 15 sq. ft. per sign face.
3. Height: Signs shall have a maximum height of ten (10) feet.

D. Non-Residential uses existing in Residential R1 and R2 Districts.

1. One (1) freestanding sign shall be permitted subject to the following regulations.
   a. Area: Each sign shall have a maximum area of 15 sq. ft. per sign face.
   b. Height: Signs shall have a maximum height of ten (10) feet.

2. One (1) wall or projecting sign shall be permitted, up to ten (10) square feet in area.

3. Illumination:
   a. Internal or external illumination of institutional signs is permitted subject to the regulations found in §804.G. Sign Illumination.
   b. Message center signs are permitted subject to the regulations found in §804.G. Sign Illumination.

D. Summary Table for Signs in Residential Districts (Table 16).

Residential R1 and R2 Districts			
		Wall and Projecting	Freestanding
Standards	Maximum Number	Residential: 1 per lot Institutional Uses: 1 per lot	Residential: 1 per lot Residential Developments: 1 per lot Non-Residential: 1 per lot
	Maximum Area (sq. ft.)	Residential: 2 Non-Residential: 10	Residential: 6 Residential Developments: 15 Non-Residential: 15
	Maximum Height	The eave line or the bottom of the second story windowsill, whichever is lower.	Residential: 7 ft. Residential Developments: 10 ft. Non-Residential Uses: 10 ft.

Section 810: Signs in Business Districts

The following numbers and types of signs may be erected in the Institutional (I) and Mixed Use (MU) Business Districts, subject to the conditions specified here and in Sections 804 through 807.

A. Any sign permitted in residential districts, for the appropriate uses.

B. Portable signs shall be permitted subject to the provisions of §808. Regulations by Sign Type (Portable Signs).

C. The total area of all permitted sign types for non-residential uses shall be limited to two (2) square feet per one (1) linear foot of building frontage that faces a public street or parking lot, subject to maximum size limitations based on sign type.

D. Wall signs for non-residential uses shall be permitted subject to the following regulations.
   1. Number: One (1) sign per tenant per street frontage, up to a maximum of two (2) signs per tenant. Where a corner storefront faces a street and a parking lot, a second sign is permitted to face the parking lot.
   2. Area: Each sign shall have a maximum area of 24 sq. ft. per sign face.
   3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
      a. External illumination from above.
      b. Halo illumination or back-lit letters.
      c. Neon Signs

E. Window signs for non-residential uses shall be permitted subject to the following regulations.
   1. Area: A maximum of 15% of the total window area of any single storefront may be used for permanent signs that are etched, painted, or permanently affixed to the window. A maximum of 25% of the total window area of any single storefront may be covered by a combination of permanent and temporary window signs.
   2. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
      c. Neon signs.

F. Projecting signs for non-residential uses shall be permitted subject to the following regulations.
   1. Number: One (1) sign per ground floor establishment, plus one (1) sign per building entrance serving one or more commercial tenants without a

ground floor entrance.

2. Area: Each sign shall have a maximum area of twelve (12) sq. ft. per sign face.
3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. External illumination from above.
    b. Neon signs.

G. Canopy or awning signs for non-residential uses shall be permitted subject to the regulations established in §805. Regulations by Sign Type (On-Premises).

1. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.

    a. External illumination from above.

H. Marquee signs for non-residential uses shall be permitted subject to the following regulations.

1. Number: One (1) marquee structure per movie theatre, performing arts center, cinema, or other similar use.
2. Area: The total area of signs on a single marquee structure shall not exceed 150 sq. ft. in area.
3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. Internal illumination.
    b. Message center signs.

I. Freestanding Signs for non-residential uses shall be permitted subject to the following regulations.

1. One (1) freestanding sign shall be permitted subject to the following regulations.
    d. Area: Each sign shall have a maximum area of 15 sq. ft. per sign face.
    e. Height: Signs shall have a maximum height of ten (10) feet.

2. Illumination:
    a. Internal or external illumination of institutional signs is permitted subject to the regulations found in §804.G. Sign Illumination.
    b. Message center signs are permitted subject to the regulations found in §804.G. Sign Illumination.

J. Summary Table for Signs in Business Districts (Table 17).

Signs in Business Districts					
		Wall, Awning/Canopy, and Marquee	Projecting	Window	Freestanding
Standards	Maximum Number	Based on sign type (See §810).	1 per ground floor establishment, plus 1 per building entrance serving tenants without a ground floor entrance	N/A	1 per lot
	Maximum Area	2 sq. ft. per linear ft. of building frontage facing a public street, subject to maximum size limitations based on sign type			15 sg. ft. per sign face
	Maximum Height	The eave line or the bottom of the second story windowsill, whichever is lower.		N/A	10 (10) feet
	Additional Requirements	See §810.	See §810.	15% of total window area (permanent signs); 25% total window area (all signs)	See §804.G and §805F.

Section 811: Signs in Industrial/Commercial (IC) District

Except as noted below, the following numbers and types of signs may be erected in the Industrial/Commercial District subject to the conditions specified here and in Sections 804 through 807.

A. Any sign permitted in residential districts, for the appropriate uses.

B. Portable signs shall be permitted subject to the provisions of §808. Regulations by Sign Type (Portable Signs).

C. The total area of all permitted sign types for non-residential uses shall be limited to one and a half (1.5) square feet per one (1) linear foot of building frontage that faces a public street or parking lot, subject to maximum size limitations based on sign type.

D. Wall signs for non-residential uses shall be permitted subject to the following regulations.

1. Number: One (1) sign per tenant per street frontage, up to a maximum of two (2) signs per tenant. Where a corner storefront faces a street and a parking lot, a second sign is permitted to face the parking lot.
2. Area: Each sign shall have a maximum area of 32 sq. ft. per sign face.
3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. Internal illumination.
    b. External illumination from above.
    c. Halo-lit or backlit letters.
    d. Neon signs.

E. Window signs for non-residential uses shall be permitted subject to the following regulations.

1. Area: A maximum of 25% of the total window area of any single storefront may be used for permanent signs that are etched, painted, or permanently affixed to the window. A maximum of 35% of the total window area of any single storefront may be covered by a combination of permanent and temporary window signs.
2. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. Neon signs.

F. Projecting signs for non-residential uses shall be permitted subject to the following regulations.

1. Number: One (1) sign per ground floor establishment, plus one (1) sign per building entrance serving one or more commercial tenants without a ground floor entrance.
2. Area: Each sign shall have a maximum area of twenty (20) sq. ft. per sign face.
3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. External illumination from above.
    b. Neon signs.

G. Canopy or awning signs for non-residential uses shall be permitted subject to the regulations established in §805. Regulations by Sign Type (On-Premises).

1. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. External illumination from above.

H. Marquee signs for non-residential uses shall be permitted subject to the following regulations.

1. Number: One (1) marquee structure per use.
2. Area: The total area of signs on a single marquee structure shall not exceed 200 sq. ft. in area.
3. Illumination: The following illumination types shall be permitted subject to the regulations in §804.G. Sign Illumination.
    a. Internal illumination.
    b. Message center signs.
    c. Digital displays.

I. Freestanding signs for non-residential uses shall be permitted subject to the following regulations.

1. *Number:* One (1) sign per street frontage, up to two (2) signs per property held in single and separate ownership.
2. *Area:* Each sign shall have a maximum area of 50 sq. ft. plus an additional 10 sq. ft. per tenant up to a maximum of 100 sq. ft.
3. *Height:* Signs shall have a maximum height of 20 ft.
4. *Illumination:* Signs may be illuminated subject to the regulations established in Section 804.G. Sign Illumination.
    a. Internal illumination.
    b. Message center signs.

J. Off-premises signs shall be permitted, subject to the regulations detailed in §806. Regulations by Sign Type (Off-Premises).

Section 812: Billboards

A. In addition to all other requirements of this Section, Billboards (Off-Premises Signs with an area greater than 100 square feet) are permitted as a conditional use in the Industrial-Commercial District (I-C).

B. Billboards may be authorized by Borough Council as a conditional use upon a finding that compliance with the requirements of this Ordinance, as well as the following specific criteria, have been met by the applicant:

1. The submission by the applicant of a conditional use application, which shall contain the information, maps, plans, and narrative and graphic materials set forth in Article V of this Ordinance.
2. Billboards are considered as the principal use of a lot or site and as such the land area utilized for a billboard shall not be otherwise required to support accessory

use upon such lot, including, but not limited to, bufferyards, parking area, utility boxes, or setback necessary to any preexisting use upon such lot.

3. The portion of any lot upon which the billboard is to be located shall contain a minimum of 5,000 square feet in area.
4. All billboards shall contain only one (1) face for the display of lettered, written, printed, pictorial, or sculpted matter on only one (1) side of its structure, and such face shall be oriented to be viewed from only one (1) direction of travel from the nearest adjacent roadway (cross roadway viewing shall not be permitted).
5. The display area upon the face of a billboard shall be a maximum of 672 square feet, and all portions of any display shall fit within such area with no extensions beyond the edge of the billboard sign's framework.
6. All utility lines serving the billboard, or those extended to provide such service, must be installed completely underground. Such requirement may be waived if the billboard is powered by nontraditional alternative energy sources (for example solar power).
7. All billboards shall be set back from the below described items as follows:

    a. From a roadway intersection: 300 feet.

    b. From any other billboard (whether such is located in the Borough or otherwise) on the same side of the roadway: 2,500 feet.

    c. From any other billboard (whether such is located in the Borough or otherwise) on the opposite side of the roadway: 600 feet.

8. The maximum height of billboards shall not exceed twenty (20) feet, as measured from the grade of the roadway from which the advertising message is principally visible, and the bottom edge of the billboard shall be no more than eight (8) feet above the elevation of the adjacent roadway, which height shall be sufficient to prevent unauthorized access upon the billboard.
9. A bufferyard shall be required between billboards and any adjacent lot(s). For the purpose of establishing the required bufferyard, billboards shall be considered a commercial use.
10. All displays on the face of billboards shall be stationary, and no animated, sequential, flashing, moving, or oscillating signs or displays shall be permitted.
11. Illumination of the display shall be designed so that it shall be focused on the face of the display itself so as to prevent glare upon the surrounding area. All sources of illumination shall be external and equipped with shields to prevent spillage of light off the display.
12. Except as otherwise may be specified herein, all development of billboards shall comply with the provisions of the SALDO and this Ordinance.
13. All billboards shall be constructed to all applicable structural standards for such devises, and all applications for the conditional use approval shall verify compliance with such standards as documented and sealed by a registered engineer.

C. All billboards (including any and all supporting structures thereof) shall be dismantled and removed from the premises upon which they are located within 180 days of the cessation of use. Cessation of the use shall be one year with no active advertisements.

D. All billboards shall be maintained by their owner in a state of repair so that they are as safe and as functional as when originally installed.

E. No billboard shall be constructed or erected until an applicant thereof has made an application for same (which shall include a copy of a written lease for use of the land if the applicant is not the owner thereof) and paid the applicable fee thereof (as set by separate resolution of the Council) and received a permit thereof from the Borough.

F. Prior to erection all proposed applicants for billboards shall be required to obtain any necessary permit from and to conform, in all respects, to any regulation thereof promulgated by an agency of the Commonwealth of Pennsylvania, including, but not limited to PennDOT.

Section 813: Murals

A. Murals are permitted as a conditional use in the MU, I, and I-C Districts.

B. Murals may be authorized by Borough Council as a conditional use upon a finding that compliance with the requirements of this Ordinance and the following specific criteria have been met by the applicant:

1. The submission by the applicant of a conditional use application, which shall contain the information, maps, plans, and narrative and graphic materials set forth in Article V of this Ordinance.
2. All murals shall not exceed the height of the structure to which it is tiled, painted, or affixed.
3. All murals shall not extend more than six (6) inches from the plane of the wall upon which it is tiled, painted, or affixed.
4. All murals must remain 2 dimensional.
5. All murals shall not consist of, or contain, electrical or mechanical components, or changing images (moving structural elements, flashing or sequential lights, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every 24 hours).
6. All murals shall be appropriately illuminated so not to distract pedestrians and drivers.

Section 814: Removal of Unsafe, Unlawful, or Abandoned Signs

A. Unsafe or Unlawful Signs.

1. Upon written notice by the Borough, the owner, person, or firm maintaining a sign shall remove said sign when it becomes unsafe, is in danger of falling, or it becomes so deteriorated that it no longer serves a useful purpose of communication, or it is determined by the Borough to be a nuisance, or it is deemed unsafe by the Borough, or it is unlawfully erected in violation of any of

the provisions of this Article.

2. The Borough may remove or cause to be removed said sign at the expense of the owner and/or lessee in the event the owner, person, or firm maintaining said sign has not complied with the terms of said notice within thirty 30 days of the date of the notice. In the event of immediate danger, the Borough may remove said sign immediately upon the issuance of said notice to the owner, person, or firm maintaining said sign.

B. Abandoned Signs.

1. It shall be the responsibility of the owner of any property upon which an abandoned sign is located to remove such sign within 180 days of the sign becoming abandoned as defined in this section. Removal of an abandoned sign shall include the removal of the entire sign including the sign face, supporting structure, and structural trim.

