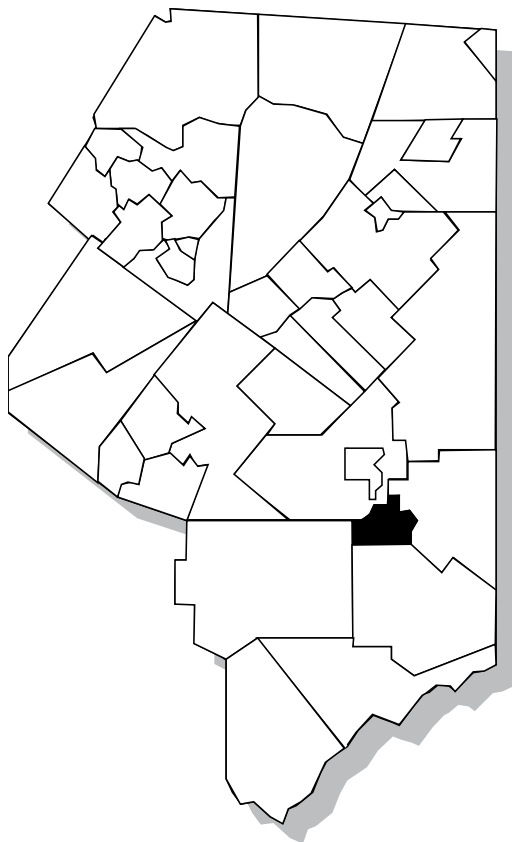


# **BOROUGH OF MOSCOW**

## **LACKAWANNA COUNTY, PA**

# **ZONING ORDINANCE**

ENACTED JUNE 2, 2008  
AMENDED SEPTEMBER 4, 2012  
AMENDED APRIL 7, 2014  
AMENDED FEBRUARY 16, 2016  
AMENDED JUNE 6, 2016  
AMENDED MAY 15, 2017



Borough of Moscow  
Municipal Offices  
123 VanBrunt Street  
Moscow, PA 18444  
(570) 842-1699



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## **ARTICLE I**

### **GENERAL PROVISIONS**

#### **101 TITLE**

An Ordinance completely amending the Borough of Moscow Zoning Ordinance adopted December 3, 1990 and as amended thereafter.

This Ordinance divides the Borough of Moscow into districts and regulates the use of land and the location, use and density of buildings within these districts; establishes a Zoning Hearing Board setting forth the duties and functions of said Board; regulates non-conforming uses and provides for the administration and enforcement of this Ordinance.

#### **102 SHORT TITLE**

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

#### **103 APPLICATION OF ORDINANCE**

No building, structure or land, located wholly or partially within the Borough of Moscow shall be used or occupied and no building or part thereof shall be erected, moved, enlarged, or structurally altered unless in conformance with the regulations of this Ordinance.

#### **104 BOROUGH EXEMPTION**

Buildings, structures, and land owned by the Borough of Moscow shall be exempt from all provisions of this Ordinance.

#### **105 PURPOSE**

This Zoning Ordinance has been prepared in accordance with consideration for the character of the municipality, its various parts, and the suitability of the various parts for particular uses and structures, and is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: The public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision of adequate light and air, energy conservation, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements as well as,
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

#### **106 INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, and the general welfare of the Borough and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Borough that are not in conflict with any provisions of this Ordinance, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use

of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

**107 SEVERABILITY**

If any article, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

**108 REPEALER**

The Borough of Moscow Zoning Ordinance adopted December 3, 1990, and all amendments thereto, are hereby repealed. All other existing Ordinances or parts of Ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

**109 EFFECT OF ORDINANCE**

Hereinafter, no building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and controls specified in this Ordinance for the District in which such building or land is located.

**110 EFFECTIVE DATE**

This Ordinance shall become effective on the date of its adoption by the Borough Council.

**111 ADOPTION**

This Ordinance was duly adopted at a public meeting of the Moscow Borough Council held on JUNE 2, 2008, after a public hearing, properly advertised, held on JUNE 2, 2008, by the Moscow Borough Council.

Adopted this 2<sup>nd</sup> day of June, 2008

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST:

\_\_\_\_\_  
BOROUGH SECRETARY



## **ARTICLE II**

### **COMMUNITY DEVELOPMENT OBJECTIVES**

#### **201 COMMUNITY DEVELOPMENT OBJECTIVES**

This Ordinance is adopted in conformance with the following Community Development Objectives:

1. To achieve the best use of the land within the Borough insuring that varying land uses will complement one another and thus improve the economic and aesthetic character of the community.
2. To establish realistic population densities in order to insure adequate circulation, health standards, privacy and open space and in order to provide utilities, protection, services and facilities in the most convenient and efficient manner.
3. To improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.
4. To guide the location of future development and establish developmental standards in such a way that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air and noise pollution.
5. To encourage and promote the provision of a wide-range and variety of housing types to meet the needs of all Borough residents, newly-formed households, growing families and senior citizens.
6. To strive for coordination of policies, plans, and programs in the Borough and region through cooperation among governing officials and special interest groups in both the public and private sectors.
7. To expand and activate a continuing planning program that will serve to continually update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and conditions.

## **ARTICLE III**

### **DEFINITIONS**

#### **301 INTERPRETATION**

For the purpose of this Ordinance certain words shall have the meaning assigned to them as follows:

Words used in the present tense include the future.

Words used in the singular include the plural.

The word "shall" or "must" is always mandatory.

The word "building" includes "structure" and any part thereof.

The phrase "used for" includes "arranged for," "designed for," "intended for," or "occupied for."

The word "person" includes an individual, corporation, partnership, incorporated association or any other similar entity.

The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.

#### **302 DEFINITIONS**

The following words and phrases shall have the meaning given in this section, as follows:

**ABANDONMENT:** The relinquishment of property, or a cessation of the use of the property, by the owner or lessee for one year without any intention of transferring rights to the property to another owner or of resuming the use of the property.

**ABUSED PERSON SHELTER:** A non-profit, social-service use in which rooms are provided to serve as a temporary, safe and supportive, living environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

**ABUT:** To physically touch or border upon or to share a common property line, also known as adjoining lot or contiguous land.

**ACCESSORY BUILDING OR STRUCTURE:** A subordinate building on a lot, the use of which is incidental to that of the main or principal building and is not approved, established, or constructed before the principal use or structure is approved, established, or constructed.

**ACCESS DRIVE:** A paved surface, other than a street as defined herein, that provides access from a street to a lot.

**ACCESSORY USE:** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building and is not approved, established, or constructed before the principal use or structure is approved, established, or constructed.

**ADULT DAY CARE CENTER:** A use providing supervised care and assistance primarily to persons who are over age 16 and not in good physical health or suffering from a form of dementia or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of sixty (60) hours per week per person.

**ADULT ARCADE:** Any place where the public is permitted or invited where coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities: or "specified anatomical areas." An adult arcade shall be considered an Adult Business for the purpose of this Ordinance.

**ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment that, as significant stock and trade (see definition), offers for sale or rental for any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, videocassettes, or video reproductions, slides or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas."
2. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

The term Adult Bookstore shall include, but not be limited to, an Adult Video Store, and all such uses shall be considered an Adult Business for the purpose of this Ordinance.

**ADULT BUSINESS:** Any of the following:

1. A use of a building, or land for a business that has obscene materials as significant stock and trade (see definition).
2. A use of a building or land for a business that involves the sale, lease, trade, gift, or display of drug paraphernalia as significant stock and trade (see definition).
3. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides, or other photographic reproductions where a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas," or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.

4. Any of the following as defined in this §302, or any similar type of use:
  - A. adult arcade
  - B. adult bookstore or adult video store
  - C. adult live entertainment use or facility
  - D. adult motel
  - E. adult motion picture theater
  - F. adult theater
  - G. escort agency
  - H. massage parlor
  - I. nude model studio
  - J. sexual encounter center

**ADULT LIVE ENTERTAINMENT USE OR FACILITY:** A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving any of the following:

1. Persons (that may include, but are not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors, or others) appearing in a state of nudity.
2. Live performances that are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities."
3. Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

An Adult Live Entertainment Use or Facility shall be considered an Adult Business for the purpose of this Ordinance.

**ADULT MOTEL:** A hotel, motel, or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction of "specified sexual activities" or "specified anatomical area;" and/or
2. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An Adult Motel shall be considered an Adult Business for the purpose of this Ordinance.

**ADULT MOTION PICTURE THEATER:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction of "specified sexual activities" or "specified anatomical area" are regularly shown. An Adult Motion Picture Theater shall be considered an Adult Business for the purpose of this Ordinance.

**ADULT THEATER:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities." An Adult Theater shall be considered an Adult Business for the purpose of this Ordinance.

**AGRICULTURAL BUILDING:** An accessory structure on agricultural land, associated with an agricultural operation, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner or lessee or their immediate families, their

employees, and persons engaged in the pick up or delivery of agricultural produce or products grown or raised on the premises. An agricultural building shall not include dwellings.

**AGRICULTURAL OPERATION AND PRODUCTS PROCESSING:** An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

**AIR POLLUTION:** The presence in the outdoor atmosphere of any form of contaminant in such place, manner, or concentration inimical of which may be inimical to the public health, safety, or welfare, or that is, or may be, injurious to human, plant, or animal life, or to property, or that unreasonably interferes with the comfortable enjoyment of life or property.

**ALLEY:** A public thoroughfare that affords only a secondary means of access to abutting property and not intended for general traffic circulation.