2. When the owner of the property on which an abandoned sign is located fails to remove such sign in 180 days, the Borough may remove such sign. Any expense directly incurred in the removal of such sign shall be charged to the owner of the property. When the owner fails to pay, the Borough may file a lien upon the property for the purpose of recovering all reasonable costs associated with the removal of the sign.

Section 815: Permits & Applications

A. It shall be unlawful for any person, firm, or corporation to erect, alter, repair, or relocate any sign within the Borough without first obtaining a sign permit, unless the sign is specifically exempt from the permit requirements as outlined in §803. Signs Exempt from Permit Requirements.

B. In order to apply for a sign permit, the applicant must provide the following information, in writing, to the Borough:

1. A completed sign permit including all required information identified on the permit

3. A permit fee to be established from time to time by Resolution shall be paid.

Section 816: Non-conforming Signs

A. Signs legally in existence at the time of the adoption of this Ordinance, which do not conform to the requirements of this Ordinance, shall be considered non-conforming signs.

B. Permanent signs and sign structures must be brought into conformance with the sign regulations when and if the following occurs:

1. The sign is removed, relocated, or significantly altered. Significant alterations

include changes in the size or dimension of the sign. Changes to the sign copy or the replacement of a sign panel on a non-conforming sign shall not be considered a significant alteration.

2. If more than 50% of the sign area is damaged, it shall be repaired to conform to this Ordinance.
3. An alteration in the structure of a sign support.
4. A change in the mechanical facilities or type of illumination
5. A change in the material of the sign.

6. The property on which the non-conforming sign is located submits a subdivision or land development application requiring municipal review and approval.
7. The property on which the non-conforming sign is located undergoes a change of land use requiring the issuance of either a use and occupancy permit or a change of use and occupancy permit by the Borough.

C. All non-conforming temporary signs, portable signs, and banners must be permanently removed within 90 days of the effective date of this article, unless specific approval is granted as provided for herein.

Section 817: Signs on the Premises of Legally Non-Conforming Uses

A. Signs on the premises of legally non-conforming uses (such as an office in a residential area) may remain until the existing use of the premises is discontinued.
B. If a sign wears out or is damaged (including rust, faded colors, discoloration, holes, or missing parts or informational items), or is changed for any other reason, the number, size, and area of all signs relating to the premises shall not be increased beyond the characteristics of the sign or signs that existed on that property at the time this Article was adopted.

Section 818: Violations

The placement of a permanent or specially permitted sign without a sign permit shall be unlawful. Violations of this Ordinance shall be treated as strict liability offences regardless of intent. Violators shall be fined a daily fee per sign displayed in violation of this Ordinance in accordance with Section 1109: Enforcement Remedies and Penalties for Violations..

Article IX: Wireless Communications Facilities

Section 901: Purpose and Findings of Fact

A. The purpose of this Ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in New Cumberland Borough. While the Municipality recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Municipality 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.

B. By enacting this Ordinance, the Municipality intends to:

1. Regulate the placement, construction, and modification of Wireless Communication Facilities to protect the safety and welfare of the public;

2. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of the public and wireless telecommunications operators in accordance with federal and state laws and regulations;

3. Establish procedures for the design, siting, construction, installation, maintenance, and removal of Tower-Based, Non-Tower Based, and Small Wireless Communications Facilities in the Municipality, including facilities both inside and outside the Public Rights-of-Way;

4. Address new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, and other wireless communications facilities;

5. Encourage the co-location of Wireless Communications Facilities on existing Wireless Support Structures rather than the construction of new Wireless Support Structures;

6. Protect the public from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape;

7. Ensure that Wireless Communications Facilities will be removed in the event that such Wireless Communications Facilities are abandoned or become obsolete and are no longer necessary; and

8. Update the Municipality's Wireless Communications Facilities Ordinance to incorporate changes in federal and state laws and regulations.

Section 902: Laws Applicable to all Tower-Based Wireless Communications Facilities

A. Procedures.

1. Any applicant proposing construction of a new Tower-Based WCF shall submit plans to the New Cumberland Borough Manager, or his/her designee, for review by the Planning Commission and for approval by the Borough Council in

accordance with the requirements of Article V "Express Standards and Criteria for Conditional Uses".

2. The applicant shall prove that it is licensed by the FCC to operate a Tower-Based WCF and that the proposed Tower-Based WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

B. Development Requirements. Tower-Based Wireless Communications Facilities shall be developed in accordance with the following requirements:

1. Permitted Subject to Conditions. Any Tower-Based WCF that is either not mounted on any existing Support Structure or is more than twenty-five (25) feet higher than the Support Structure on which it is mounted is permitted in certain zoning districts as a conditional use, subject to the restrictions and conditions prescribed herein and subject to the prior written approval of the Municipality. The Council may grant conditional use approval in accordance with the procedures and requirements of Article V "Express Standards and Criteria for Conditional Uses".

2. Siting. Tower-Based WCF shall only be permitted in the following districts by conditional use, subject to the requirements and prohibitions of this Ordinance:

    a. MU Mixed Use District; and

    b. IC Industrial/Commercial District.

3. Coverage or Capacity. An applicant for a Tower-Based WCF must demonstrate that a gap in wireless coverage or capacity exists and that the type of WCF and siting being proposed is the least intrusive means by which to fill the gap in wireless coverage or capacity. The existence or non-existence of a gap in wireless coverage or capacity shall be a factor in the Municipality's decision on an application for approval of Tower-Based WCFs.

4. Collocation. An applicant for a Tower-Based WCF must demonstrate there is not suitable space on existing wireless service facilities or other wireless service facility sites or on another sufficiently tall structure where the intended wireless service facility can be accommodated and function as required by its construction permit or license without unreasonable modification.

5. Site Plan. An applicant for a Tower-Based WCF must submit a full site plan to the New Cumberland Borough Manager which shall include, but shall not be limited to, the following documentation and materials:

    a. Written authorization from the property owner of the proposed Tower-Based WCF site that such facility may be sited on the property; written authorization from the property owner consenting to the making of the application to the Borough for conditional use; written acknowledgment from the property owner of being bound by this Article, the conditions of any site plan approval authorized by the Borough, and all other requirements of the Borough's Codes and Ordinances.

b. A site plan that is drawn to scale and shows the following features: property boundaries; any tower guy wire anchors and other apparatus; existing and proposed Support Structures; scaled elevation view; access road(s) location and surface material; parking area; fences; power source(s); location and content of (any or warning) signs; exterior lighting specifications; landscaping plan; land elevation contours; existing land uses surrounding the site; proposed transmission building and/or other accessory uses with details; elevations; and proposed use(s).

c. A written report that includes, but is not limited to, the following documentation and materials: information describing the Tower height and design; a cross-section of the Tower; engineering specifications detailing construction of the Tower, base and guy wire anchorage; information describing the proposed painting and lighting schemes; information describing the Tower's capacity, including, but not limited to, the number and type of antennas that it can accommodate; radio frequency coverage including, but not limited to, scatter plot analysis and the input parameters for the scatter plot analysis. All Tower structure information shall be certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania; and all wireless telecommunications data shall be certified by an appropriate wireless telecommunications professional.

d. A written report, titled “Cost of Wireless Facilities Removal” certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania, detailing the total cost of removing and disposing of the Tower, Antenna, and all related facilities.

e. All other uses ancillary to the Tower-Based WCF and associated equipment (including, but not limited to, a business office, maintenance depot, or vehicle storage) are prohibited from the Tower-Based WCF site unless otherwise permitted in the zoning district in which the Tower-Based WCF site is located.

f. Where the Tower-Based WCF is located on a property with another principal use, the applicant shall prove that the owner of the property has granted an easement for the proposed facility and that vehicular access is provided to the facility.

g. An inventory of its existing Wireless Communications Facilities, including, but not limited to, all Tower-Based, Non-Tower, and Small WCF, that are either sited within New Cumberland Borough or within one-quarter (1/4) mile of the border thereof. Such inventory shall include specific information about the location, height, design, and use of each Wireless Communications Facility. The Municipality may share such information with other applicants applying for site plan approvals or conditional use permits under this Article, or other organizations seeking to locate Wireless Communication Facilities within the Municipality; provided, however, that the Municipality is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

h. An evaluation of the need for additional buffer yard treatments.

i. Other information deemed to be necessary by the Municipality to assess compliance with this section, or any other requirement under the Borough's Codes and Ordinances, state law, or federal law or regulation.

6. Underground District. A Tower-Based WCF shall not be located in, or within three hundred (300) feet of, an area in which utilities are required to be located underground.

7. Prohibited in Open Space and Conserved Lands. Tower-Based WCFs shall not be located within an Open Space or Conserved Land.

8. Prohibited in Environmentally-Sensitive Areas. No Tower-Based WCF shall be located in, or within five hundred (500) feet of, the habitat of a threatened or endangered animal species.

9. Sole Use on a Lot. A Tower-Based WCF may be 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.

10. 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 residential, industrial, commercial, institutional, or municipal use, subject to the following conditions:

    a. Existing Use. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the Wireless Communications Facility.

    b. Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.

11. Minimum Setbacks for Towers. If a new Tower is constructed (as opposed to mounting the Antenna on an existing Tower or Wireless Support Structure), the minimum distance between the Tower and any property line or Public Right-of-Way line shall be equal to the height of the Tower plus the distance of the corresponding minimum yard setback (front, side and rear) for the zoning district in which the lot is located and any other additional requirements for that zoning district. Guy wires and accessory facilities must also satisfy the minimum zoning district setback requirements.

12. Minimum Setbacks and Buffers for Accessory Structures. All Tower-Based WCF installations shall comply with the accessory structure setback, buffer, lot, and yard requirements in Section 315, "General Standards for all Accessory Uses and Structures" and shall be mounted in the rear yard or on the roof unless reception is inhibited or visibility increased.

13. Separation. A Tower-Based WCF with a height greater than ninety (90) feet shall not be located within one-quarter (1/4) of a mile from any existing Tower-Based WCF with a height greater than ninety (90) feet.

C. Timing of Determination. All applications for Tower-Based WCFs shall be acted upon within one hundred-fifty (150) days following the receipt of both, (1) a fully complete application for the approval of such Tower-Based WCF and (2) a fully paid, non-refundable application fee in an amount specified by the Master Fee Schedule. If the Municipality receives an application for a Tower-Based WCF and such application is not fully complete, then the Municipality shall notify the applicant, in writing, within thirty (30) days from time of submission that the application is not complete and the time for the approval of such application shall not commence until a fully complete application is received by the Municipality. Unpaid applications are incomplete and not duly filed with the Borough.

D. Notice. No later than thirty (30) days following the submission of a fully complete application for a Tower-Based WCF and the scheduling of the public hearing (if required), the Applicant shall mail notice to all owners of every property within a five hundred (500) foot radius of the proposed wireless communications facility. The Applicant shall provide proof of mailing of the notification to the Municipality within fifteen (15) days of completion of notification. If a public hearing is required, notice of any hearing before the Borough Council shall be published in a newspaper circulating within New Cumberland Borough at least ten (10) days prior to the date of said hearing; any mailing of notices that may be required by the Borough Council shall be completed at least ten (10) days before such hearing and the proof of mailing shall be provided to the Municipality at least (5) five days before such hearing. The preparation and cost of publication and mailing of any notice required for such hearing shall be at the cost and expense of the applicant. Proof of mailing to all required property owners shall be demonstrated by providing the Municipality with a certificate or proof of mailing (United States Postal Service Form 3817 or 3877).

E. Collocation.

1. An application for a new Tower-Based WCF shall not be approved unless the Municipality finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved Structure or Wireless Support Structure.

2. Any applicant proposing construction of a new Tower-Based WCF outside the Public Rights-of-Way shall demonstrate to the satisfaction of the Municipality, by written submission, that a good faith effort has been made to obtain permission to mount the Tower-Based WCF Antenna on an existing Structure or Wireless Support Structure. The Borough may deny any application to construct a new Tower if the applicant has not made a good faith effort to collocate the antenna on an existing Tower, Structure, or other Wireless Support Structure. A good faith effort shall require that all owners of potentially suitable Towers, Structures, or Wireless Support Structures within a one-quarter (1/4) mile radius of the proposed Tower-Based WCF site be contacted and that the applicant certifies in writing to the New Cumberland Borough Manager, or his/her designee, that one (1) or more of the following reasons for not selecting such structure apply:

a. The proposed WCF and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at reasonable cost;

b. The proposed WCF and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at reasonable cost;

c. Such existing structure does not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function; and/or

d. A commercially reasonable agreement cannot be reached with the owner(s) of such structure.

F. Standard of Care. Any Tower-Based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the Communications Infrastructure Contractors Association (formerly, National Association of Tower Erectors). Any Tower-Based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life or safety of any person or damage any property in the Municipality.

G. Wind and Ice. All Tower-Based WCF structures shall be designed to withstand the effects of wind and ice according to the standards promulgated by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended). All Tower-Based WCF structures shall also be designed and constructed to withstand the wind and ice loads for the place of installation in accordance with the Pennsylvania Uniform Construction Code.

H. Height. Any Tower-Based WCF shall be designed and constructed at the minimum functional height. All Tower-Based WCF applicants must submit documentation to the Municipality justifying the total height of the structure. In no case shall a Tower-Based WCF exceed a maximum height of one-hundred fifty (150) feet, and subject to applicable height restrictions of the Airport Overlay Zoning District.

I. Public Safety Communications. No Tower-Based WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.

J. Maintenance. The following maintenance requirements shall apply:

1. Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

2. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the public.

3. All maintenance activities shall utilize nothing less than the best available technology and practices for preventing failures and accidents.

4. The Municipality reserves the authority to require the cleaning, repainting, or repair of a Tower-Based WCF, including, but not limited to, the Tower, Accessory Equipment, and any other area where the exterior surface or appearance of such facility is not regularly or properly maintained, cleaned, repainted, or repaired.

5. Tower-Based WCF operators bear sole financial responsibility for all maintenance or emergency repair costs.

K. Radio Frequency Emissions. No Tower-Based WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The owner or operator of such Tower-Based WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Manager on an annual basis, or within thirty (30) days following a written request by the Borough. A Tower-Based WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Municipality reserves the authority to revoke the permit of any Tower-Based WCF that (1) fails to timely submit proof of compliance or (2) that is generating radio frequency emissions in excess of the standards and regulations of the FCC.

L. Historic Structures and Districts. No Tower-Based WCF may be located in or within one hundred (100) feet of any historic or preservation district, property, building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures list maintained by the Municipality, or so designated as a Landmark.

M. Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. No other signage or display is permitted.

N. Lighting. Tower-Based WCF shall not be artificially lit, except as required by law. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the applicant shall provide to the Borough a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

O. Emergency Power Supplies. Any Tower-Based WCF shall be constructed with both primary and secondary sources of electric power. The secondary source of electric power shall be an electric generator, located on-site and equipped with sufficient power reserves to supply continuous electric power to operate the Tower-Based WCF and its antennae for a period of ten (10) days. The secondary source of electric power shall not be used, except in Emergency situations involving the loss of the primary power source. The WCF operator may activate the electric generator on weekdays, between 9:00 AM and 5:00 PM,

excluding federal holidays, to test the secondary power source or to perform routine maintenance on the electric generator, provided that the WCF operator deliver written notice to the Borough Manager at least five (5) business days prior to such electric generator testing or electric generator maintenance.

P. Noise. Tower-Based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law, Section 603 of this Ordinance and all other Codes and Ordinances of the Borough, except as provided with respect to the use of an electrical generator in this Ordinance, where such noise standards may be exceeded on a temporary basis only.

Q. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

R. Inspection Report Requirements. No later than the first day of December of each odd-numbered year, or within thirty (30) days following a written request by the Municipality, the owner of the Tower-Based WCF shall have said Tower-Based WCF structure inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or erection of Tower-Based WCFs. At a minimum, this inspection shall be conducted in accordance with the Tower Inspection Class checklist provided in the Electronics Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Tower-Based WCF structure shall again be inspected in accordance with the parameters and requirements described herein.

S. Retention of Consultants and 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 Tower-Based WCF and once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) and/or expert(s) in providing expert evaluation and consultation in connection with these activities.

T. Non-Conforming WCF Uses. 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 Ordinance.

U. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Borough Manager, at least ninety (90) days in advance of the discontinuance date, of its intent to discontinue use and the date when the use shall be discontinued.

1. All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Municipality.

2. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Municipality, the WCF and accessory facilities and equipment may be removed by the Municipality and the cost of removal assessed against the owner of the WCF. Any cost to the Municipality for such removal which is not paid under the owner's bond shall constitute a lien on the tax lot on which the Tower-Based WCF is situated and shall be collected in the same manner as a Municipal tax on real property.

3. Any unused portions of Tower-Based WCFs, including, but not limited to, Antennas, shall be removed within six (6) months of the time of cessation of operations. The Municipality must approve all replacements of portions of a Tower-Based WCF previously removed.

V. Public Rights-of-Way. No Tower-Based wireless communications facility shall be located, in whole or in part, within the Public Rights-of-Way.

W. Eligible Facilities Request.

1. Applicants proposing a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Wireless Support Structure shall be required only to obtain a building permit from the Municipality.

2. In order to be considered for such permit, the Tower-Based WCF Applicant must submit a building permit application to the Building Code Official in accordance with the Borough's Codes and Ordinances.

3. In order to be considered for such permit, the Tower-Based WCF Applicant must also submit a certified engineering report from a registered and active Professional Engineer (P.E.), licensed by the Commonwealth of Pennsylvania, who is regularly involved in the maintenance, inspection, and/or modification of Tower-Based WCFs.

4. The timing of determination for Tower-Based WCF Operators proposing a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be as follows:

    a. Within thirty (30) calendar days of the date that an application for a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure is filed with the Borough, the Municipality shall notify the applicant in writing if the application is incomplete and shall advise of any information that may be required to complete such application.

    b. An application for a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be deemed complete when all documents, information and fees required by the Municipality's regulations, laws and forms pertaining to the location, modification or operation of Wireless Communications Facilities are submitted by the

Applicant to the Municipality. In case of incompleteness of the application, the Municipality shall promptly notify the Applicant that the application is not complete and the time for the approval of such application shall not commence until a fully complete application is received by the Municipality.

c. Within sixty (60) days of receipt of a complete application a modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure, the Borough shall make a final decision on whether to approve or deny the application and shall notify the Tower-Based WCF Applicant in writing of such decision.

5. Within thirty (30) days of completion of any modification to an existing Tower-Based WCF that does not Substantially Change the dimensions of the underlying Wireless Support Structure, the Applicant shall have said modifications inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Tower-Based WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Tower-Based WCF shall again be inspected in accordance with the parameters and requirements described herein.

X. Design Regulations:

1. Any height extensions to an existing Tower-Based WCF shall require prior approval of the Municipality. The Municipality reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Municipality.

2. The Tower-Based WCF shall employ the most current and effective Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Municipality.

3. Any proposed Tower-Based WCF shall be designed and constructed in all respects, including, but not limited to, structurally and electronically, to accommodate both the Tower-Based WCF applicant's Antennae and comparable Antennae for future users.

4. All utilities that are extended to the site of the Tower-Based WCF shall be placed underground.

Y. Surrounding Environs:

1. The Tower-Based WCF operator shall ensure that the existing vegetation, trees, and shrubs located within proximity to the Tower-Based WCF structure shall be preserved to the maximum extent possible.

2. The Tower-Based WCF applicant shall include in its site plan submission pursuant to this Article a soil report to the Municipality complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA/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.

Z. Fence/ Screen:

1. A security fence having a height of six (6) feet shall completely surround any Tower-Based WCF, guy wires, or any building housing WCF equipment.

2. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.

3. Existing mature tree growth, vegetation, and natural land forms on and around the site shall be preserved to the maximum extent possible. In some cases, such as Tower-Based WCF sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

AA. Accessory Equipment:

1. Ground-mounted equipment associated to, or connected with, a Tower-Based WCF shall be underground or screened from public view using Stealth Technologies, as described above.

2. All utility buildings and accessory structures shall be architecturally designed and constructed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

BB. Additional Antennae. As a condition of approval for all Tower-Based WCFs, the Applicant shall provide the Municipality with a written commitment that it will allow other service providers to collocate Antennae on Tower-Based WCFs where technically and Commercially Reasonable. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Municipality.

CC. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Municipality that the property owner has granted an easement for the proposed

facility. The easement shall be a minimum of twenty (20) feet in width and the access shall be improved to a width of at least ten (10) feet with a dust-free, all-weather surface throughout its entire length.

DD. Bond. Prior to the issuance of a conditional use permit, a Tower-Based WCF applicant 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. The bond shall provide that the Municipality may recover from the principal and surety any and all compensatory damages incurred by the Municipality for violations of this Ordinance, including, but not limited to, legal fees and expenses in enforcing the law, after reasonable notice and opportunity to cure. The owner shall file the bond with the Municipality and maintain the bond for the life of the respective facility. The owner of the Tower-Based WCF shall maintain a bond in the following amounts:

1. An amount of $75,000 (seventy-five thousand) dollars to assure the faithful performance of the terms and conditions of this Ordinance.

2. An amount determined by the Borough Council based on engineering estimates, to cover the cost of removing and disposing of the Antenna, Tower, and related facilities. The Borough Council may consider, but shall not be required to rely upon, applicant's written report, titled "Cost of Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania.

3. From time to time, but no more frequently than once during any five (5) year period, the Borough Council, at its sole discretion, may adjust the amount of the bond and require the submission of a new or modified bond based on engineering estimates of the cost of the removal and disposal of the Tower, Antenna, and associated facilities. The Wireless Communications Facility operator may submit a written report, titled "Adjusted Cost of Tower-Based Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania and containing engineering estimates of the cost of the removal and disposal of the Tower, Antenna, and associated facilities to the Borough Council. The Borough Council may consider, but shall not be required to rely upon, operator's written report in determining the adjusted bond amounts.

EE. Visual or Land Use Impact. The Municipality reserves the right to deny an application for the construction or placement of any Tower-Based WCF based upon visual and/or land use impact.

FF. Graffiti. Any graffiti on the Tower-Based WCF, including, but not limited to, the Wireless Support Structure or on any accessory equipment, shall be removed at the sole expense of the owner within ten (10) days of notification by the Municipality.

GG. Inspection by Municipality. The Municipality reserves the right to inspect any Tower-Based WCF to ensure compliance with the provisions of this Ordinance and any other provisions of the Borough's Codes and Ordinances or state or federal law or regulation. The Municipality and/or its agents shall have the authority to enter the property upon which a Tower-Based WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

Section 903: Laws Applicable to all Non-Tower Wireless Facilities

A. Procedures.

1. Any applicant proposing a Non-Tower WCF to be mounted on a building or any other Structure shall submit detailed construction and elevation drawings to the New Cumberland Borough Manager, or his/her designee, indicating how the Non-Tower WCF will be mounted on the Structure, for review by the New Cumberland Borough Planning Commission and for approval by the Borough Council, as a conditional use, subject to the restrictions and conditions prescribed herein and subject to the prior written approval of the Borough.

2. The applicant shall prove that it is licensed by the FCC to operate a Non-Tower WCF and that the proposed Non-Tower WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

B. Development Requirements. Non-Tower Wireless Communications Facilities shall be collocated on existing structures, such as existing buildings or wireless support structures, subject to the following conditions:

1. Permitted Subject to Conditions. Subject to the restrictions and conditions prescribed herein, Non-Tower WCFs are permitted in certain zoning districts as a conditional use upon review by the New Cumberland Borough Planning Commission and approval by the New Cumberland Borough Council, in accordance with the procedures and requirements of Article V “Express Standards and Criteria for Conditional Uses”.

2. Siting. Non-Tower WCF are permitted in the following zoning districts by conditional use, subject to the requirements and prohibitions of this Ordinance:

    a. MU Mixed Use District; and

    b. IC Industrial/Commercial District.

3. Height. Any Non-Tower WCF shall not exceed the maximum height permitted in the applicable zoning district and subject to applicable height restrictions of the Airport Overlay Zoning District.

4. Equipment Building. If the Non-Tower WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.

5. Fencing. A security fence having a height of six (6) feet, shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

6. Residential Attachment Prohibited. Non-Tower WCFs shall not be located on single-family detached residences, single-family attached residences, or any accessory residential structure.

C. Site Plan. An applicant for a Non-Tower WCF must submit a full site plan to the New Cumberland Borough Manager, or his/her designee, which shall include:

1. Written authorization from the Wireless Support Structure owner of the proposed Non-Tower WCF site that such facility may be sited on the Wireless Support Structure. Written authorization from the Wireless Support Structure owner consenting to the making of the application to the Borough for conditional use. Written acknowledgment from the Wireless Support Structure owner of being bound by this Article, the conditions of any site plan approval authorized by the Borough, and all other requirements of the Borough's Codes and Ordinances.

2. A site plan that is drawn to scale and shows the following features: property boundaries; existing and proposed structures; existing and proposed use(s); existing and proposed antennae; existing or proposed electrical power source; and scaled elevation view.

3. A written report including, but not limited to: information describing the Antenna height and design; a cross-section of the Wireless Support Structure; engineering specifications detailing attachment of the Antenna to the Wireless Support Structure; information describing the proposed painting and lighting schemes; radio frequency coverage including, but not limited to, scatter plot analysis and the input parameters for the scatter plot analysis; all Wireless Support Structure information to be certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania; and wireless telecommunications data to be certified by an appropriate wireless telecommunications professional.

4. A written report, titled "Cost of Non-Tower Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania, detailing the total cost of removing and disposing of antenna and related facilities.

5. An inventory of its existing wireless communications facilities, including, but not limited to, all Tower-Based, Non-Tower, and Small WCF, that are either sited within New Cumberland Borough or within one-quarter (1/4) mile of the border thereof. Such inventory shall include specific information about the location, height, design, and use of each wireless communications facility. The Borough may share such information with other applicants applying for site plan approvals or conditional use under this Ordinance or other organizations seeking to locate antennas within the Municipality; provided, however, that the Municipality is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

6. Other information deemed to be necessary by the Municipality to assess compliance with this section, or any other requirement under the Borough's Codes and Ordinances, state law, or federal law or regulation.

D. Eligible Facilities Request.

1. Applicants proposing a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be required only to obtain a building permit from the Municipality

2. In order to be considered for such permit, the Non-Tower WCF Applicant must submit a building permit application to the Municipality in accordance with the Borough's Codes and Ordinances.