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

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

**AMENDMENT:** A change in use in any district that includes revisions to the zoning text and/or the official zoning map; and the authority for any amendment lies solely with the Borough's Governing Body.

**ANIMAL HOSPITAL OR VETERINARY CLINIC:** A veterinary establishment for the care and treatment of small animals, including household pets. Boarding of animals shall only be permitted during their period of recovery.

**APPLICANT:** A person submitting an application for development.

**APPURTENANCES:** The visual, functional, or ornamental objects accessory to and part of buildings.

**ARCHITECTURAL APPEARANCE, EXTERIOR:** The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

**ASSISTED-CARE APARTMENT UNIT:** A secondary dwelling unit established for the care of an infirmed, aged, or ill relative, and in conjunction with and clearly subordinate to the primary, single-family detached dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

**ASSISTED-LIVING FACILITY AND PERSONAL CARE HOME:** A residential facility operated by a legal entity holding a certificate of compliance (license) issued by the Commonwealth permitting the operation of the personal-care home according to appropriate program licensure or approval regulations, in which food, shelter, and personal assistance or supervision are provided for a period of at least fourteen (14) days for four (4) or more aged adults who do not require hospitalization or

skilled or intermediate nursing care, or the services in or of a Commonwealth-licensed long-term-care facility, but who do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration. Assisted-living facilities and personal-care homes shall not be considered abused person shelters, or drug or other treatment centers as defined by this Ordinance.

**AUTO REPAIR AND SERVICE STATION, AUTO BODY SHOP AND CAR WASH:** Buildings and land areas where major activities are the mechanical repair of motor vehicles and their parts, the straightening and repair and replacement and painting of structural parts and/or the washing and cleaning of motor vehicles. The retail sale of gasoline, oil, grease, and other supplies and accessories may be conducted as accessory to the major activities.

**BANK:** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

**BANQUET FACILITY:** An establishment that is rented by individuals or groups to accommodate private functions such as banquets, weddings, anniversaries and other similar celebrations. Such use may or may not include kitchen facilities for the preparation or catering of food; the sale of alcoholic beverages for on-premises consumption only during scheduled events not open to the public; and, outdoor gardens or reception facilities.

**BASEMENT:** An enclosed floor area partly or wholly underground, other than a building that is completely underground. A basement shall be considered a "story" if:

1. the majority of the basement has a clearance from floor to ceiling of six feet (6') or greater, and the roof of the basement is an average of four (4') or more feet above the finished grade of the front side of the building facing onto a street.
2. the basement forms the primary portion of a dwelling unit.

**BAY:** A compartment or space used for storage. In terms of garage or carport bays, the space used to store one (1) vehicle.

**BED AND BREAKFAST INN:** An owner-occupied, single-family dwelling, in which one (1) or more rooms are rented for lodging and serving of breakfast (but no other meals), designed primarily for casual and transient roomers, and where no restaurant is maintained and no cooking facilities are provided in any room.

**BOARD:** The Zoning Hearing Board of the Borough of Moscow.

**BOTTLE CLUB OR B.Y.O.B. CLUB:** An establishment, whether open to the public or where entrance is limited by any fee, cover charge, membership, or other similar requirement, to which patrons bring with them alcoholic liquor, alcohol, malt, or brewed beverages to be consumed or stored for consumption on the business premises, and where such business or premises is not licensed to sell alcoholic liquor or beverages.

**BOUTIQUE WINERY:** An agricultural processing facility and/or business that produces 100 to 5,000 cases of wine per year that includes space allocated to bottling/crushing facilities, lab and office space, tasting room, and storage. A boutique winery shall provide at least two of the following four activities on site: crushing, fermentation, bulk aging/storing, and bottling.

**BUFFER STRIP:** A strip of land that shall be a part of the minimum setback distance or a required yard but not within an existing or required future street right-of-way and that is maintained free of

any principal or accessory building or structure, driveway, parking, outdoor storage or any other use than open space.

**BUILDING:** A structure formed of any combination of materials that is erected on the ground and permanently affixed thereto, and designed, intended, or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind. Any structure such as but not limited to those having a roof supported by columns, piers, or walls, including tents, lunch wagons, mobile homes, trailers, dining cars, or other structures on wheels, or having other supports; and, any unroofed platform, terrace or porch having vertical face higher than three (3') feet above the level of the ground over or upon which said structure is located.

**BUILDING AREA:** The total area of the ground floor plus any projections of the principal building and all accessory buildings, exclusive of uncovered porches, decks, terraces and steps.

**BUILDING COVERAGE:** The ratio obtained by dividing the ground floor area plus any projected area of all principal and accessory buildings on a lot (including covered porches, carports and breezeways, but excluding uncovered, open patios, porches and paved terraces) by the total area of the lot upon which the buildings are located.

**BUILDING, DETACHED:** A building surrounded by open spaces on the same lot.

**BUILDING HEIGHT:** The vertical distance of a building or structure measured from the average finished ground elevation along the entire perimeter of the building or structure, to the highest point of the roof for flat roofs, to the deck lines of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambol roofs.

**BUILDING LINE:** The line of a structure or building existing at the effective date of this ordinance or the legally established line that determines the location of a future building or structure or portion thereof with respect to any lot line or street right-of-way line.

**BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is located.

**BUILDING SETBACK LINE:** The line within a lot or parcel defining the required minimum distances between any structure and the adjacent street right-of-way or boundary line of any lot. The setback shall be measured from the edge of any street right-of-way bordering or within the lot or parcel. Setback distances shall not be measured nor minimum required setback distance met within any existing width or proposed or required future width of any public or private street right-of-way.

**BULK:** The term used to describe the size of buildings or other structures and their relationship to one another to open areas such as yards, and to lot lines. The term includes:

1. The size, including height and floor area, of the building or other structure.
2. The relation of the number of dwelling units in a residential building to the area of the lot.
3. The relation of buildings and other structures to areas in open yards.

**BULK FUEL STORAGE:** Facilities for the storage of hazardous liquids or gases that require approval of applicable state or Federal agencies.

**CAFÉ OR COFFEE HOUSE:** An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

**CAMPGROUND:** A planned development, under single ownership, for rental or lease only, of sites for use as tent and/or recreational vehicle camping, on a temporary basis only, including central water supply and central sanitary sewage disposal with or without recreational and/or service facilities.

**CARPORT:** An open space for the storage of one (1) or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one or more walls may be the walls of the main building to which the carport is an accessory building or extension.

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

**CEMETERY:** Land used for the burial of the dead, and dedicated for cemetery purposes, excluding columbariums, crematories, and mortuaries.

**CHILD DAY CARE:** A use involving the supervised care of children under age sixteen (16) outside of the children's own home primarily for periods of less than eighteen (18) hours during the average day. This use may also include educational programs that are supplementary to state-required education, including a nursery school or preschool. The following three types of child day care are permitted without regulations by this Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services, and 3) care of one (1) to three (3) children within any dwelling unit, in addition to children who are relatives of the care giver.

**CLEAR SIGHT TRIANGLE:** An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

**COLLEGE OR UNIVERSITY:** An institution for post-secondary education, public or private, offering courses in general or religious education and not operated for profit. This use does not include trade or technical schools.

**COLUMBARIUM:** A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person or animal.

**COMMERCIAL OR PROFESSIONAL OFFICES OR SERVICES:** Commercial or professional establishments that provide for real estate sales, rentals or leasing; business, professional, and technical services; personal services; and pet and animal sales or services, except veterinary clinics.

**COMMERCIAL VEHICLE:** A motor vehicle that has a gross weight greater than six thousand (6000) pounds and is primarily used for business purposes.

**COMMISSION:** The Planning Commission of the Borough of Moscow.

**COMMUNICATIONS ANTENNA:** 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 licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence-mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.



**COMMUNICATIONS EQUIPMENT BUILDING:** An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than two hundred fifty (250) square feet.

**COMMUNICATIONS TOWER:** A structure other than a building, such as a monopole, self-supported or guyed tower, designed and used to support communications antennas.

**COMMUNICATIONS TOWER, HEIGHT OF A:** The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

**COMPATIBILITY, COMPATIBLE:** The consistency, or of a consistency, of characteristics of different uses, structures, activities, or design that allow them to be located near or adjacent to each other in harmony. Elements affecting compatibility include, but are not limited to, height, scale, mass and bulk of structures, building placement, orientation, siting, and exterior architectural appearance.

**COMPREHENSIVE PLAN:** A Comprehensive Plan (overall program) consists of maps, charts, textual matter, and indicates the recommendations of the planning commission for the continuing development of the municipality. The comprehensive plan includes but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicated the relationship of the municipality and its proposed development to the adjacent municipalities and areas.

**CONDITIONAL USE:** A use allowed, with permission of the Borough Council, to occupy and use land and/or a building for specific purposes in accordance with this Ordinance.

**CONDOMINIUM:** A type of resident development in which:

1. the dwelling units are individually owned; and,
2. all or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Pennsylvania Unit Property Act of July 3, 1963, P.L. 196 and in accordance with the provisions for open space, roads, or other development features as specified in this Ordinance and the Borough's Subdivision and Land Development regulations.

**CONSTRUCTION:** Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition for public rights-of-way, structures, utilities, or similar property.

**CONTRACTOR'S OFFICE AND YARDS:** Any land or buildings used primarily for the conducting of business and/or storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

**CONVENIENT STORE:** A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It may also include the sale of gasoline but shall not include the repair or service of vehicles.

**CORRECTIONAL FACILITY:** A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, and prison. These facilities house prisoners

who are in the custody of municipal or state law enforcement, and the facilities are typically government owned.

**COUNCIL:** The Council of the Borough of Moscow; the Governing Body.

**CREMATORIUM:** A facility containing properly installed, certified apparatus intended for use in the act of cremation.

**CULTURAL FACILITY:** A library, gallery, museum, or similar use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**CURATIVE AMENDMENT:** A proposed zoning amendment made to the Governing Body by any landowner who desires to challenge on substantive grounds the validity of an Ordinance that prohibits or restricts the use or development of land in which he has an interest.

**DAM:** Any man-made structure that is or may be used to impound water.

**DECK:** An accessory structure, without a roof and constructed of any material, attached to a principal building or freestanding, which has an average elevation of thirty inches (30") or greater above the finished grade that is supported by pillars or posts.

**DEMOLITION:** A dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DENSITY:** A measure of the number of dwelling units that occupy, or may occupy, an area of land.

**DEVELOPER:** Any landowner, agent of such landowner or tenant with permission from a landowner, who makes or causes to be made a subdivision of land or land development.

**DISTRIBUTION CENTER:** A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Postal Service.

**DISTRICT OR ZONING DISTRICT:** A portion or portions of the territory of the municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**DORMITORY:** Residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or state-licensed teaching hospital, or to an accredited public or private elementary or secondary school, and that are owned and operated by such principal use to which the dormitories serve.

**DRUG PARAPHERNALIA:** Any objects, devices, instruments, apparatus, or contrivances whose primary and traditionally exclusive use is involved with the illegal use of any or all controlled substances under Commonwealth law.

**DRUG TREATMENT FACILITY:** A facility operated for any or all of the following purposes (other than a permitted accessory use in a hospital): providing education, counseling therapy, treatment or rehabilitation for drug and/or alcohol addiction of adolescents or adults whether as inpatients or outpatients. The term shall include a Methadone Treatment Facility as licensed by the PA Dept. of Health to use the drug methadone in the treatment, maintenance, or detoxification of persons.

**DWELLING/DWELLING UNIT:** A building or structure or portion thereof designed for occupancy by one family as a single housekeeping unit and containing complete sanitary and kitchen facilities.

In no case shall a motor home, recreational vehicle, trailer coach, automobile chassis, tent, or portable building be considered a dwelling.

**DWELLING TYPES:**

1. RESIDENTIAL CONVERSION UNIT: A structure or building changed from a non-residential use, occupancy, or purpose into, or adapted to, a residential dwelling unit or units.
2. SINGLE-FAMILY DWELLING: A structure or building designed for and occupied exclusively by one family, detached from all other structures and surrounded by yards.
3. TWO-UNIT ATTACHED DWELLING: A building or structure containing two individual side-by-side dwelling units sharing one roof, but each unit having separate front and rear entrances.
4. DUPLEX: A building or structure containing two individual dwelling units that are divided horizontally with each unit having a separate entrance from the outside or through a common vestibule.
5. MULTI-FAMILY DWELLING: A building or structure containing three (3) or more dwellings. Multi-family dwelling structures shall include garden apartments.
6. TOWNHOUSE: A building or structure consisting of not less than three (3) or more than six (6) dwelling units each, with no other dwelling or portion of other dwelling directly above or below, each dwelling unit of which having direct ground level access to the outdoors and connected to the other dwelling units by a single party wall with no opening.
7. GARDEN APARTMENT: An apartment building located on a lot, either singly or together with other similar apartment buildings, having no more than eight (8) units per building and substantial landscaped open-space adjacent to the building(s).

**EASEMENT:** A right-of-way granted, but not dedicated, for limited use of private land for private, public, or quasi-public purposes.

**ENVIRONMENTALLY SENSITIVE AREAS:** Areas that have ecological importance, including but not limited to 100-year floodplains, slopes over twenty-five percent (25%), and wetlands.

**ESCORT:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY:** A person or business association or establishment that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency shall be considered an Adult Business for the purpose of this Ordinance.

**ESSENTIAL SERVICES:** Municipal or utility facilities that do not require enclosure in a building including the construction or maintenance of gas, electrical, steam, telephone, sewage collection systems, or water distribution; including equipment such as poles, towers, tanks, wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, communications antennas and towers, utility company offices, storage of trucks or equipment and bulk storage, and any communication devices and/or facilities not specifically regulated by the PA

Public Utility Commission shall not be considered essential services. An essential service requiring enclosure in a building shall be classified as a Semi-Public Building or Use.

**EXCLUDED AREA:** Those environmentally sensitive portions of the net lot area that are deemed unsuitable for development and thereby deducted from the minimum lot area requirements of this Ordinance by a percentage as established by this Ordinance and the Moscow Borough Subdivision and Land Development Ordinance, as amended. These environmentally sensitive areas shall include but are not limited to slopes of twenty-five percent (25%) or greater, wetlands, and land within the 100-year flood plain.

**FAMILY:** Any number of persons living together as a single housekeeping unit under a common housekeeping management plan.

**FARM STAND:** An accessory structure, temporary or permanent, used for the display and sale of unprocessed agricultural produce or products and home-processed food products, such as jams, jellies, baked goods, and home-made handicrafts. A farm stand also includes any cart, table, equipment or apparatus that is not a structure and intended so as to not be a permanent fixture on a lot used for the display and sale of unprocessed agricultural produce or products and home processed food products such as jams, jellies, baked goods, and home-made handicrafts.

**FELLING:** The act of cutting a standing tree so that it falls to the ground.

**FENCE:** A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and that is constructed of wood, chain-link metal, fiberglass, vinyl, aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a "wall." The term "wall" does not include engineering retaining walls, which are permitted as needed in all districts. The terms "fence" and "wall" do not include hedges, trees, or shrubs.

**FLAG LOT:** A lot that has the buildable or net portion located directly to the rear of another lot that has direct access to a street right-of-way line. Flag lots shall have access to street rights-of-way via a minimum twenty-five (25)-foot wide strip that is considered part of the gross lot area but not as part as the net or buildable area.

**FLEA MARKET:** A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered to be flea markets.

**FLOODPLAIN:** A relatively flat or low land area adjoining a river, stream, or watercourse that is subject to partial or complete inundation once in every one hundred (100) years, and designated by the Federal Emergency Management Agency as land within a 100-year flood boundary (Zone A).

**FLOOR AREA OR GROSS FLOOR AREA:** The total area of all floors as measured to the outside surfaces of exterior walls, or from the centerline of party walls separating two buildings, but excluding crawl spaces, garages, carports, attics without floors, open porches, balconies, and terraces.

**FLOOR AREA RATIO:** The total floor area allowable on a given lot divided by the area of that lot.

**FOOTCANDLE:** A unit of light intensity stated in lumens per square foot and measurable with an illuminance meter, also known as a footcandle or light meter.

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

**FRATERNAL, CIVIC, OR SOCIAL CLUB:** An establishment operated for social, community-oriented or educational purposes, open only to members and not usually open to the general public.

**FRATERNITY OR SORORITY HOUSE:** A type of boarding house used and occupied by a formal, legally incorporated cooperative organization (with each full member having a vote in the operations of the organization) of full-time college or university students. Such use may contain residential, social and eating facilities for members and their occasional guests.

**FUNERAL HOME:** A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this Ordinance, includes a funeral chapel.

**GARAGE, PRIVATE:** An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

**GARAGE OR YARD SALE:** The accessory use of a residential lot for the occasional sale or auction of only used common household goods and furniture and items of a closely similar character that were used by the occupants of the residential lot.

**GATE:** A movable frame or solid structure that swings, slides, lifts, or rolls, controlling ingress and egress through an opening in a fence, wall, or vegetation.

**GAZEBO:** An accessory use consisting of a detached, covered, freestanding, open-air structure not exceeding three hundred (300) square feet.

**GENERAL NUISANCE:** Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare. The following factors are included:

1. fire and explosive hazards
2. electrical and radioactive disturbances
3. noise and vibration
4. dust, dirt, fly ash
5. glare
6. smoke, odors
7. other forms of noise and air pollution not listed above

**GLARE:** The sensation produced by lighting that causes an annoyance, discomfort, or loss in visual performance and visibility to the eye.

**GOVERNING BODY:** The Council of the Borough of Moscow.

**GREENHOUSE, COMMERCIAL:** A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale distribution or retail sales. Commercial greenhouses may also include associated structures for office space and storage.

**GREENHOUSE, PRIVATE:** A detached accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, for the propagation of plants for a private, residential or non-profit use.

**GROUP HOME:** A dwelling or use sponsored by a providing agency, regulated by the Commonwealth, and shared by two (2) or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities; 2) a record of having such impairment; or 3) being regarded as having such impairment. However, such term shall not include current, illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term Group Home shall not include drug treatment centers, other types of treatment centers, or other housing facilities serving as an alternative to incarceration.

**HAZARDOUS MATERIALS:** Hazardous material shall include any substance or material as listed on any hazardous materials list as compiled by any State or Federal agency.

**HEARING:** An administrative proceeding conducted by the Zoning Hearing Board or Council pursuant to §1207 of this Ordinance and §909.1 of the Pennsylvania Municipalities Planning Code and as defined by §107 (b) of the Pennsylvania Municipalities Planning Code

**HELIPAD:** A facility, without the logistical support provided by a heliport, where helicopters take off and land primarily for sightseeing purposes. Helipads include launches and landings of hot air balloons but do not include facilities for maintenance, repair, fueling, or storage of helicopters or air hot balloons.