3. In order to be considered for such permit, the Non-Tower WCF Applicant must also submit a certified engineering report from a registered and active Professional Engineer (P.E.), licensed by the Commonwealth of Pennsylvania, who is regularly involved in the maintenance, inspection, and/or modification of Non-Tower WCFs.

4. The timing of determination for Non-Tower WCF Operators proposing a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be as follows:

    a. Within thirty (30) calendar days of the date that an application for a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure is filed with the Borough, the Municipality shall notify the applicant in writing if the application is incomplete and shall advise of any information that may be required to complete such application.

    b. An application for a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be deemed complete when all documents, information and fees required by the Municipality's regulations, laws and forms pertaining to the location, modification or operation of Wireless Communications Facilities are submitted by the Applicant to the Municipality. In case of incompleteness of the application, the Municipality shall promptly notify the Applicant in writing that the application is not complete and the time for the approval of such application shall not commence until a fully complete application is received by the Municipality.

    c. Within sixty (60) days of receipt of a complete application a modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure, the

Borough shall make a final decision on whether to approve or deny the application and shall notify the Non-Tower WCF Applicant in writing of such decision.

5. Within thirty (30) days of completion of any modification to an existing Non-Tower WCF that does not Substantially Change the dimensions of the underlying Wireless Support Structure, the Applicant shall have said modifications inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Non-Tower WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Non-Tower WCF shall again be inspected in accordance with the parameters and requirements described herein.

E. Visual or Land Use Impact. The Municipality reserves the right to deny an application for the construction or placement of any Non-Tower WCF based upon visual and/or land use impact.

F. Historic Structures and Districts. No Non-Tower WCF may be located on, or within one hundred (100) feet of, any historic or preservation district, property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures list maintained by the Municipality, or so designated as a Landmark.

G. Prohibited in Open Space and Conserved Lands. Non-Tower WCFs shall not be located within an Open Space or Conserved Land.

H. Timing of Determination. All applications for Non-Tower WCFs shall be acted upon by the Municipality within ninety (90) days following the receipt of both, (1) a fully complete application for the approval of such WCF and (2) a fully paid, non-refundable application fee in an amount specified by the Master Fee Schedule. If the Municipality receives an application for a Non-Tower WCF and such application is not fully completed, then the Municipality shall notify the applicant in writing within thirty (30) days that the application is not complete and the time for the approval of such application shall not commence until a fully complete application is received by the Municipality. Unpaid applications are incomplete and not duly filed with the Borough.

I. Retention of Consultants and Experts. The Municipality may hire any consultant(s) and/or expert(s) necessary to assist the Municipality in reviewing and evaluating the application for approval of the Non-Tower WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the Non-Tower WCF shall reimburse the Municipality for all reasonable costs of the Municipality's consultant(s) and/or expert(s) in providing expert evaluation and consultation in connection with these activities.

J. Bond. Prior to the issuance of a conditional use permit, the owner of a Non-Tower WCF 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. The bond shall provide that the Municipality may recover from the principal and surety any and all compensatory damages incurred by the Municipality for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Municipality and maintain the bond for the life of the respective facility. The owner of the Non-Tower WCF shall maintain a bond in the following amounts:

1. An amount of $75,000 (seventy-five thousand) dollars to assure the faithful performance of the terms and conditions of this Ordinance.

2. An amount determined by the Borough Council based on engineering estimates, to cover the cost of removing and disposing of the Antenna and related facilities. The Borough Council may consider, but shall not be required to rely upon, applicant's written report, titled "Cost of Non-Tower Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania.

3. From time to time, but no more frequently than once during any five year period, the Borough Council, at its sole discretion, may adjust the amount of the bond and require the submission of a new or modified bond based on engineering estimates of the cost of the removal and disposal of the Antenna and associated facilities. The Wireless Communications Facility operator may submit a written report, titled "Adjusted Cost of Non-Tower Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania and containing engineering estimates of the cost of the removal and disposal of the Antenna and associated facilities to the Borough Council. The Borough Council may consider, but shall not be required to rely upon, operator's written report in determining the adjusted bond amounts.

K. Design Regulations.

1. Non-Tower WCFs shall employ Stealth Technology and be treated to match the supporting Structure or Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF applicant shall be subject to the approval of the Municipality.

2. Non-Tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen (15) feet above the roof or parapet, whichever is higher, unless the Non-Tower WCF applicant obtains a variance.

3. All Non-Tower WCF applicants must submit documentation to the Municipality justifying the total height of the Non-Tower support Structure or Wireless Support Structure. Such documentation shall be analyzed in the context of such justification on an individual basis.

4. Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.

L. Standard of Care. Any Non-Tower WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life or safety of any person or damage any property in the Municipality.

M. Wind and Ice. All Non-Tower WCF structures shall be designed and constructed to withstand the effects of wind and ice according 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/EIA/TIA-222, as amended). All Non-Tower WCF structures shall also be designed and constructed to withstand the wind and ice loads for the place of installation in accordance with the Pennsylvania Uniform Construction Code.

N. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.

O. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields”, as amended. The owner or operator of such Non-Tower WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Manager on an annual basis, or within thirty (30) days following a written request by the Borough. A Non-Tower WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Municipality reserves the authority to revoke the permit of any Non-Tower WCF that (1) fails to timely submit proof of compliance or (2) that is generating radio frequency emissions in excess of the standards and regulations of the FCC.

P. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

Q. Inspection Report Requirements. No later than the first day of December of each odd-numbered year, or within thirty (30) days following a written request by the Municipality, the owner of the Non-Tower WCF shall have said Non-Tower WCF inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Non-Tower WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager, or his/her designee, following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar

days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Non-Tower WCF shall again be inspected in accordance with the parameters and requirements described herein.

R. Maintenance. The following maintenance requirements shall apply:

1. The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

2. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Municipality's residents.

3. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.

4. The Municipality reserves the authority to require the cleaning, repainting, or repair, of a Non-Tower WCF, including, but not limited to, the Antennae, Accessory Equipment, and any other area where the exterior surface or appearance of such facility is not regularly or properly maintained, cleaned, repainted, or repaired.

5. Non-Tower WCF operators bear sole financial responsibility for all maintenance or emergency repair costs.

S. Upgrade, Replacement, Modification.

1. The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading, replacing, modifying, or repairing the Non-Tower WCF is permitted, so long as such upgrade, replacement, modification, or repair does not increase the overall size of the Non-Tower WCF or the number of Antennae.

2. Any material modification to a Non-Tower WCF shall require a prior amendment to the original permit or authorization.

T. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner shall provide written notice to the Municipality of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

1. All abandoned or unused Non-Tower WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Municipality.

2. If the Non-Tower WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Municipality, the WCF and/or related facilities and equipment may be removed by the Municipality and the cost of removal assessed against the owner of the WCF. Any cost to the Municipality for such removal which is not paid under the owner's bond shall constitute a lien on the tax lot on which the Non-Tower WCF is situated and shall be collected in the same manner as a Municipal tax on real property.

U. Graffiti. Any graffiti on the Non-Tower WCF, including, but not limited to, the Antennae, the Wireless Support Structure, or on any communications equipment or accessory equipment, shall be removed at the sole expense of the owner within ten (10) days of notification by the Municipality.

V. Public Rights-of-Way. No Non-Tower WCF shall be located, in whole or in part, within the Public Rights-of-Way.

W. Signs. All Non-Tower WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. No other signage or display is permitted.

X. Lighting. Non-Tower WCF shall not be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

Y. Emergency Power Supplies. Where practicable, Non-Tower WCF shall be constructed with both primary and secondary sources of electric power. If included, the secondary source of electric power shall be an electric generator, located on-site and equipped with sufficient fuel reserves to supply continuous electric power to operate the Non-Tower WCF and its antennae for a period of ten (10) days. The secondary source of electric power shall not be used, except in emergency situations involving the loss of the primary power source. The WCF operator may activate the electric generator to test the secondary power source or to perform routine maintenance on the electric generator, provided that the WCF operator deliver written notice to the Borough Manager at least five (5) business days prior to such electric generator testing or electric generator maintenance.

Z. Noise. Non-Tower WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough's Codes and Ordinances, except in emergency situations requiring the use of an electrical generator, where such noise standards may be exceeded on a temporary basis only.

AA. Inspection by Municipality. The Municipality reserves the right to inspect any Non-Tower WCF to ensure compliance with the provisions of this Ordinance and any other provisions found within the Borough's Codes and Ordinances or state or federal law or regulation. The Municipality and/or its agents shall have the authority to enter the property upon which a Non-Tower WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

Section 904: Laws Applicable to all Small Wireless Communications Facilities

A. Development Requirements.

1. Small WCF are permitted by approval from the Borough in all zoning districts, subject to the requirements of this section and generally applicable permitting as required by the Borough's Codes and Ordinances.

2. Small WCF located within districts, or sub-portions thereof, that require utilities to be located underground shall be collocated on existing or replacement Wireless Support Structures. No new Wireless Support Structure may be installed for the purpose of supporting a Small WCF within districts, or sub-portions thereof, that require utilities to be located underground.

3. Small WCF in the public ROW requiring the installation of a new Wireless Support Structure shall not be located directly in front of any building entrance or exit.

4. All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all applicable streets and sidewalks requirements in the Borough's Codes and Ordinances.

5. Small WCFs shall not be located or attached on single-family detached residences, single-family attached residences, or any accessory residential structure.

B. Procedures.

1. Any applicant proposing a Small WCF shall submit an application to the Borough Manager, or his/her designee, for site plan review and administrative determination.

2. The applicant shall prove that it is licensed by the FCC to operate a Small WCF and that the proposed Small WCF complies with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.

3. The applicant shall provide a written report, titled "Cost of Small Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania, detailing the total cost of removing and disposing of the Small WCF and all related facilities, and restoring the public rights-of-way in as reasonably good condition as before the existence of the facility.

C. Timing of Determination. All applications for Small WCFs shall be acted upon by the Municipality within a specific number of days following the receipt of both, (1) a fully complete application for the approval of such Small WCF and (2) a fully paid, non-refundable application fee in an amount specified by the Master Fee Schedule. Unpaid applications are incomplete and not duly filed with the Borough. The timing of determination for Small WCF applicants shall be as follows:

1. Within ten (10) calendar days of the date that an application for a Small WCF is filed with the Borough Manager, the Municipality shall notify the WCF Applicant in writing if an application is incomplete and shall advise the WCF Applicant of any information that may be required to complete such application.

2. Within sixty (60) days of receipt of a complete application for Collocation of a Small WCF on a preexisting Wireless Support Structure, the Borough shall make a final decision on whether to approve or deny the application and shall notify the WCF Applicant in writing of such decision.

3. Within ninety (90) days of receipt of a complete application for a Small WCF requiring the installation of a new Wireless Support Structure, the Borough shall

make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

D. Basis of Denial of Application. The Borough retains the authority to deny an Application to construct, place, modify, or operate a Small WCF in the Public Rights-of-Way if any of the following apply:

1. The Small WCF materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.

2. The Small WCF fails to comply with the Borough's Codes and Ordinances, or any other applicable codes.

3. The Small WCF fails to comply with the requirements specified under the Pennsylvania Small Wireless Facilities Deployment Act, or any other applicable state law.

4. The Small WCF fails to comply with the requirements specified under federal law and FCC regulation.

5. The Applicant fails to submit a written report by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.), who is regularly involved in the maintenance, inspection, and/or modification of Small WCFs, demonstrating that the Small WCF in the Public Rights-of-Way will comply with all applicable FCC regulations.

E. Documentation of Denial in Writing. Within the applicable Shot Clock timeframes established by this Ordinance, the Municipality shall document the basis for an Application denial, in writing, including, but not limited to, the specific provisions of applicable codes on which the denial was based, and shall send the documentation to the Applicant within five (5) business days following the denial of an Application to construct, place, modify or operate a Small WCF in the Public Rights-of-Way.

F. Opportunity to Cure. Following the determination to deny an Application to construct, place, modify or operate a Small WCF in the Public Rights-of-Way, the Applicant may cure the deficiencies identified by the Borough and resubmit the Application to construct, place, modify or operate a Small WCF in the Public Rights-of-Way within thirty (30) days following receipt of the Borough's written basis for the denial. Upon eligible resubmission, the Applicant shall not pay any additional application fees.

G. Municipal Review upon Eligible Resubmission. The Borough shall approve or deny the revised Application to construct, place, modify or operate a Small WCF in the Public Rights-of-Way within thirty (30) days following the Application being resubmitted for review and determination. Any subsequent review by the Borough shall be limited to the deficiencies cited in the Borough's written denial. If the resubmitted Application addresses or changes other sections of the Application that were not previously denied, the Borough shall automatically be granted an additional fifteen (15) days on the Shot Clock timeframe

to review the resubmitted application and may charge an additional fee for the review. No Applicant shall make more than one (1) resubmission per initial denial of an Application to construct, place, modify or operate a Small WCF in the Public Rights-of-Way.

H. Eligible Facilities Request.

1. Small WCF Operators proposing a modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be required only to obtain a building permit from the Municipality.