**HOME GARDENING:** The cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining a dwelling for private use or consumption.

**HOME-BASED BUSINESS, MINIMAL IMPACT:** A business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that involves minimal customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises and does not change the essential residential character or appearance of such structure.

**HOME-BASED BUSINESS, NO IMPACT:** A business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that 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.

**HOSPITAL:** An institution, licensed by the PA Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**HOT TUB:** An artificial container of water with a liquid capacity greater than one hundred (100) gallons and designed with a mechanical air injection system and/or recirculation device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

**HOTEL OR MOTEL:** A building or buildings containing rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than thirty (30) days shall be considered a "boarding house" and

shall meet the requirements of that use. A hotel or motel may include a restaurant, banquet rooms, conference rooms, nightclub, newsstand or tavern, provided that such uses are clearly accessory to the principal use of overnight accommodations.

**HOUSEHOLD PET:** Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs and cats, tropical birds, parrots, parakeets, canaries, hamsters, rabbits, ferrets, or fish.

**ILLUMINANCE:** The quantity of light measured in footcandles or lux.

**IMPERVIOUS SURFACE:** Any non-vertical, hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, and areas of asphalt, concrete, brick, paved block, and/or compacted gravel.

**INDOOR RECREATION, COMMERCIAL:** A commercial recreational land use conducted entirely within a building, including but not limited to arcade, athletic and health clubs, bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, and tennis and other similar courts.

**INDOOR RECREATION, PRIVATE:** An accessory use conducted entirely within a building used for the sole recreational enjoyment of the residences of the premises and their guests, where no fees are charged for usage or personal instruction, and not exceeding three thousand (3000) square feet in floor area. This type of use includes a bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, and tennis and other courts.

**INDUSTRY, HEAVY:** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing process that potentially involve hazardous or commonly recognized offensive conditions. Such uses include the processing of food, textiles and related products; wood, paper and printing products; and chemicals, metals, machinery and electronics.

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

**JUNK:** Any scrap, waste, refuse, reclaimable material or debris, vehicles (see Junk Vehicle), appliances, equipment, machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal, or other use or disposition. Junk shall not include the following:

1. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection.
2. Agricultural vehicles and implements such as tractors, mowers, etc., for use as parts for equipment, and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation and can be legitimately used for parts.
3. Construction and contractors' equipment for use as parts for equipment, and machinery used as part of an active, on-going contracting business legally operating in accord with this Ordinance provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

**JUNK VEHICLE:** Any vehicle, including trailers, that does not bear current license/registration and inspection stickers or is incapable of being moved under its own power, and presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair:

1. Rusted and/or jagged metal on or protruding from the body of the vehicle.
2. Broken glass or windows on or in the vehicle.
3. Leaking of any fluids from the vehicle.
4. Unsecured and/or unlocked doors, hood, or trunk.
5. Storage or placement of the vehicle on concrete blocks.
6. Harboring of rodents, insects, or other pests.

**JUNK YARD:** Either of the following:

1. A lot, land or structure, or part thereof, upon or within which more than five (5) tons or five (5) cubic yards, whichever is lesser, is stored of any combination of: machinery or equipment that is unused or unusable for its manufactured intended purpose; used building and construction materials; damaged or worn household and office furniture and furnishing; rags or other used, soiled or damaged textile fabrics; scrap paper products; bottles and other used glass products; plastics and plastic products; all types of scrap metal; and all other items not usable or not in good repair or not intended to be repaired for reuse or collected, accumulated, stored, disassembled, treated or processed.
2. The accumulation on any one parcel of land of more than two (2) motor vehicles or portions thereof including but not limited to, automobiles, trucks, vans, buses, truck trailers, recreation vehicles, and other vehicles intended for highway use that do not bear a current Pennsylvania inspection sticker; or, do not display a license plate with a current registration sticker; or, have been demolished beyond repair; or, have been separated from their axles, bodies, or chassises; or, include only the axles, engines, parts, and/or chassises separated from the remainder of the vehicle.

**KENNEL:** Any commercial establishment where dogs, cats, and other animals are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show, or any other similar purpose and is so constructed that animals cannot stray there from. A non-profit animal shelter shall be considered a type of kennel.

**KITCHEN FACILITIES:** A complete kitchen shall include all of the following: a sink with piped water, and provision of space and connections for a cook stove and refrigerator.

**LAKE:** Natural or artificial body of water of two (2) or more acres in size and/or where the deepest part of the basin at low water exceeds two (2) meters (6.6 feet).

**LAND DEVELOPMENT:** Any of the following activities:

1. The improvements of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - A. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure or;
  - B. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.



2. A subdivision of land.
3. The following shall be excluded from the definition of Land Development:
  - A. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
  - B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

**LANDING:** A place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

**LIGHT TRESPASS:** Light emitted by a lighting installation that extends beyond the boundaries of the property on which the installation is sited.

**LITTER:** Discarded items not naturally occurring on a site, such as tires, oilcans, equipment parts, and other rubbish.

**LIVESTOCK:** Animals raised or kept for home consumption or profit, including but not limited to, cattle, sheep, hogs, goats, bison, llamas, and poultry.

**LOP:** To cut tops and slash into smaller pieces to allow material to settle close to the ground.

**LOT:** A designated parcel, tract or area of land established by a plot or otherwise as permitted by law and to be used, developed or built upon as a unit.

1. Lot, Corner - A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.
2. Lot, Depth - The mean average horizontal distance between the front and the rear lot lines.
3. Lot Lines - The property lines bounding the lot.
  - A. Lot Line, Front - The lines separating the lot from an abutting, existing or proposed street right-of-way. In case of a lot that does not have direct frontage on an existing or proposed street right-of-way, or is shaped or designated as a "flag lot", that lot line nearest the street right-of-way line shall be considered the front lot line. In case of a corner lot, both street frontages are considered to be front lot lines and the remaining lines are side lines.
  - B. Lot Line, Rear - The lot line opposite and most distant from the front lot line.
  - C. Lot Line, Side - Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
  - D. Lot Line, Street or Alley - A lot line separating the lot from a street or alley.
4. Lot Width - The horizontal distance between the side lot lines measured:

- A. In the case of lots fronting on a cul-de-sac, along a chord perpendicular to a radial line located equi-distant between the side lot lines, the said chord shall intersect the radial line at a point located a distance from the right-of-way line equal to the prescribed minimum front yard setback as set forth in this ordinance.
  - B. In the case of all other lots along a line parallel to and at a distance equal to the prescribed minimum front yard setback as set forth in this ordinance.
5. Lot Area - the computed area contained within the lot lines. The net lot area shall not be less than the minimum required area per dwelling unit for the zoning district as determined by deducting from the minimum lot area calculations the following percentages of those areas defined as "Environmentally Sensitive" and/or included in rights-of-way:
- A. Public or private road rights-of-way: 100%
  - B. Wetlands: 50%
  - C. 100-year flood plain: 50%
  - D. Slopes greater than twenty-five percent (25%): 50%
  - E. Flag lot "access strips" 100%

**LOT COVERAGE, MAXIMUM:** The maximum ratio obtained by dividing the roof areas of all principal and accessory buildings plus areas of other impervious surfaces as defined by this Ordinance used for streets, driveways, parking areas, and tennis and other recreational courts (sidewalks, patios, uncovered porches, decks, and play apparatus areas are excluded) on a parcel or lot by the total area of the parcel or lot upon which located.

**LUMBERYARD:** An area or facility used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including the manufacture or fabrication of lumber, lumber products, or firewood.

**LUMINANCE:** The physical and measurable quantity corresponding to the brightness of a surface (i.e. a lamp, luminaire, reflecting material) in a specific area, and measurable with a luminance meter.

**LUX:** A unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per footcandle.

**MACHINE SHOP:** Shops where lathes, presses, grinders, shapers, and other wood- and metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

**MANUFACTURED HOME:** A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation, including but not limited to, mobile and modular homes.

**MASSAGE:** The performance of manipulative exercises using the hands and/or a mechanical or bathing device on a person(s)'s skin other than the face or neck by another person(s) that is related to a certain monetary compensation, and that does not involve persons who are related to each other by blood, adoption, marriage, or official guardianship.

**MASSAGE PARLOR:** An establishment that meets all of the following criteria:

1. "Massages" are conducted.
2. The person conducting the massage is not a state-licensed health-care professional or a state-licensed massage therapist.
3. The massages are not conducted within a licensed hospital, nursing home, personal-care center or office of a medical doctor or chiropractor.
4. The massages are conducted within private or semi-private rooms.
5. The use is not clearly a customary and incidental accessory use to a permitted exercise club or high school or college athletic program.

A Massage Parlor shall be considered an Adult Business for the purpose of this Ordinance.

**MAUSOLEUM:** A building containing above-ground tombs.

**MEDICAL CLINIC:** A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, and administration.

**MINERAL OR NATURAL RESOURCE EXTRACTION:** The removal from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. Mineral extraction includes but is not limited to the extraction of sand, gravel, topsoil, limestone, clay, coal, shale, or iron ore. The routine movement of and replacement of topsoil during construction shall not be considered mineral extraction.

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

**MOBILE HOME:** A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. Manufactured homes or sections thereof that when assembled or combined are twenty feet (20') or more in width, and that have axles and hitches removed and are placed upon a permanent foundation shall not be classified as mobile homes, but as modular homes.

**MODULAR HOME:** A single-family dwelling constructed in accordance with State standards and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Unlike a mobile home, a modular home is not manufactured with a permanent hitch or other device to allow re-transport of the unit and does not have wheels or axles permanently attached to its body or frame.

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

**MORTUARY:** A facility in which dead bodies are prepared for burial or cremation and where funeral services may be conducted.

**NIGHTCLUB:** A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

**NONCONFORMING LOT:** A lot, the area or dimension of which was lawful prior to the adoption or amendment of a Zoning Ordinance, but that fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

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

**NONCONFORMING USE:** A use, whether of land or of a structure, that does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment to its location by reason of annexation.

**NUDE MODEL STUDIO:** Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A Nude Model Studio shall be considered an Adult Business for the purposes of the Ordinance.

**NUDITY OR A STATE OF NUDITY:** The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breasts.

**NURSERY:** A commercial operation that conducts the retail and/or wholesale sale of plants, trees, or shrubs grown on the site, as well as accessory items such as pots, potting soils, fertilizers, etc., directly related to their care and maintenance.

**NURSERY SCHOOL OR PRESCHOOL:** A facility for the organized instruction of children who have not reached the age for enrollment in kindergarten.

**NURSING HOME:** A facility established for profit or nonprofit and is licensed by the Commonwealth, which provides nursing care and related medical services on a 24-hour per day basis to two or more individuals because of illness, disease, or physical or mental infirmity, but excludes a facility providing surgical or emergency medical services and excludes a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

**OBSCENE MATERIALS:** Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument, or any other written or recorded matter that depicts or describes any "specified anatomical areas" and/or "specified sexual activities."

**OFF-SITE ADVERTISING SIGN OR BILLBOARD:** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is located, or to which it is affixed.

**OPEN SPACE, COMMON:** A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment of residents of the development, not including streets, off-street parking areas, and areas set aside for public or community facilities.

**OPEN SPACE, PUBLIC:** Common open space owned by a government agency or the Borough for public recreation.

**OPEN SPACE RATIO:** A measure of the intensity of land use, determined by dividing the total of all open space areas contained within a site by the gross site area.

**OPERATOR, FORESTLAND:** An individual, partnership, company firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.

**OUTDOOR EXHIBITIONS, ASSEMBLY FOR SPORTS, ENTERTAINMENT AND AMUSEMENTS:** Private or commercial facilities, not owned by a government body or school district, including stadiums, racetracks, outdoor theaters and concerts, arenas and field houses, cart tracks, miniature golf, amusement parks, zoos and similar non-participant sports, exhibitions, and amusement uses.

**OUTDOOR FURNACE:** Any device, contrivance or apparatus or any part thereof, including but not limited to a boiler, fire box, exchanger, grate, fuel gun, fuel nozzle, chimney smoke pipe, exhaust conduit and like devices, that is installed, affixed or situated outdoors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed there from by conduit or other mechanism into any interior space for the supply of heat or energy.

**OUTDOOR SPORTS:** Private or commercial facilities, not owned by a government body or school district including golf, tennis, and horseback riding not associated with trails on the site of a public stable, skiing, swimming, and similar sports participation activities.

**OWNER:** The person who holds the fee simple title to a property, and the person or persons who have acquired any interest in the property by contract or purchase or otherwise.

**OWNER, FORESTLAND:** An individual, partnership, company, firm, association, or corporation that is in actual control of forest land, whether such control is based on legal or equitable title, or any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any matter, and any agents thereof acting on there behalf, such as forestry consultants, who set up and administer timber harvesting.

**PA DEP:** The Pennsylvania Department of Environmental Protection.

**PARKING FACILITIES:** Parking facilities shall consist of areas used for the storage of vehicles or of specially designed buildings or garages used for the same purposes. Private parking facilities shall be restricted to use by persons resident on the premises or residing in the immediate vicinity of such facility or by their guests. Public parking facilities shall be open to the public as an accommodation for customers, clients or visitors.

**PATIO:** An area designed for outdoor living purposes as an accessory use to a structure, which shall be completely unenclosed except for any side that may adjoin a structure or for any fences, shrubs or hedges. Outdoor areas enclosed by a permanent roof shall be considered to be a structure.

**PENNDOT:** The Pennsylvania Department of Transportation.

**PERMANENT FOUNDATION:** A cement, concrete, treated wood, or cinder block walled foundation erected on a poured concrete footer. A solid concrete slab will also be considered a permanent foundation. The construction of permanent foundations shall be done in accordance with the Uniform Construction Code as amended.

**PERMIT:** A document issued by Moscow Borough authorizing an applicant to undertake certain activities.

1. Building Permit - A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any Building Permit Ordinance or Construction Code that may be adopted by the Borough and authorizing an applicant to commence with said construction, alteration or reconstruction. Such a permit shall not be confused with a zoning permit or with an occupancy permit as required under the terms of this Ordinance.
2. Zoning Permit - A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance and authorizing an applicant to proceed with said use, building or structure.
3. Occupancy Permit - A permit issued upon completion of the construction of a structure, or change in use of structure or parcel of land indicating that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the Occupancy Permit.

**PERSONAL SERVICES:** Places primarily providing services oriented to personal needs that do not involve retail sales or professional advisory services. Personal services include barber and beauty shops, shoe repair shops, household appliance repair shops, and other similar establishments.

**PERVIOUS CONCRETE PAVEMENT:** A cast-in-place, Portland cement-based concrete pavement surface designed to permit the percolation of a percentage of water through its surface.

**PERVIOUS SURFACE:** Any area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground, including but not limited to vegetation, mulch, non-compacted gravel, and slatted wood.

**PLANNED UNIT DEVELOPMENT:** An area of minimum contiguous size, as specified by this Ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, or commercial areas in such ranges of ratios, and nonresidential uses to residential uses as shall be specified.

**PLANNING COMMISSION:** The planning commission of the Borough of Moscow.

**PLAT:** A map, plan, or layout of a subdivision indicating the location and boundaries of individual properties.

**POND:** Natural or artificial body of water less than two (2) acres in size and where the deepest part of the basin at low water is two (2) meters (6.6 feet) or less.

**PORCH:** A roofed or unroofed structure projecting from the front, side, or rear wall of a building that shall have no wall more than thirty inches (30") high and that shall be open on all sides except the side adjoining the building.

**POULTRY:** Domesticated birds used for eggs or meat such as chickens, turkeys, ducks, or geese.

**PRE-COMMERCIAL TIMBER STAND IMPROVEMENT:** A forest practice, such as thinning or pruning, that results in better growth, structure, species composition, or health for the residual stand but that does not yield a net income to the land owner, usually because any trees cut are of poor quality, too small, or otherwise of limited marketability or value.

**PREMISES:** Any lot, parcel or tract of land and any building constructed thereon.

**PROFESSION:** Includes any occupation or vocation in which a professed knowledge of some department of science or learning is used by its practical application to the affairs of others, either advising, guiding, or teaching them and in serving their interest or welfare in the practice of an art founded on it. The work implies attainments in professional knowledge as distinguished from mere skill and the application of such knowledge to uses for others as a vocation. It requires knowledge of an advanced type in a given field of science or instruction and study.

**PROFESSIONAL OFFICE:** Professional offices shall include the office of a physician, dentist, optometrist, minister, architect, landscape architect, community planner, engineer, insurance agent, realtor, accountant, lawyer, chiropractor and similar practitioners licensed by the Commonwealth of Pennsylvania and/or the United States Government.

**PROPERTY LINE:** A recorded boundary of a lot. However, any property line that abuts a "street" or other public or quasi-public way shall be measured from the full right-of-way.

**PUBLIC BUILDING OR USE:** Any structure, building, or use owned and operated by a government body or agency including such uses as public elementary and secondary schools, municipal buildings, police stations, post offices, tourism promotion and welcome centers, but excluding solid-waste disposal facilities, recycling centers, parks, correctional facilities, nursing homes, hospitals, and other public service uses specifically defined by this Ordinance.

**PUBLIC HEARING:** A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code.

**PUBLIC MEETING:** A forum held pursuant to the notice under the act of July 3, 1986 (PL 388, No. 84), known as the Sunshine Act.

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

**PUBLIC PARK:** A natural or landscaped area, buildings or structures, provided by a unit of government, to meet the active or passive recreational needs of people. Playgrounds shall be considered public parks that provide recreational needs primarily to children.

**PUBLIC UTILITY TRANSMISSION TOWER:** A structure, owned and operated by a public utility electric company regulated by the Pa. Public Utility Commission, designed and used to support overhead electricity transmission lines.

**RECREATIONAL VEHICLE:** A vehicle that is designed primarily to transport a person for primarily recreational instead of transportation purposes, or a vehicle that serves as a mobile, temporary dwelling. This may include a vehicle that is self-propelled, towed, or carried by another vehicle, but shall not include camper cabs that fit over pickup trucks. This term shall also include the following: watercraft other than canoes with a hull longer than 12 feet, motor homes, travel trailers, all-terrain vehicles, and snowmobiles.

**RECYCLING FACILITY:** An establishment for the drop-off, processing, separation and/or collection of recyclable materials from solid wastes.

**RELATED OR RELATIVE:** Persons who are related by blood, marriage, adoption, or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. This shall not include relationships such as second, third, or fourth cousins.

**RELIGIOUS INSTITUTION:** A church or place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent, meeting hall, offices for administration of the institution, licensed child or adult daycare, and playground.