2. In order to be considered for such permit, the Small WCF Operator must submit a building permit application to the Municipality in accordance with the Borough's Codes and Ordinances.

3. In order to be considered for such permit, the Small WCF Applicant must also submit a certified engineering report from a registered and active Professional Engineer (P.E.), licensed by the Commonwealth of Pennsylvania, who is regularly involved in the maintenance, inspection, and/or modification of Small WCFs.

4. The timing of determination for Small WCF Operators proposing a modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be as follows:

    (1) Within thirty (30) calendar days of the date that an application for a modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure is filed with the Borough, the Municipality shall notify the applicant in writing if the application is incomplete and shall advise of any information that may be required to complete such application.

    (2) An application for a modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure shall be deemed complete when all documents, information and fees required by the Municipality's regulations, laws and forms pertaining to the location, modification or operation of Wireless Communications Facilities are submitted by the Applicant to the Municipality. In case of incompleteness of the application, the Municipality shall promptly notify the Applicant that the application is not complete and the time for the approval of such application shall not commence until a fully complete application is received by the Municipality.

    (3) Within sixty (60) days of receipt of a complete application a modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Structure or Wireless Support Structure, the Borough shall make a final decision on whether to approve or deny the application and shall notify the WCF Applicant in writing of such decision.

5. Within thirty (30) days of completion of any modification to an existing Small WCF that does not Substantially Change the dimensions of the underlying Wireless

Support Structure, the Applicant shall have said modifications inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Small WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Small WCF shall again be inspected in accordance with the parameters and requirements described herein.

I. Non-Conforming Wireless Support Structures. Small WCF shall be permitted to collocate upon non-conforming Tower-Based WCF and other non-conforming structures. Collocation of WCF upon existing Tower-Based WCF is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.

J. Application Fees. The Municipality may assess appropriate and reasonable application fees directly related to the Municipality's actual costs in reviewing and processing the application for approval of a Small WCF, as well as related inspection, monitoring, and related costs, subject to the limitations in this section, in amounts specified by the Master Fee Schedule.

K. Standard of Care. Any Small WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, the Pennsylvania Uniform Construction Code (UCC), or to the industry standard applicable to the structure. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any Person or any property in the Municipality.

L. Historic Structures and Districts. No Small WCF may be located on, or within one hundred (100) feet of, any historic or preservation district, property, building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures list maintained by the Municipality, or so designated as a Landmark.

M. Wind and Ice. All Small WCF shall be designed and constructed to withstand the effects of wind 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/EIA/TIA-222, as amended), or to the industry standard applicable to the structure. All Small WCF structures shall also be designed and constructed to withstand the wind and ice loads for the place of installation in accordance with the Pennsylvania Uniform Construction Code.

N. Radio Frequency Emissions. A Small WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The owner or operator of such Small WCF shall submit proof of compliance with any applicable radio frequency emissions standards to the Borough Manager on an annual basis, or within thirty (30) days following a written request by the Borough. A Small WCF generating radio frequency emissions in excess of the standards and regulations of the FCC shall be considered an Emergency. The Municipality reserves the authority to revoke the permit of any Small WCF that (1)

fails to timely submit proof of compliance or (2) that is generating radio frequency emissions in excess of the standards and regulations of the FCC.

O. Time, Place and Manner. The Municipality shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

P. Accessory Equipment. Small WCF 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 Municipality.

F. Graffiti. Any graffiti on the Small WCF, including, but not limited to, the Antennae, the Structure, the Wireless Support Structure, or any Accessory Equipment, shall be removed at the sole expense of the owner within ten (10) days of notification by the Municipality.

G. Maintenance. The following maintenance requirements shall apply:

1. Any Small WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

2. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the public.

3. All maintenance activities shall utilize nothing less than the best available technology and practices for preventing failures and accidents.

4. The Municipality reserves the authority to require the cleaning, repainting, or repair, of a Small WCF, including, but not limited to, the Antennae, Wireless Support Structure, Accessory Equipment, and any other area where the exterior surface or appearance of such facility is not regularly or properly maintained, cleaned, repainted, or repaired.

5. Small WCF operators bear sole financial responsibility for all maintenance or emergency repair costs. The financial responsibility of Small WCF operators for maintenance or emergency repair costs is exclusive and independent from the Municipality's costs in managing and maintaining the Public Rights-of-Way.

H. Design Standards. All Small WCF in the Municipality shall comply with the requirements of the New Cumberland Borough Small Wireless Communications Facility Design Manual, a copy of which is on file with the Municipality.

I. Collocation Requirement. An application for a Small WCF with a new Wireless Support Structure in the Public Rights-of-Way shall not be approved unless the Municipality finds that the proposed Small WCF cannot be accommodated on an existing Structure or Wireless Support Structure, such as a utility pole. Any application for approval of a Small WCF shall include a comprehensive inventory of all existing Towers and other suitable Structures or Wireless Support Structures within a one-quarter (1/4) mile radius from the point of the proposed Small WCF, unless the applicant can show to the satisfaction of the Municipality that a different distance is more reasonable, and shall demonstrate conclusively why an existing Tower, Structure, or other suitable Wireless Support Structure cannot be utilized.

J. Limitation on Concurrent Collocation Applications. Any Person seeking to Collocate a Small WCF in the Public Rights-of-Way may submit a consolidated Application for Collocation of Small WCF, which shall include no more than twenty (20) concurrent

Applications to Collocation Small WCF in the Public Rights-of-Way. No Person shall submit more than one (1) consolidated Application to Collocate Small WCF in the Public Rights-of-Way, or twenty (20) individual Applications to Collocate Small WCF in the Public Rights-of-Way during any thirty (30) day period of time. If one consolidated Application for Collocation of Small WCF in the Public Rights-of-Way, or twenty (20) individual Applications to Collocate Small WCF in the Public Rights-of-Way, are received by the Borough during any forty-five (45) day period of time, then the Borough's applicable Shot Clock timeframes, as specified in this Ordinance, shall be automatically, and without public notice, extended by a time period of fifteen (15) days following submission of the aforesaid Application(s).

K. Relocation or Removal of Facilities. Within ninety (90) days following written notice from the Municipality, or such longer period as the Municipality 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 Small WCF when the Municipality, 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 by the Municipality or other public improvement in the Public Rights-of-Way;

    2. The operations of the Municipality 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 as determined by the Municipality.

L. Noise. Small WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough's Codes and Ordinances.

M. Height. Any Small WCF shall not exceed the maximum height permitted in the applicable zoning district.

N. Retention of Consultants or Experts. The Municipality may hire any consultant(s) and/or expert(s) necessary to assist the Municipality in reviewing and evaluating the application for approval of the Small WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The applicant and/or owner of the Small WCF shall reimburse the Municipality for all reasonable costs of the Municipality's consultant(s) and/or expert(s) in providing expert evaluation and consultation in connection with these activities, provided that such costs are a reasonable approximation of costs incurred, the costs are reasonable, and the costs are non-discriminatory.

O. Repair to Public Property. Whenever the operator of Small WCF or any of its agents, including, but not limited to, any contractor or subcontractor, takes up or disturbs any pavement, sidewalk or other improvement of any public or municipal property, the same shall be replaced and the surface restored in as reasonably good condition as before the disturbance within ten (10) business days of the completion of the disturbance, weather permitting. Upon failure of the Small WCF operator to comply within the time specified and the Borough having notified the Small WCF operator in writing of the restoration and repairs required, the Borough may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Small WCF operator upon demand by the Borough.

P. Bond. Prior to the issuance of a permit, the owner of a Small WCF 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. The bond shall provide that the Municipality may recover from the principal and surety any and all compensatory damages incurred by the Municipality for violations of this Ordinance, after reasonable notice and opportunity to cure. The owner shall file the bond with the Municipality and maintain the bond for the life of the respective facility. The owner of the Small WCF shall maintain a bond in the following amounts:

1. An amount of $75,000 (seventy-five thousand) dollars to assure the faithful performance of the terms and conditions of this Ordinance.

2. An amount determined by the Borough Council based on engineering estimates, to cover the cost of removing and disposing of the Antenna and related facilities, and restoring the public rights-of-way. The Borough Council may consider, but shall not be required to rely upon, applicant's written report, titled "Cost of Small Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania.

3. From time to time, but no more frequently than once during any five year period, the Borough Council, at its sole discretion, may adjust the amount of the bond and require the submission of a new or modified bond based on engineering estimates of the cost of the removal and disposal of the Antenna and associated facilities, and restoring the public rights-of-way. The Wireless Communications Facility operator may submit a written report, titled "Adjusted Cost of Small Wireless Facilities Removal" certified by a registered and active Professional Engineer (P.E.) licensed by the Commonwealth of Pennsylvania and containing engineering estimates of the cost of the removal and disposal of the Antenna and associated facilities, and restoring the public rights-of-way to the Borough Council. The Borough Council may consider, but shall not be required to rely upon, operator's written report in determining the adjusted bond amounts.

Q. Inspection Report Requirements. No later than the first day of December of each odd-numbered year, or within thirty (30) days following a written request by the Municipality, the owner of the Small WCF shall have said Small WCF inspected by a Pennsylvania-licensed and registered and active Professional Engineer (P.E.) who is regularly involved in the maintenance, inspection, and/or modification of Small WCFs. A copy of said inspection report and certification of continued use shall be provided to the Borough Manager following the inspection. Any repairs advised by the report shall be completed by the owner no later than sixty (60) calendar days after the report is filed with the Municipality. No later than thirty (30) calendar days upon completion of aforesaid repairs, the Small WCF shall again be inspected in accordance with the parameters and requirements described herein.

R. Reimbursement for ROW Use. In addition to permit fees as described in this section, every Small WCF in the Public Rights-of-Way is subject to the Municipality's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the Public Rights-of-Way. Such compensation for Public Rights-of-Way use shall be directly related to the Municipality's actual public rights-of-way management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other Public Rights-of-Way management activities by the Municipality. The owner of each Small WCF shall pay an annual fee to the Municipality, in an amount specified by the Master Fee

Schedule, to compensate the Municipality for the Municipality's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission. The Municipality reserves the authority to revoke the permit of any Small WCF that fails to timely remit payment of any Small WCF Public Rights-of-Way fee to the Municipality.

S. Inspection by Municipality. The Municipality reserves the right to inspect any Small WCF to ensure compliance with the provisions of this Ordinance and any other provisions of the Borough's Codes and Ordinances or state or federal law or regulation. The Municipality and/or its agents shall have the authority to enter the property or Public Rights-of-Way which a Small WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

Section 905: Laws Applicable to All Wireless Facilities

A. Municipal Property. Nothing in this Ordinance shall be deemed to create any offer, right, or entitlement to use Municipal property for the construction or operation of Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structures, or related facilities. Any such Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structure, or related facility proposed to be sited on property owned, leased, or otherwise controlled by New Cumberland Borough may be exempt from the requirements of this Ordinance. The Borough retains the right to require applicants to obtain site plan approval from it in accordance with the requirements of this Ordinance. No Tower-Based WCF, Non-Tower WCF, Small WCF, Wireless Support Structures, or related facilities may be constructed or installed on Municipal property or in the Public Rights-of-Way until a license or lease agreement authorizing such Wireless Facility has been approved by the Borough Council.

B. Repairing Damaged Public Property. If any permitted wireless communications facility operator, or any agent, including, but not limited to, any contractor or sub-contractor, damages any public or municipal property in the Borough, the permitted wireless communications facility operator will repair or replace, as applicable, the property to its prior condition. Repairs or replacements will be completed within fifteen (15) days of the occurrence of the damage. If the permitted wireless communications facility operator or agent reasonably requires a longer period to complete the repairs or replacement, the permitted wireless communications facility operator or agent and the Borough will mutually agree on the revised timeline for the repair or replacement. Upon failure of the permitted wireless communications facility operator or agent to comply within the time specified and the Borough having notified the permitted wireless communications facility operator in writing of the restoration and repairs required, the Borough may cause proper restoration and repairs to be made and the expense of such work shall be paid by the permitted wireless communications facility operator upon demand by the Borough.

C. Penalties. Any Person violating any provision of this Ordinance shall be subject, upon finding by a magisterial district judge, to a penalty not exceeding $1000 (one thousand) dollars, for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Ordinance and any other remedy at law or in equity, the Municipality may apply to a Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Ordinance.

D. Determination of Violation. In the event the Municipality determines that a Person has violated any provision of this Ordinance, such Person shall be provided written notice of the determination and the reasons therefore. Except in the case of an Emergency, the Person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Municipality may, in its sole discretion, extend the time period to cure, provided the Person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Municipality may take any and all actions authorized by this Ordinance and/or federal and/or Pennsylvania law and regulations.

E. Revocation of Permitted Use. Any permit granted under this Ordinance may be revoked by the Borough Council after a hearing, conducted on at least fifteen (15) days' written notice to the owner of the Wireless Communications Facility and any related facilities, and an opportunity to be heard. If at such hearing the Borough Council determines that substantial evidence exists that the Wireless Communications Facility and related facilities constitute a threat to public safety, health, or welfare, or that the conditions of the permit have been materially violated, the Borough Council may revoke the permit.

F. Fee Payments are Non-Refundable. All fees paid to the Municipality, including, but not limited to, application fees and permit fees, are non-refundable and will not be returned to the Applicant or Operator.