**RESEARCH LABORATORY:** A use engaged in research and development, testing, assembly, repair, and manufacturing in the following industries: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Office, warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use.

**RESTAURANT:** An establishment in which the principal use is the preparation and sale of food and beverages, whether the food and beverages are consumed on-site or not.

**RETAIL BUSINESS:** An establishment offering the sale or rental, with incidental service, of commonly used goods and merchandise for personal or household use, but excludes those retail businesses classified more specifically by definition in this Ordinance.

**RETAINING WALL:** Any fence or wall built or designed to retain or restrain lateral forces or soil or other materials, said materials being similar to the height of the wall on one side.

**RETIREMENT HOUSING:** A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens (age 55+). Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care.

**ROOMING AND BOARDING HOUSE:** A residence or building other than a motel or hotel where, for compensation and by prearrangement for definite periods of thirty (30) days or more, lodging and meals are provided for two (2) or more persons. A college fraternity or sorority house used as a residence shall be considered a type of boarding house, but a boarding house shall not include a use that meets the definition of the following: drug or other treatment center, abused person shelter, hotel, dormitory, motel, personal care facility, bed and breakfast inn, group home or nursing home.

**SANITARY LANDFILL:** A lot or land or part thereof used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities. The operation of a sanitary landfill normally consists of: 1) depositing the discarded material in a planned controlled manner, 2) compacting the discarded material in thin layers to reduce its volume, 3) covering the discarded materials with a layer of earth, and 4) compacting the earth cover.

**SATELLITE DISH ANTENNA:** A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

**SAWMILL:** A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

**SCREEN PLANTING:** A planting of trees and shrubs of sufficient height and density to conceal from the view of adjoining residential properties, and selected structures and uses on the premises on which the screen planting is located.



**SELF-STORAGE FACILITY:** A building(s) containing separated spaces to be leased or rented to individuals and/or businesses for the storage of personal belongings, goods, or supplies.

**SEMI-PUBLIC BUILDING OR USE:** Buildings or uses operated by nonprofit, community-based organizations including fire and ambulance stations, private elementary and secondary schools, and essential services that require enclosure within a structure or building.

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

A Sexual Encounter Center shall be considered an Adult Business for the purpose of this Ordinance.

**SEWAGE DISPOSAL SYSTEM, CENTRALIZED:** A publicly or privately owned and operated utility system or other system designed to collect, centrally treat and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the Borough.

**SEWAGE DISPOSAL SYSTEM, COMMUNITY:** A publicly owned and operated utility system or other system designed for the collection of sewage from two or more lots and for the treatment or disposal of the sewage on one or more of the lots or at any other site, by on-site (into the soil) disposal techniques in compliance with regulations of the appropriate agency and of the Borough.

**SEWAGE DISPOSAL SYSTEM, INDIVIDUAL:** A utility system or other system designed or the collection, treatment and disposal of from a single lot into the soil or into waters of the Commonwealth, or for conveyance to another site for final disposal.

**SHED:** An accessory structure used primarily for storage purposes, of a wall height no greater than eight feet (8') and that does not exceed one hundred (100) square feet in floor area.

**SHOPPING CENTER, MALL OR PLAZA:** A group of six (6) or more retail and other commercial establishments that is planned, owned, and managed as a single-property with on-site parking. The two main configurations of a shopping center are malls and open-air strip plazas.

**SIGN:** Any identification, description, illustration, advertisement, or device illuminated or non-illuminated that is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard designed to advertise, identify or convey information.

**SIGNIFICANT STOCK AND TRADE:** Twenty-five percent (25%) or greater of the floor area, gross sales, or dollar value of inventory of any commercial establishment.

**SITE ALTERATION:** Site alterations shall include re-grading the existing topography, filling lakes, ponds, marshes or flood plains, removing ground cover or altering water courses.

**SKIDDING:** Dragging trees on the ground from the stump to a landing by any means.

**SLASH:** Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

**SLAUGHTERHOUSE:** A facility for the for-profit slaughtering and processing of animals and the refining of their byproducts.

**SOCIAL SERVICE AGENCY:** A facility, other than an office, providing a social service directly to the local community, including but limited to food banks, blood banks, life-skills training, job training, hotline centers, veterans affairs, emergency shelters, elderly or disabled services, and crisis centers. This type of use does not include drug treatment centers or other types of treatment centers as defined by this Ordinance.

**SOLAR COLLECTOR:** A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

**SOLID WASTE OR WASTE:** Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial, or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations. Local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility.

**SOLID WASTE FACILITY:** Any facility operated either publicly or privately pursuant to the laws of the Commonwealth of Pennsylvania governing the management, incineration and disposal of solid waste including, but not limited to: liquid, solid, toxic, hazardous, infectious and medical waste.

**SPECIAL ANATOMICAL AREAS:** Any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areoles.
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIAL EXCEPTION:** The granting of a modification of the provisions of this Ordinance as authorized in specific instances listed, and under the terms, procedures, and conditions prescribed herein. Special exceptions are administered by the Zoning Hearing Board.

**SPECIFIED SEXUAL ACTIVITIES:** Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. Excretory functions as part of or in connection with any of the activities set forth in 1, 2, and 3 of this definition.

**STABLE:** A structure and/or land use in or on which equines are kept for personal use, sale or hire to the public. Breeding, boarding, or training of equines and on-site riding trails may also be conducted.

**STAGING AREA:** Any area where vehicles containing solid waste are parked or located prior to depositing said solid waste at a solid waste disposal facility.

**STAND:** Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

**STORAGE STRUCTURE:** An accessory structure that is used for storage and does not have a door or other entranceway into a dwelling unit, does not exceed four hundred (400) square feet in floor area, and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

**STORY (AND HALF-STORY):** A level of a building routinely accessible to humans having an average vertical clearance six feet (6') or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than six feet (6') shall be considered a "half-story."

**STREET:** A public or private thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to abutting property.

**STREET RIGHT-OF-WAY LINE:** The dividing line between the street and lot, also known as the street line or front lot line.

**STRUCTURE:** Any combination of materials forming a unit that requires location in or on the ground or that is attached to something having location on the ground. The term "structure" shall include buildings, signs, fences, walls, towers, swimming pools (above or below ground), porches, carports, garages, stadia, sheds, and similar structures.

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

**SWIMMING POOL:** A structure, whether above or below grade level, designed to hold water more than 24 inches (24") deep to be used for recreational purposes.

**TAVERN:** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.

**TEMPORARY USE:** A use accessory to a permitted use that operates at a fixed location for a temporary period of time, including but not limited to contractors' offices; equipment sheds; real estate sales offices; temporary shelters; and outdoor festivals; carnivals; celebrations; country, craft, or county fairs; block parties; or picnics, held in conjunction with profit or non-profit organizations. Outdoor parties, celebrations, or special events held on the grounds of private residences by the residents of said property, where no fees are charged or collected or are held for charitable, educational, or political fundraising, shall not be considered a temporary use and shall not be subject to specific-use requirements set forth in §765 of this Ordinance.

**THEATER:** A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

**TIMBER HARVESTING, TREE HARVESTING, OR LOGGING:** That part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

**TOP:** The upper portion of a felled tree that is not merchantable because of small size, taper, or defect.

**TRACTOR-TRAILER, TRACTOR OF A:** A truck with a minimum of three (3) axles that is intended to pull a trailer, as defined below, and not to carry goods itself.

**TRACTOR-TRAILER, TRAILER OF A:** A commercial vehicle twenty feet (20') or more in length that is not self-propelled, intended to haul materials, vehicles, goods, gases, or liquids, and intended to be pulled by a tractor, as defined above. This definition does not include recreational vehicles.

**TRADE AND TECHNICAL SCHOOL:** A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum, including but not limited to beauty schools, business management, computer training, driving education, fine and performing arts education, modeling school, and sports and recreation education.

**TRANSIT-RELATED BUSINESS OR FACILITY:** A business or facility owned, used, constructed, maintained, controlled, or operated to provide public or mass transportation for passengers. This use also includes the storage and/or maintenance of any motor driven fleet associated with the business, including but not limited to chartered, school, shuttle, special needs, local transit, and interurban buses; taxis and limousines.

**TREATMENT CENTER:** A use (other than a drug treatment center or permitted accessory use in a hospital) providing treatment for persons who need specialized care and/or counseling as outpatients or inpatients for either of the following:

1. Criminal rehabilitation, such as a criminal half-way house/transitional living facility or a treatment/housing center for persons convicting of driving under the influence of alcohol.
2. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

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

**VARIANCE:** Permission granted by the Zoning Hearing Board, following a hearing that is properly advertised, for an adjustment to some regulation that, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

**WALL:** A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light.

**WAREHOUSE:** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of inflammable or explosive materials that present hazards or commonly recognized offensive conditions.

**WATERCOURSE:** A natural or constructed drainage way for water, including permanent and intermittent streams.

**WATER SUPPLY SYSTEM, CENTRALIZED:** A public utility system or other centralized water supply system designed to transmit water from a common source to users, in compliance with the requirements of the appropriate State Agency or regulations of the Borough, whichever may be more stringent. Any system not deemed a centralized water supply system shall be deemed an on-lot system.

**WETLANDS:** Those areas, as regulated by PA DEP and the U. S. Army Corps of Engineers, that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

**WHOLESALE BUSINESS:** An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY FACILITY:** A facility where one (1) or more wind turbines and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity that is used on-site for commercial purposes or that is sold on the open market. A wind turbine accessory to a principal structure that is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall not be considered a wind energy facility but shall meet all applicable accessory use requirements in this Ordinance.