Section 906: Insurance and Indemnification of Wireless Facilities

A. Insurance.

1. Requirement of Insurance. Each Person that constructs, owns, operates, maintains, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall purchase and maintain, at its sole expense, certain insurance coverages of specified minimum rating, as listed herein, and shall provide documentation to the New Cumberland Borough Manager, upon request, and as provided herein.

2. No Payment or Reimbursement. Each Person that constructs, owns, operates, maintains, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall be solely responsible for bearing the costs of furnishing and maintaining all required insurance coverages of specified minimum rating, as listed herein. The Municipality shall not provide direct payment or reimbursement to Persons for the costs of maintaining, or the costs of furnishing, the required insurance coverages.

3. Specified Minimum Insurance Ratings, Registration, and Additional Endorsement. All insurance carriers listed in the Certificate(s) of Insurance for the required insurance coverages shall have, at minimum, a credit rating of "Rated A VII or Better" from the A.M. Best Company and shall be licensed in the Commonwealth of Pennsylvania. Each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall name New Cumberland Borough as an Additional Insured by endorsement on the Certificate(s) of Insurance.

4. Furnishment of Certificates Prior to Commencement. Prior to the commencement of any construction, operation, maintenance, or removal, each Person that constructs,

owns, operates, maintains, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall furnish Certificates of Insurance to the New Cumberland Borough Manager evidencing coverage in compliance with the regulations herein. The failure of the Borough to object to the contents of the Certificate(s) of Insurance or absence of same shall not be deemed a waiver of any legal rights held by the Borough.

5. Revocation of Permit. The failure of any Person to construct, operate, maintain, or remove a Wireless Communications Facility without complying with the insurance coverage and administrative requirements herein shall constitute an Emergency. Upon such Emergency, the Municipality reserves the authority to revoke the permit of any Wireless Communications Facility for failure to comply with the insurance coverage and administrative requirements herein.

6. Minimum Insurance Requirements. Each Person that constructs, owns, operates, maintains, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall maintain the following minimum insurance coverages:

    a. Worker's Compensation and Employers Liability Policy, covering operations in the Commonwealth of Pennsylvania. Where applicable, U.S. Longshore and Harbor Workers Compensation Act Endorsement and Maritime Coverage Endorsement shall be attached to the policy. Evidence must be provided to the New Cumberland Borough Manager. Waiver of Subrogation to be included with documentation provided to the New Cumberland Borough Manager.

    b. Commercial General Liability Policy, with limits of no less than $1,000,000 (one million) dollars each occurrence, per WCF location and $2,000,000 (two million) dollars General Aggregate, per WCF location, with limits for Bodily Injury and Property Damage, and shall contain the following coverages and endorsements:

        i. Premises and Operations;
        ii. Products/Completed Operations;
        iii. Independent Contractors;
        iv. Personal and Advertising Injury;
        v. Blanket Contractual Liability;
        vi. Explosion, Collapse, Underground Liability (XCU);
        vii. New Cumberland Borough and their assigns, officers, employees, volunteers, representatives, and agents should be named as an "Additional Insured" on the policy using ISO Additional Insured Endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage and shall apply on a primary and noncontributory basis, including any self-insured retentions.
        viii. The Certificate of Insurance should show this applies to the General Liability coverage on the certificate, and Additional Insured Endorsement shall be attached.
        ix. To the extent permitted by Pennsylvania law, each Person that owns, operates, or removes a Tower-Based, Non-

Tower, or Small Wireless Communications Facility waives all rights of subrogation or similar rights against New Cumberland Borough, assigns, officers, employees, volunteers, representatives, and agents.

x. Cross Liability coverage (Commercial General Liability and Business Automobile Liability policies only.)

xi. Coverage must be written on an Occurrence Policy Form.

xii. No deductible or Self Insured Retention should exceed $50,000 (fifty-thousand) dollars.

c. Comprehensive Automobile Policy, with limits of no less than $1,000,000 (one million) dollars. Bodily Injury and Property Damage liability including, but not limited to, coverage for owned, any auto non-owned, and hired private passenger and commercial vehicles. New Cumberland Borough and their assigns, officers, employees, representatives, and agents should be named as an "Additional Insured" on the policy. The Certificate of Insurance should show this applies to the Automobile Liability coverage on the certificate, and Additional Insured Endorsement shall be attached. To the extent permitted by Pennsylvania law, each Person that owns, operates, maintains, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility waives all rights of subrogation or similar rights against New Cumberland Borough, assigns, officers, employees, representatives, and agents. Coverage must apply on a primary and noncontributory basis.

d. Umbrella Liability, with limits of no less than $5,000,000 (five million) dollars each occurrence per WCF location and $5,000,000 (five million) dollars General Aggregate per WCF location, including, but not limited to, coverage for General Liability, Automobile, Workers Compensation. Coverage must be written as an Occurrence Policy.

e. Professional Liability (if applicable), with limits no less than $1,000,000 (one million) dollars per Claim. Coverage must be written as an Occurrence Policy.

7. Increasing the Minimum Insurance Requirements. The Minimum Insurance Requirements specified herein may be increased at any time upon the review and determination of the Borough Council.

8. Notice Prior to Cancellation or Expiration of Insurance. The Certificate(s) of Insurance shall provide that thirty (30) days written notice prior to cancellation or expiration be given to the New Cumberland Borough Manager via U.S. Postal Mail. Insurance policies that lapse and/or expire during term of work shall be recertified and received by the New Cumberland Borough Manager no less than thirty (30) days prior to expiration or cancellation of the respective policy.

B. Indemnification.

1. Requirement to Indemnify and Hold Harmless. Each Person that constructs, owns, operates, maintains, or removes a Tower-Based WCF, a Non-Tower WCF, or a Small WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the

Municipality, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including, but not limited to, 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 each of its WCF.

2. Requirement to Defend. Each Person that constructs, owns, operates, maintains, or removes a Tower-Based WCF, a Non-Tower WCF, or a Small WCF shall defend any actions or proceedings against the Municipality in which it is claimed that personal injury, including, but not limited to, death, or property damage was caused by the construction, installation, operation, maintenance or removal of each of its 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.

3. Indemnification and Hold Harmless Agreement Requirement. Prior to the initial commencement of any construction, operation, maintenance, or removal, each Person that owns, operates, or removes a Tower-Based, Non-Tower, or Small Wireless Communications Facility shall furnish an "Indemnification and Hold Harmless Agreement" to the New Cumberland Borough Manager.

Article X: Non-conforming Uses, Structures, Lots, and Signs

Section 1001: Purpose and Continuation of Non-Conformities

A. The purpose of this Article is to regulate non-conforming uses, non-conforming buildings and structures, non-conforming lots, and non-conforming signs. The Zoning Districts established by this Ordinance are designed to guide the future use of the Borough's land by encouraging the development of desirable residential, commercial, and other uses with appropriate groupings of compatible and related uses that promote and protect the public health, safety, and general welfare. The regulations of this Article are intended to restrict further investments that would make non-conformities more permanent in their location in inappropriate Districts as well as to afford opportunities for creative use and reuse of those other non-conformities that contribute to a neighborhood.

B. Unless otherwise specified herein, all lawful uses existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this Article.

C. All lawful non-conforming lots of record, due to lot areas and/or dimensions, existing on the effective date of this Ordinance, or created by an amendment to this Ordinance, may be continued although such lots do not conform to the lot requirements for the zoning district in which they are located.

Section 1002: Non-Conforming Uses and Structures

A. Alterations and reconstruction. Repairs, routine maintenance, and/or structural alterations not constituting an extension, expansion, or enlargement may be made to a non-conforming use or structure or to a structure occupied by a non-conforming use, provided such repairs, maintenance, and/or structural alterations do not change the use or the exterior dimensions of the structure, building, or use.

B. Restoration of structure or use.

1. When a Non-Conforming use or structure has been damaged or destroyed to the extent of whereby the cost of restoring the use or structure to its before-damaged condition would equal or exceed 50% or more of the market value of the use or the structure before the damage occurred shall not be restored except in conformity with the regulations of the zoning district in which it is located and all other applicable standards of this Ordinance.

2. A Non-Conforming use or structure which has been damaged or destroyed to the extent of whereby the cost of restoring the use or structure to its before-damaged condition would be less than 50% of the market value of the use or the structure before the damage occurred, may be repaired or reconstructed and used as it was before the time of the damage, provided that:

    a. Such repairs or reconstruction are commenced within one year of the date of such damage.

    b. The reconstructed use or structure does not exceed the height, area, and volume of the use or structure destroyed.

C. Extensions, expansions, and enlargements. All extensions, expansions and enlargements of lawful Non-Conforming uses and structures shall be reviewed by the Zoning Officer to determine compliance with the following standards:

1. Any extension, expansion, or enlargement of a Non-Conforming structure or use shall be permitted as long as the maximum impervious coverage is not exceeded.

2. Any extension, expansion, or enlargement of a Non-Conforming structure or use shall not exceed 25% of the total gross floor area of the Non-Conforming structure or use at the time it became Non-Conforming.

3. Any extension, expansion, or enlargement shall conform to the building height, area/footprint, setback, and impervious coverage regulations of the zoning district in which it is located.

4. All loading and/or parking spaces for any extension, expansion, or enlargement shall comply with the requirements of Article VII of this Ordinance.

5. Any extension, expansion, or enlargement of a Non-Conforming structure or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the Non-Conforming structure or use, where such vacant parcels have been separately recorded or acquired prior to the effective date of this Ordinance.

6. The intensity of a Non-Conforming use and resulting nuisances (e.g., air pollution, noise, glare, vibrations, delivery traffic, hazards, etc.) shall not be increased.

Section 1003: Change of Non-Conforming Use

A. Whenever a Non-Conforming use has been changed to a conforming use, such use shall not thereafter be changed to a Non-Conforming use.

B. Whenever a Non-Conforming use has been changed to a more-restricted classification (e.g., business office to single-family residential) or to a conforming use, such use shall not hereafter be changed to a use of less-restricted classification (e.g., single-family residential to retail store) unless in compliance with the rules for such change as outlined by this Article.

C. A Non-Conforming use may be changed to another Non-Conforming use only by the granting of a special exception by the Zoning Hearing Board in compliance with Article XII of this Ordinance relating to Zoning Hearing Board. Where a special exception approval is required, the Zoning Hearing Board shall determine whether the applicant has provided sufficient proof to show the following:

1. The proposed use is in general conformity with the most recent version of the Borough Comprehensive Plan, and/or other applicable plans adopted by the Borough, and will be in harmony with the zoning district, neighborhood, and area in which it is proposed to be located.

2. The external impacts associated with the proposed use would be equal to or less intensive than external impacts associated with the existing Non-Conforming use.

3. The character of the proposed use would be similar to the character of the existing Non-Conforming use.

4. The location of the proposed use would not endanger the public health and safety, and the use will not deteriorate the environment or generate nuisance conditions (e.g., traffic congestion, noise, dust, smoke, glare, or vibration).

5. The applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.

6. The proposed use must comply with Borough building, health, housing, rental, safety, property and other applicable local, county, state, and federal code and licensing requirements. All such licensed, certificates, and permits shall have been obtained and presented to the Borough or shall be a condition of approval.

7. The applicant shall provide:

    a. The information required in Article **VII** relating to parking requirements.

    b. A detailed description of how the proposed use and development complies with Subsection **C(1)** through **(6)** in this Section above.

    c. A plot/site plans required in Article XI of this Ordinance relating to applications for zoning permits.

    d. A schematic architectural drawing of the principal building(s) front facade(s) showing consistency with the provisions of this Ordinance.

Section 1004: Non-Conforming Lots of Record

A. Any existing lot of record held in sole and separate ownership different from the ownership of abutting lots may be used for the establishment of a use and/or erection of a structure which will contain a use permitted by the applicable zoning district in which it is located, even though its dimensions are less than the minimum requirements of this Ordinance, except as set forth herein.

B. Otherwise, the following requirements apply to the development and use of a Non-Conforming lot.

    1. To the maximum extent feasible, contiguous Non-Conforming parcels under common ownership should be combined to create conforming lots.

    2. Provisions for front, side and/or rear setback requirements shall be met for the reasonable use of a Non-Conforming lot of record.

Section 1005: Non-Conforming Signs

A. Continuation of Non-Conforming Signs. Subject to the limitations and termination provisions hereinafter set forth, any lawfully existing Non-Conforming sign may be continued so long as it otherwise remains lawful after the effective date of this Ordinance and complies with the provisions of Sections 816 and 817.

Section 1006: Registration of Non-Conformity

A. In the course of administering and enforcing this Ordinance and reviewing applications for zoning certificates, temporary use permits, sign permits, or variances, the Zoning Officer may register Non-Conforming uses, Non-Conforming structures, and Non-Conforming lots as they become known through the application and enforcement process. Registration and proof of Non-Conforming uses, structures, and lots shall be the burden of the property owner.

B. All Legal Non-Conforming uses, buildings, structures, and lots must be registered and recorded with the Zoning Officer prior to any permits or approvals being considered for a change, expansion, or enlargement of any existing non-conformity.

Section 1007: Abandonment and Discontinuance of Non-Conformities

A. A Non-Conforming use shall be presumed abandoned when operations associated with the Non-Conforming use have ceased by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within one year from the date the activity stopped, and the use is not actively advertised for sale or lease. Such Non-Conforming use shall not thereafter be reinstated except in conformance with this Ordinance.

B. A Non-Conforming use, which is actively marketed, but has not been sold or leased, shall not be considered abandoned. The applicant shall be responsible to provide evidence that the non-conformity was not abandoned.

C. Except in a mobile/manufactured home park, the removal of a Non-Conforming mobile/manufactured home from the site it occupied and if such site is not leased, actively marketed, or purchased within one year or less, shall constitute abandonment of the site, and any occupation or subsequent use of said site shall conform with the provisions of this Ordinance.

D. The removal of a mobile/manufactured home from a residential lot already occupied by a residential structure shall constitute abandonment of the Non-Conforming use and such use shall not thereafter be permitted.

Article XI: Administration and Enforcement

Section 1101: Administration

A. The Zoning Officer and/or Alternate Zoning Officer shall administer and enforce this Ordinance including the receiving of applications, the inspection of premises, and the issuing of zoning, building, occupancy, and any other permits. No zoning, building, or occupancy permit shall be issued except upon compliance with the provisions of this Ordinance. The Zoning Officer and Alternate Zoning Officer shall be appointed by Borough Council.

B. Duties. The duties of the Zoning Officer shall be:

1. Receive, examine, and process all applications and permits as provided by the terms of this Ordinance. The Zoning Officer shall also issue zoning permits for conditional uses, or for variances after the same have been approved by the appropriate council, board, or commission.

2. Record and file all applications for zoning permits or Occupancy Permits, and accompanying plans and documents, and keep them for public record.

3. Inspect properties to determine compliance with all provisions of this Ordinance as well as conditions attached to the approval of variances, conditional uses, special exceptions, and curative amendments.

4. Upon the request of the Borough Council or the Zoning Hearing Board, present to such bodies the facts, records, and any similar information on specific requests, to assist such bodies in reaching their decisions.

5. Be responsible for keeping this Ordinance and the Official Zoning Map up to date, including any amendments thereto.

6. Complete required information which may be requested by any state or federal agency.

7. Revoke a permit or approval issued under the provisions of this Ordinance in case of a false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this Ordinance, or otherwise permitted by law.

8. Be authorized to institute civil enforcement proceedings as a means of enforcement to ensure compliance with this Ordinance.

Section 1102: General Requirements for Zoning Permit Applications

A. Applications for zoning permits shall be made in writing to the Zoning Officer; only complete applications submitted on the required forms will be accepted.

B. There shall be submitted with all applications for zoning and building permits a layout or plot plan including actual dimensions of the lot, the exact size and location of the building/s on the lot, existing or proposed accessory structures, all impervious surfaces, and other

such information as may be deemed necessary by the Zoning Officer to determine and provide for the enforcement of this Ordinance.

C. Impervious coverage percentage calculation is required for new accessory or primary structures and/or additions to primary structures.

D. The height, size, and general dimensions of the proposed structure/s.

E. For any proposed change of use, a detailed written description of the proposed use, with sufficient detail for the Zoning Officer to determine compliance with this Ordinance and all other applicable laws and regulations of the Borough.

F. Any required payments or fees must be received prior to review of any application.

G. Application for a permit shall be made by the Owner or Lessee of any building or structure, or the agent of either, provided, however, that if the application is made by a person other than the Owner, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by the Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.

H. Additional requirements as set forth in the Zoning Permit application or required forms, as amended, and published from time to time by the Borough.

Section 1103: Application for Zoning Permits for Non-Residential Uses

A. All non-residential land uses requiring a zoning permit shall, in addition to the requirements of Section 1102, be required to submit the following information:

1. A location plan showing the tract to be developed, zone boundaries, adjoining tracts, natural features, and streets for a distance of two hundred (200) feet from all tract boundaries.

2. A plot plan of the lot showing the location of all existing and proposed buildings, driveways, parking lots showing access drives, circulation patterns, curb cut access, parking stalls access from streets, screening fences and walkways, water and sewer lines, other construction features on the lot and the location of all topographical features.

3. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

4. Evidence that the disposal of materials and wastes will be accomplished in a manner that complies with State and Federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate in Cumberland County which have been contacted to dispose of the materials used and the wastes generated onsite. The zoning permit shall remain valid only so long as such contacts remain in effect and all materials and wastes are properly disposed of on a regular basis.

5. Detailed plans for the handling of traffic, noise, glare, air pollution, water pollution, vibration, fire hazard, smoke, or emission of any potentially harmful or obnoxious matter or radiation.

6. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained.

7. The proposed number of shifts to be worked and the maximum number of employees on each shift.

8. Where use by more than one (1) tenant is anticipated, a list of tenants which are likely to be located in the facility, their floor area, and estimated number of employees.

Section 1104: Zoning and Building Permits Required

In addition to building permits as required by the Building Code of the Borough, a zoning permit, which may be a part of the building permit, shall be required prior to the erection, structural alteration or use and occupancy, of any building, structure, deck, patio, driveway or parking pad, increase in impervious coverage, swimming pool, antenna, tower, monopole, sign, fence, alteration of use, or portion thereof, prior to the initial use or change in use of a building or land, prior to the change or extension of a nonconforming structure or portion thereof, prior to the initial use or change or extension of a nonconforming use and prior to the change in occupancy of any commercial use or other nonresidential use. A zoning permit shall be required for all provisions of this Ordinance, non-exclusive of the permit requirements set forth beforehand in this paragraph, and such permit shall be valid for a period not to exceed twelve months. Following completion of approved work occurring within the twelve-month permit period, no permit shall be considered complete and closed out until the Building Code Official and/or Zoning Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this Ordinance, the valid issued permit and all other applicable ordinances and laws. Following completion and close out of the permit, approval shall be permanently effective until such time as the permitted improvement is removed or altered in a manner requiring a new zoning permit.

A. It shall be the duty of the Zoning Officer, and he/she is hereby given the power and authority to enforce the provisions of this Ordinance.

B. The Zoning Officer shall require that the application for a building permit and a zoning permit, together with the accompanying plot plan, contain all the information necessary to enable him/her to ascertain whether the proposed work complies with the provisions of this Ordinance.

C. Applications for a building permit and zoning permit shall be signed by the owner of the property involved or the legal representative of such owner.

D. No building permit or zoning permit shall be issued until the Zoning Officer has certified that the proposed building, structure, deck, patio, swimming pool, antenna, communications tower, sign, fence, alteration or use complies with all the provisions of this Ordinance and other applicable ordinances.

E. It shall be unlawful for any person to commence work for the erection or alteration of any proposed building, structure, deck, patio, swimming pool, antenna, communications tower,

sign, fence, alteration or use, until a building permit and a zoning permit have been duly issued therefor or to occupy such use until an occupancy permit has been approved.

F. No building permit or zoning permit for the erection or conversion of a commercial building shall be issued until the Zoning Officer and Building Code Official have certified that the proposed building, alteration or use complies with all the provisions of this Ordinance and other applicable ordinances.

G. Hours of operation.

(1) Contractors and builders, including but not limited to construction contractors, plumbers, electricians, mechanical contractors, mason contractors and like trades shall be permitted to operate within the Borough only between the following hours: Monday through Friday, 7:00 a.m. to 7:00 p.m.; Saturday, 8:00 a.m. to 5:00 p.m.; and Sunday 9:00 a.m. to 5:00 p.m.

(2) The provisions of Subsection G (1) shall apply to all zoning districts within the Borough.

(3) Any violation of this Subsection G shall be subject to the penalties as set forth in Section 1109, Penalties for Violations, of this Ordinance.

H. Issuance of Permits. The zoning officer will complete an initial review of all residential zoning permit applications within fifteen (15) business days and commercial permits within twenty (20) business days. If the application or plans do not conform with the provisions of all pertinent local laws, they shall reject such application in writing, stating the reasons, therefore. They shall inform the applicant of their right to appeal to the Zoning Hearing Board in the event such application is rejected. If the application conforms to applicable provisions of this Ordinance, a permit shall be issued within 60 days from the receipt of the application.

I. Resubmission of Application. An applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall withhold a permit until all deficiencies and conditions have been met.

J. Expiration of Permit. The permit shall expire one (1) year from the date of issuance.

K. Compliance with Permit and Plot Plan. All work shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.

L. Display of Zoning Permit. All approved zoning permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling, or the conduct of any other site improvements. Such permit display shall be continuous until the site receives its Occupancy Permit and/or approved final inspection.

M. Inspections of the property in question by the Zoning Officer or other duly appointed official may be required at various intervals during the construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements process. By submitting an application for a zoning permit, the landowner or applicant authorizes the Borough to perform such inspections as required.

N. No zoning permit shall be required for the repairs or maintenance of any structure or land provided that such repairs do not change the use or the exterior dimensions of the structure, or otherwise violate the provisions of this Ordinance.

O. The Zoning Officer may call upon other Borough Staff and/or Borough appointed consultants in the review of submitted materials for applications.

P. The only determination by the Zoning Officer that shall be official shall be a written determination after the Zoning Officer receives a duly submitted written official zoning permit application.

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

R. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of their application. If such evidence is not presented, the zoning permit will be denied.

S. Such zoning permits shall be granted or refused in writing within 60 days from the date of the application.

T. No zoning permit shall be issued except in conformity with:
    1. All applicable regulations of this Ordinance and all other Ordinances of the Borough.

    2. Any conditions imposed upon the applicant by the Zoning Hearing Board or the Borough Council.

    3. Any recorded subdivision or land development plan.

    4. All State and Federal regulations.

U. When a zoning permit is required, building permit plans will not be submitted to the UCC Building Code inspector for review until an approved zoning permit is issued.

Section 1105: Occupancy Permit

A. It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof, which a zoning permit is required herein until an Occupancy Permit for such use, structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer and/or Building Code Official when building permits are required. The application for issuance of an Occupancy Permit shall be made at the same time as an application for a zoning permit is filed with the Zoning Officer as required herein.

B. The Borough staff may permit the Building Permit and Zoning Permit application to serve as the application for the Occupancy Permit.

C. The Occupancy Permit shall only be issued by the Zoning Officer and/or Building Code Official once he/she determines that the activity complies with this Ordinance, to the best knowledge of the Zoning Officer.

D. The property owner and/or lessee shall keep a copy of the Occupancy Permit available for inspection.

E. Upon request of the applicant, the Zoning Officer may issue a temporary Occupancy Permit. Such temporary Occupancy Permit may allow an activity to occur in all or part of a structure or on all or part of the land before the entire work covered by the zoning permit has been completed, subject to compliance and authorization by the Building Code Official when any work or renovation is completed under a building permit.

1. However, such temporary occupancy shall only be issued if the applicant proves to the Zoning Officer that the activity or occupancy can occur safely without endangering public health or safety.

2. The temporary Occupancy Permit shall establish in writing a maximum time period under which it is valid. A six (6) month maximum time period shall apply if not otherwise specified.

3. Failure to receive a permanent Occupancy Permit within such time period shall be a violation of this Ordinance.

4. The temporary Occupancy Permit may be conditioned upon compliance with certain specific requirements within set time periods.

F. The Zoning Officer shall inspect any structure, building, or land within fifteen (15) days upon notification that the proposed work that was listed under a zoning permit has been completed and if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, shall issue an Occupancy Permit for the intended use listed in the original application. Where a building permit is required under the Building Code, an Occupancy Permit shall not be issued until a final inspection by the UCC Building Inspector is complete and found to be satisfactory.

G. In commercial and industrial zones in which operation standards are imposed, no Occupancy Permit shall become permanent until 30 days after the facilities are fully operational when, upon re-inspection by the Zoning Officer, it is determined that the facilities are in compliance with all operation standards.

H. Occupancy permits shall state that the building or the proposed use of a building or land complies with all provisions of this Ordinance and all other applicable Ordinances, that the Borough is deemed to authorize such permit and is required for both initial and continued occupancy and use of the building and land so long as such building and use is in full conformity with the provisions of this Ordinance.

Section 1106: Fees

A. Determination. The Borough Council, by resolution, shall establish a schedule of fees, charges and expenses, as well as a collection or procedure for zoning permits, certificates of occupancy, appeals, variances, conditional uses, amendments, performance bonds, and other matters pertaining to this Ordinance. The schedule of fees may be amended

only by the Borough Council by resolution or ordinance. Such fees shall be payable to the Borough and until all application fees, charges, and expenses have been paid in full, the application shall be considered incomplete, and no action shall be taken on any application or appeal. Such alterations to the schedule of fees shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Borough Council.

B. Where a zoning permit is required by this Ordinance, but the work is commenced or the use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Borough Council for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Borough resulting from the need to inspect the property, respond to complaints, issue any enforcement notices, and/or process the application as is soon as it is received. The payment of such increased permit fees shall not relieve any person from complying with all requirements of this Ordinance or any other applicable Borough ordinances or from any penalties or enforcement actions authorized by this Ordinance.

Section 1107: Enforcement Notice

A. If it appears to the Borough that a violation of any zoning provision enacted under this Ordinance or prior enabling laws has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

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

C. An enforcement notice shall state, at a minimum, the following:

1. The name of the owner of record and any other person against whom the Borough intends to take action.

2. The location of the property in violation.

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

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

5. That the recipient of the notice has the right to appeal to the ZHB within a prescribed period of time in accordance with procedures set forth in the Ordinance.