**WIND TURBINE:** A wind energy conversion system 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.

**WIND TURBINE HEIGHT:** The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

**WINDOW:** An opening to the outside other than a door that provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.

**WINE-TASTING ROOM:** A facility devoted to the sampling and sales of wine or beer produced on or off the premises. Sale of food is prohibited; however, incidental provision of food without compensation of allowed.

**YARD:** An open space on the same lot with a building or group of buildings that lies between the principal building or group of buildings and the nearest lot line and that is unoccupied and unobstructed from the ground upward except as herein permitted.

**YARD, FRONT:** An open unoccupied space on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

**YARD, REAR:** An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building

projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building. A building shall not extend into the required rear yard.

**YARD, SIDE:** An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. A building shall not extend into the required side yards.

**ZERO LOT LINE:** The location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on a lot line.

**ZONING:** The designation of specified districts within a municipality or county, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

**ZONING HEARING BOARD:** The Zoning Hearing Board of the Borough of Moscow.

**ZONING MAP:** The official Zoning Map of the Borough of Moscow, Lackawanna County, Pennsylvania.

**ZONING OFFICER:** The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

**ZONING ORDINANCE:** The Borough of Moscow Zoning Ordinance, as amended.

## **ARTICLE IV**

### **ESTABLISHMENT OF DISTRICTS**

#### **401 GENERAL DISTRICTS**

For the purposes of this Ordinance, the Borough of Moscow is divided into nine (9) Zone Districts. They are as follows:

- R-1 Low-Density Residential Zone
- R-2 Medium-Density Residential Zone
- R-3 High-Density Residential Zone
- C-1 Highway Commercial Zone
- C-2 Community Commercial Zone
- S-1 Conservation and Open Space Zone
- CBD Central Business District Overlay Zone
- FP Flood Plain Overlay Zone
- WEF Wind Energy Facility Overlay Zone

#### **402 INTENT OF ZONING DISTRICTS**

##### **R-1 – LOW-DENSITY RESIDENTIAL DISTRICT**

The intent of this district is to provide adequate space for very low-density residential development while protecting and preserving open space from development.

##### **R-2 – MEDIUM-DENSITY RESIDENTIAL DISTRICT**

The intent of this district is to provide land areas for the development of both low and moderate density residential development on lots of sufficient size to safely permit on-site water supply with off-site sewage disposal.

##### **R-3 – HIGH-DENSITY RESIDENTIAL DISTRICT**

The intent of this district is to provide land areas for the development of high-density residential and mobile home parks served by off-site water supply and off-site sewage disposal.

##### **C-1 – HIGHWAY COMMERCIAL DISTRICT**

The intent of this district is to provide areas in the community for the location and development of business and service establishments designed to meet the needs of the local citizens while limiting traffic congestion to the developed areas of the community.

##### **C-2 - COMMUNITY COMMERCIAL DISTRICT**

The intent of this district is to provide an area for the development of business and service activities that serve the residents of the community and the surrounding region.

##### **S-1 – CONSERVATION AND OPEN SPACE DISTRICT**

The intent of this district is to protect special natural areas, open space, flood plains, wetlands, steep slopes and other environmentally sensitive land from over development.

**CBD – CENTRAL BUSINESS DISTRICT OVERLAY DISTRICT**

The intent of this overlay district is to preserve and maintain the historical streetscape and core business district of the Borough where sidewalks exist and municipally-owned parking facilities are in close proximity. The further intent of this overlay district is to permit uses and building regulations subject to the same requirements as the C-1 zone over which this district is laid, and to exempt specific uses, as set forth in §1002 I. of this Ordinance, from providing off-street parking facilities.

**FP – FLOOD PLAIN OVERLAY DISTRICT**

The intent of this overlay district is to permit uses and building regulations subject to the same requirements as the zone over which this district is laid, and to also subject the uses and building regulations to the requirements of the Moscow Borough Flood Plain Management Ordinance. The boundaries of this overlay district coincides with the Zone A, 100-year flood, boundaries, as shown on the Flood Insurance Rate Map for the Borough of Moscow, containing the most current effective date, and prepared by the Federal Emergency Management Agency, Federal Insurance Administration.

**WEF – WIND ENERGY FACILITY OVERLAY DISTRICT**

The intent of this overlay district is to provide areas within the Borough where a Wind Energy Facility shall be permitted, based on existing topography and available wind speed mapping for the Commonwealth. All other uses proposed within this overlay district shall comply with the requirements of the existing underlying district.

**403 ZONING MAP**

- A. The location and boundaries of these districts are established as shown on the attached Zoning Map of the Borough of Moscow. The Zoning Map is hereby made a part of this Zoning Ordinance, together with all future notations, references and amendments.
- B. The Official Zoning Map shall be identified by the signature of the Mayor and President of Council attested by the Borough Secretary, and shall bear the adoption date of this Ordinance and the seal of the Borough under the following words: "This is to certify that this is the Official Zoning Map of Moscow Borough."
- C. Changes of any nature to the Official Zoning Map shall be made in conformity with the amendment procedures set forth in this Ordinance. All changes shall be noted by date with a brief description of the nature of the change.
- D. Regardless of the existence of purported copies of the Official Zoning Map that may from time to time be made or published, the Official Zoning Map shall be located in the Borough Office and shall be the final authority on boundaries and districts. The Zoning Officer shall have a certified copy of the map for official use.
- E. If the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of changes and additions, the Borough Council may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signatures of the Mayor and Council President, attested to by the Borough Secretary, and bearing the following words: "This is to certify that this Official Zoning Map supersedes and



replaces the Official Zoning Map adopted December 3, 1990 as part of the Borough of Moscow Zoning Ordinance, Lackawanna County, Pennsylvania.”

- F. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any part or parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

#### **404 RULES FOR INTERPRETING DISTRICT BOUNDARIES**

- A. Boundaries drawn approximately following the centerlines of streams, drainage ways, streets, alleys, railroads or other right-of-way shall be construed to follow such centerlines.
- B. Boundaries approximately following lot lines shall be construed as following such lot lines and to be located upon the land through competent land survey of those lot lines.
- C. Boundaries drawn approximately following the centerlines of streams shall be construed to follow such centerlines, and in the event of change in the centerline shall be construed as moving with the actual centerline.
- D. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- E. Where physical features existing on the ground vary with those shown on the Official Zoning Map, or in other circumstances not covered by subsection A. through D. above, the Zoning Hearing Board shall interpret the district boundaries.

**ARTICLE V**

**LAND-USE REGULATIONS**

**501 APPLICATION OF DISTRICT REGULATIONS**

- A. The regulations set by this Ordinance shall apply uniformly to each class or kind of structure or land, except as provided for in this Ordinance.
- B. No building or structure shall hereafter be erected, constructed, reconstructed, moved, or altered internally or externally and no building or structure or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations herein specified for the district in which it is located. No lot, parcel of land or water area shall be utilized, occupied, altered or improved unless it is in conformity with the regulations herein specified for the district in which it is located.
- C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- E. All territory that may hereafter be annexed to the Borough shall be considered to be zoned in the same manner as the contiguous territory inside the previous Borough limits until otherwise classified.

**502 TYPES OF USES**

- A. Permitted Uses. Uses listed as Permitted Uses within each District in Schedule I of this Article shall require no special action by the Governing Body or by the Commission before a Zoning Permit is granted by the Zoning Officer, provided that the use type, dimensional, and all other applicable requirements of this Ordinance are satisfied.
- B. Special Exception Uses. Uses listed as Special Exceptions in Schedule I of this Article shall require individual consideration in each case because of their unique characteristics. Such Special Exception Uses shall be referred to the Borough Planning Commission by the Borough Zoning Hearing Board and may be permitted by the Zoning Hearing Board only after a hearing and determination by the Borough Zoning Hearing Board that such proposed uses meet the standards, requirements, and intent of this Ordinance.
- C. Conditional Uses: Uses listed as Conditional Uses in Schedule I of this Article shall require individual consideration in each case because of their impact upon the lives of all persons within the Borough. Such Conditional Uses shall be referred to the Borough Planning Commission by the Borough Governing Body and may be permitted by the Governing Body only after a hearing and determination by the Governing Body that such proposed uses meet the standards, requirements, and intent of this Ordinance.
- D. Accessory Uses. Accessory Uses are permitted to be established along with and upon the same parcel as the associated principal use provided that the associated principal use or structure was legally established as a Permitted Use, Special Exception Use, or Conditional Use and provided that all applicable requirements for accessory uses within this ordinance

are satisfied. Accessory Uses will require a Zoning Permit issued by the Zoning Officer unless otherwise stated within this Ordinance.

E. Prohibited Uses. Any use not listed within any Zoning District within Schedule I of this Article shall be deemed to be prohibited within that district.