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

Section 1108: Causes of Action

A. 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 any ordinance enacted under the MPC or prior enabling laws, the Borough Council or, with the

approval of the Borough Council, an officer of the Borough, , in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun.

Section 1109: Enforcement Remedies and Penalties for Violations

A. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of any Zoning Ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a Borough, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) 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 Zoning Ordinances shall be paid over to the Borough whose Ordinance has been violated.

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

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

Section 1110: Amendments

A. Users should be aware that the following Section is a summary of requirements of the MPC – Act of 1968, P.L. 805, No. 247, as reenacted and amended, and should refer to the MPC for the complete requirements under Pennsylvania Law.

B. The regulations and provisions of this Ordinance and the Official Zoning Map may be amended from time to time, upon recommendation of the Planning Commission or the Borough Council, or by application of an effected party.

C. Enactment of Amendments. Zoning amendments procedures shall adhere to the requirements of §609 of the MPC, 53 P.S. §10609, as amended.

D. Public Hearing. The Borough Council shall hold a public hearing on a proposed amendment pursuant to public notice, and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within the Borough or an owner of the mineral rights in a tract or parcel of land within the Borough who has made a timely request in accordance with §109 of the MPC before voting on enactment of an amendment. In

addition, if the proposed amendment involves an Official Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

1. In addition to the requirement that the notice be posted, where the proposed amendment involves an Official Zoning Map change, notice of the public hearing shall be mailed by the Borough at least 30 days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Borough. The notice shall include the location, date, and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this Section. This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

E. Planning Commission Review. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit the amendment to the Planning Commission at least 30 days prior to the hearing on the proposed amendment for recommendations.

F. County Planning Review. The recommendation of the County planning agency shall be made to the Borough Council within 45 days and the proposed action shall not be taken until such recommendation is made. If, however, the County fails to act within 45 days, the Borough Council shall proceed without its recommendation.

G. Landowner Curative Amendments. A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided in accordance with §916.1 of the MPC, 53 P.S. §10609, as amended. All procedures regarding landowner curative amendments shall be conducted in accordance with §609.1 of the MPC, 53 P.S. §10609, as amended.

H. Municipal Curative Amendments. If the Borough Council determines that this Ordinance or a portion thereof is substantially invalid, it may implement the procedure for municipal curative amendments provided for in §609.2 of the MPC, 53 P.S. §10609, as amended.

Article XII: Zoning Hearing Board

Section 1201: Operation of the Board

A. There is hereby created for the Borough a Zoning Hearing Board (ZHB) in accordance with the provisions of Article IX of the MPC, Act 247, as amended.

B. The membership of the ZHB shall consist of three (3) residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The ZHB 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 ZHB shall hold no other office in the Borough. Members of the ZHB shall hold no other elected or appointed office in the Borough, nor shall any member be an employee of the Borough.

C. The Borough Council may appoint by resolution at least one (1) but no more than three (3) residents of the Borough to serve as alternate members of the ZHB. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of §906 of the MPC, Act 247, as amended, an alternate shall be entitled to participate in all proceedings and discussions of the ZHB to the same and full extent as provided by law for ZHB members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in the MPC and as otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the ZHB but shall not be entitled to vote as a member of the ZHB nor be compensated pursuant to §907 of the MPC unless designated as a voting alternate member pursuant to §906 of the MPC.

D. Any ZHB member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

E. The ZHB 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 ZHB, but the ZHB 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 ZHB as provided in this Ordinance.

F. The ZHB may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth of Pennsylvania. The ZHB shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the Borough Council as requested by the Borough Council.

G. Within the limits of funds appropriated by the Borough Council, the ZHB may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the ZHB may receive compensation for the performance of their

duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

Section 1202: Expenditures; Fees

A. Expenditures. Within the limits of funds appropriated by the Council, the ZHB may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

B. Fees. An applicant before the ZHB shall deposit with the Zoning Officer the appropriate filing fee. Fees shall be established by resolution of Borough Council.

Section 1203: Hearing Procedures

A. The ZHB shall conduct hearings and make decisions in accordance with the following requirements.

B. Filing Appeals and Requests to the ZHB. Requests for hearings before the ZHB shall be made as follows:

1. An appeal to the ZHB may be filed by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Such appeal shall be taken within the time as stipulated by the MPC and the rules of the ZHB, by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The appropriate fee, established by resolution of the Borough, shall be paid in advance for each appeal or application. Requests for a variance may be filed with the ZHB by any landowner or any tenant with the permission of such landowner.

2. Notice. Public notice shall be given pursuant to this Ordinance and written notice shall be given to the applicant, Zoning Officer, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

3. Timing. A hearing shall be held within 60 days from the official application date requesting a hearing unless the applicant has agreed to an extension of time. The hearings shall be conducted by the ZHB or the ZHB may appoint any member or an independent attorney as a hearing officer. The decision, or, when no decision is called for, the findings shall be made by the ZHB; however, the appellant or the applicant, as the case may be, in addition to the Borough, may prior to the decision of the hearing, waive decision or findings by the ZHB and accept the decision or findings of the hearing officer as final.

4. Parties to the Hearing. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the ZHB, and any other person including civic, or community organizations permitted to appear by the ZHB. The ZHB shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the ZHB for that purpose.

5. Powers of the Chairperson. The Chairperson, Acting Chairperson, or Hearing Officer, presiding, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

6. Rights of the Parties. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond, to present evidence, and to argue and cross-examine adverse witnesses on all relevant issues.

7. Exclusion of Evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the ZHB.

8. Record of the Proceedings. A stenographic record of the proceedings shall be made by a court reporter. The appearance fee for the court reporter shall be shared equally by the applicant and the ZHB. Any party requesting the original transcript, or a copy of the transcript shall bear the cost of the same. Copies of graphic or written material received in evidence shall be made available to any party at cost.

9. Communications. Once a formal application has been duly filed, the ZHB shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate. Further, the ZHB shall not take notice of any communication unless the parties are afforded an opportunity to contest the material and shall not inspect the site or its surroundings with any party or his representative unless all parties are given an opportunity to be present.

Section 1204: Jurisdiction

A. The ZHB shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any Land Use Ordinance, except those brought before the Borough Council pursuant to §609.1 and §916.1(a)(2) of the MPC, Act 247, as amended.

2. Challenges to the validity of a Land Use Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said Ordinance.

3. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any Non-Conforming use, structure, or lot.

4. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any Floodplain or Flood Hazard Ordinance or such provisions within a Land Use Ordinance.

5. Applications for variances from the terms of this Ordinance and Floodplain or Flood Hazard Ordinance, or such provisions within a Land Use Ordinance, pursuant to §910.2 of the MPC, Act 247, as amended.

6. Applications for special exceptions under this Ordinance or Floodplain or Flood Hazard Ordinance, or such provisions within a Land Use Ordinance, pursuant to §912.1 of the MPC, Act 247, as amended.

7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Ordinance.

8. Appeals from the Zoning Officer's determination under §916.2 of the MPC, Act 247, as amended.

9. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any Land Use Ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same related to development not involving applications under Article V or VII or the MPC, Act 247, as amended.

B. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of §702 of the MPC, Act 247, as amended.

2. All applications pursuant to §508 of the MPC, Act 247, as amended, for approval of subdivisions or land developments under Article V of the MPC, Act 247, as amended.

3. Applications for conditional use under the express provisions of this Ordinance.

4. Applications for curative amendment to this Ordinance or pursuant to §609.1 and §916.1(a) of the MPC, Act 247, as amended.

5. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in §609 of the MPC, Act 247, as amended.

6. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any Land Use Ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Article V and VII of the MPC, Act 247, as amended. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the ZHB pursuant to this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this Section shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

Section 1205: Variances

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

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographic or other physical conditions peculiar property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or District in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the applicant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or District in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least adjustment possible of the regulation in issue.

B. 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 MPC, Act 247, as amended.

Section 1206: Information Required on Applications to ZHB

A. All applications to the ZHB shall be in writing on forms prescribed by the ZHB and provided by the Borough. Every application shall include the following:

1. The name and address of the applicant or the appellant;

2. The name and address of the owner of the lot to be affected by such proposed change or appeal;

3. A brief description and location of the lot to be affected by such proposed change or appeal;

4. A statement of the Section under which the application is made, and reasons why it should be granted, or a statement of the Section governing the situation in which the alleged erroneous ruling is being appealed, and the reasons for this appeal; and

5. A reasonably accurate description of the present improvements and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, materials, and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.

Section 1207: Application Procedures for Uses by Special Exception

A. Approval of Uses by Special Exception. The Borough Zoning Hearing Board shall hear and decide requests for uses by special exception. The Borough Zoning Hearing Board shall not evaluate an application for a use by special exception unless and until the following conditions have been met:

1. A written application for approval of a use by special exception is submitted to the Borough Zoning Officer. The application shall indicate the Section of this Ordinance under which approval of the use by special exception is sought and shall state the grounds upon which it is requested. The application shall include the following:

    a. A development plan, as defined herein.

    b. A written statement showing compliance with the applicable express standards and criteria of this Section for the proposed use.

    c. A map showing and identifying all lots within 200 feet of the property for which use by special exception approval is requested and a list of the names and addresses of the owners of these lots from the most recent records of the Cumberland County Property Assessment office.

    d. A traffic impact analysis, if required by the Borough SALDO.

    e. The application fee as required by the Borough's adopted fee schedule.

2. A public hearing pursuant to public notice is held by the Borough Zoning Hearing Board within 60 days of the date of submission of a complete and properly filed application. Said hearing shall be conducted in accordance with the procedures specified by Section 1203 of this Article.

3. In considering an application for approval of a use by special exception, the Borough Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this Ordinance. A violation of such conditions and safeguards, when made part of the terms and conditions under which approval of a use by special exception is granted, shall be deemed a violation of this Ordinance.

B. Expiration of Approval of Use by Special Exception. Approval of a use by special exception shall expire automatically without written notice to the applicant if no application for a grading permit, building permit, or zoning certificate to undertake the construction to authorize the occupancy described in the application for approval of the use by special exception is submitted within 12 months of said approval, unless the Zoning Hearing

Board, in their sole discretion, extends approval of the use by special exception upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be between one (1) month to twelve (12) months extension.

C. Expiration of Approval of Use by Special Exception Granted Prior to the Effective Date of this Ordinance. Approval of use by special exception granted prior to the effective date of this Ordinance shall expire automatically without written notice to the applicant if no application for a grading permit, building permit or zoning certificate to undertake the construction or authorize the occupancy described in the application for approval of the use by special exception is submitted within 12 months of the effective date of this Ordinance or as specified in the approval, unless the Zoning Hearing Board, in their sole discretion, extends approval of the use by special exception upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be between one (1) month to twelve (12) months extension.

Section 1208: Stay of Proceedings

A. Upon filing of any appeal proceeding before the ZHB and during its pendency before the ZHB, 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 ZHB 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 ZHB or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the ZHB by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the ZHB.

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

C. 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.

D. 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, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

Section 1209: Parties Appellant Before the Board

A. Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the MPC); procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any Non-Conforming use, structure, or lot; from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any Floodplain or Flood Hazard Ordinance or such provisions within a land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned development may be filed with the ZHB in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance may be filed with the ZHB by any landowner or any tenant with the permission of such landowner.

Section 1210: Expiration of Appeal Decision

A. Unless otherwise specified by the ZHB, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary zoning/building permit, or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

Section 1211: Appeal from Decision of ZHB

A. Shall be in accordance with Article X of the MPC, Act 247, as amended.

Section 1212: Zoning Appeals

A. No person shall be allowed to file any proceeding with the ZHB later than 30 days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

Section 1213: Zoning Appeals to Court

A. Appeals to Court.

1. The Courts may act upon appeals from the decisions of the ZHB and findings and conclusions of the ZHB in proceedings to challenge the validity of the Ordinance or other development regulations of the Borough.

2. The court having jurisdiction shall be the Cumberland County Court of Common Pleas.

3. Zoning appeals may be taken to court by any party before the ZHB or any officer or agency of the Borough.

4. All zoning appeals shall be filed not later than 30 days after issuance of notice of the decision or report of the ZHB.

5. A developer having received approval from the Borough for his development and faced with an appeal brought by others before the ZHB may petition the Court to order those bringing the appeal to post a bond in an amount established by the Court as a condition of the appeal's continuation before the ZHB. The Court shall hear the petition, determine whether the appeal is frivolous or is designed to delay, and if so, may require the posting of the bond.

B. If any application for a variance, or appeal from the Zoning Officer is denied by the ZHB, another application for the same request shall not be filed within a period of one (1) year from the date of denial except upon order of the Court or if the application is substantially modified.

C. Optional validity challenges as provided for in Article I §108 of the MPC, as amended, for procedural or substantive defects or decisions shall be filed consistent with procedures outlined in said §108 of the MPC.

Section 1214: Mediation Option

A. Parties to proceedings authorized in this Article may utilize mediation as an aid in completing such proceedings. In proceedings before the ZHB, in no case shall the ZHB initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this Article once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as changing any principles of substantive law.