F. Unlisted Uses.

1. No Zoning Permit shall be issued for a use not specifically mentioned or described by category in the Schedule I Regulations Governing the Use of Land. Evaluation of these uses shall be as set forth in subsection 2. below.
2. Uses not listed as a permitted use, special exception, or conditional use are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in Schedule I Regulations Governing the Use of Land, and such use is not prohibited by law, the Zoning Officer shall determine whether a materially similar use exists in this Article V. Should the Zoning Officer determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Zoning Officer's decision shall be recorded in writing.
3. The Zoning Officer may determine that a use is materially similar if the use is listed as within the same Function or Structure classification as the use specifically enumerated in Schedule I Regulations Governing the Use of Land, as determined by the Land-Based Classification Standards (LBCS) of the American Planning Association [Reference: <http://www.planning.org/lbcs/index.html>]. The use shall be considered materially similar if it falls within the same LBCS classification.
4. In order to assist in interpretation of Schedule I Regulations Governing the Use of Land, the LBCS Function and Structure category numbers are listed at the right side of the row for each specific land-use. In interpreting Schedule I Regulations Governing the Use of Land, the following rules shall apply:
  - a. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs. The specific use is not permitted in all zoning districts where the uses coded to the general classification are permitted simply because they share a similar LBCS code number. The numbers increase as the classifications become more specific.
  - b. Some uses are listed separately, but fall within the same LBCS classification. The uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same LBCS classification.
5. If the Zoning Officer determines that a materially similar use cannot be located within one of the LBCS classifications pursuant to subsection 3. above, he or she shall present the application for the proposed use to the Zoning Hearing Board, which shall have the authority to permit the use or deny the use as a special exception in accordance with the following:
  - a. The use may be permitted only if the Zoning Hearing Board makes **all** of the following findings, and the burden of proof shall be upon the applicant.

- 1). The use is compatible with the uses listed for the subject zoning district by Schedule I Regulations Governing the Use of Land.
  - 2). The use is no way conflicts with the intent of the zoning district and the general purpose and intent of this Ordinance.
  - 3). The use is not permitted in any other zoning district.
  - b. The Zoning Hearing Board shall provide a copy of the application to the Borough Planning Commission at the time the application is received. The Zoning Hearing Board shall not conduct a hearing on the application until the comments from the Planning Commission are received or thirty (30) days has passed from the time the application was referred to the Planning Commission.
  - c. The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception granted for a use not specified in Schedule I Regulations Governing the Use of Land, incorporating standards from the Ordinance for compatible uses in the applicable zoning district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals, and welfare and to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code.
6. If the Zoning Hearing Board denies the use as a special exception, after completion of the process as outlined in subsection 5 above, this Ordinance may be amended by the Governing Body to establish a specific listing for the use in question.

### **503 CONTINUATION OF EXISTING USES**

Any legally established existing use of a building or structure, lot or parcel of land or part thereof, as of the effective date of this Ordinance may be continued, subject to any applicable conditions or requirements of this Ordinance.

### **504 SCHEDULE I**

The following SCHEDULE I, REGULATIONS GOVERNING THE USE OF LAND, lists the various types of permitted, special exception, and conditional uses that are permitted within each Zoning District of the Borough of Moscow.

<b>SCHEDULE I</b> <b>REGULATIONS GOVERNING THE USE OF LAND</b>									
P = Permitted Use SE = Special Exception Use CU = Conditional Use    CU* = Conditional Use in WEF Overlay Zone Only									
<b>Land Use</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>S-1</b>	<b>Additional Regulations</b> (see Section)	<b>LBCS Function</b>	<b>LBCS Structure</b>
<b>Residential Uses</b>									
Single-family dwellings	P	P	P			P		1100	1110
Two-unit attached dwellings		P	P			SE	743	1100	1120
Duplex (over/under)		P	P			SE	743	1100	1121
Townhouses			P	SE		SE	743	1100	1140
Multi-family dwellings, garden apartments			P	SE		SE	743	1100	1200
Planned Unit Development	CU	CU	CU			CU	746	1100	-
Mobile Home Parks			SE			SE	742	1100	1150
Apartments above Commercial Use				P			707	1100	2300
Group Homes	P	P	P			P	732	1230	1100
Rooming and Boarding Houses				SE			757	1320	1110, 1340
Bed and Breakfast Inns			P	P	P	P	712	1310	1110
Assisted Living, Nursing & Personal Care Homes			SE	SE			709	1210, 1240 1250, 6520	-
Retirement Housing			P	SE		SE	743	1210	1200
Hotels/Motels				P	P		737	1330	1330
Conversion from Non-residential Use to Residential Units	P	P	P	SE		P	723	1110	1360
<b>Accessory Uses</b>									
Agricultural Buildings					P	P	705	-	8100, 8200 8300, 8400 8800, 8900
Assisted-Care Apartment Units	SE	SE	SE	SE	SE	SE	708	1100	1130
Farm Stands					P	P	727	2154	2230, 6920
Fences, Gates, & Walls	P	P	P	P	P	P	728	-	-
Garage or Yard Sales	P	P	P	P	P	P	731	-	-
Home-Based Businesses, Minimal Impact	SE	SE	SE	SE	SE	SE	734	-	-
Home-Based Businesses, Child Day Care for 4 to 6 children	P	P	P	P	P	P	734A	-	-
Home-Based Businesses, No Impact	P	P	P	P	P	P	735	-	-
Patios, Decks, and Gazebos	P	P	P	P	P	P		-	-
Private Garages & Carports (< or = 4 bays)	P	P	P	P	P	P	747	-	-
Private Garages & Carports (>4 bays)	SE	SE	SE	SE	SE	SE	747	-	-
Private Greenhouses & Gardens	P	P	P	P	P	P	748	9141	8500
Private Indoor Recreation	SE					SE	749	-	3200
Private Outdoor Tennis & Similar Courts	SE	SE	SE			SE	751	-	-
Private Stables	SE	SE	SE				718	-	8240
Private Swimming Pools & Hot Tubs	P	P	P	P	P	P	752	-	-
Satellite Dish Antennas	P	P	P	P	P	P		-	-

<b>Land Use</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>S-1</b>	<b>Additional Regulations (see Section)</b>	<b>LBCS Function</b>	<b>LBCS Structure</b>
Sheds & Storage Structures	P	P	P	P	P	P		-	-
Signs	P	P	P	P	P	P	762, Art IX	-	6700
Solar Collectors, accessory to Existing Principal Use	P	P	P	P	P	P	764	4314	6460
Temporary Uses	P	P	P	P	P	P	765	-	1350, 4440 6900
Wind Turbines, accessory to Existing Principal Use	SE	SE	SE	SE	SE	SE	771	4314	6460
Outdoor Furnaces	SE	SE	SE	SE	SE	SE	744	4314	-
<b>Commercial Uses</b>									
Adult Businesses				SE			703	-	-
Animal Hospital, Kennel or Veterinary Clinic			SE	P	P	SE	706	2418	4120, 8700
Auto Repairs, Service Stations, Auto Body Shops, and Car Washes				SE	P		710	2110	2270, 2280
Banks, Finance, and Insurance				P	P			2200	2100
Banquet Facilities				P			711	2560	2200, 3800
Bicycle Rentals or Sales				P	P			2113, 2333	-
Billboards, Off-site Advertising					P		713	-	6700
Boutique Wineries				P	P	P		3110	-
Bulk Fuel Storage					SE		714	-	2780
Commercial Greenhouses or Nurseries					P	P		9140	8500
Commercial or Professional Offices or Services				P	P			2300, 2400 2600, 2700	2100, 2300 2400
Contractor's Offices and Yards				P	SE		721	7000	-
Convenient Store with Gas Pumps				P	P		722	2116, 2152	2591
Flea Markets					CU		729	2145	6900
Funeral Homes or Mortuaries		SE	P	P			750	6710	4800
Lumberyards				P	P			2126	-
New or Used Car, Motorcycle, Moped, ATV, or Trailer Rentals or Sales				SE	P		743A	2111-2114 2331-2333	-
Nightclubs, Taverns, & Bottle Club				P				2540	-
Public or Commercial Parking				P	P		753	-	5200
Restaurants, Cafes or Coffee Houses				P	P			2500	2220
Retail Businesses				P	P			2100	2200
Self-Storage Facilities					SE		760	3600	2710
Shopping Malls, Centers or Plazas				CU	CU		761	2000	2500
Stables, Commercial					SE	SE	718	-	8240
Tire Re-treading and Recapping					P			2115	-
Transit-Related Businesses and Maintenance Facilities					SE		766	4130	3930, 5400
Wholesale Businesses				SE	P		769	3500	-
Wine Tasting Rooms				P	P			2155	-
<b>Manufacturing Uses</b>									
Industry, Heavy					P		738	3100, 3200 3300	2620
Industry, Light				SE	P		738	3400	2610

<b>Land Use</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>S-1</b>	<b>Additional Regulations (see Section)</b>	<b>LBCS Function</b>	<b>LBCS Structure</b>
Junk Yards & Automobile Wrecking					SE		739	-	-
Machine Shops				SE	P		740	3350, 3360	2610
Recycling Facilities					CU		754	4346	-
Research Laboratories					SE		756	2416	2615
Sanitary Landfills					CU		758	4345	6320
Sawmills					P			3210	8000
Slaughterhouses					CU		763	9300	-
Solid Waste Facilities					CU		758	4340	6300
Warehousing, Distribution, or Outdoor Storage					SE		767	3600, 4140 4160	2700
<b>Services &amp; Public Uses</b>									
Abused Person Shelters					CU		702	6564	-
Adult or Child Day Care Centers or Nursery Schools and Preschools				SE	SE		704	6110, 6562 6566	-
Cemeteries and Mausoleums		SE		SE		SE	716	6720	4700
Colleges and Dormitories					CU		759	1320, 6130	1320, 4220
Communications Antennas				SE	SE	SE	719	4230	-
Communications Towers and Equipment Buildings					SE		720	4230	6500
Correctional Facilities					CU		724	6222	4600
Crematoriums and Columbarium					CU		725	6720	4800
Drug or Other Treatment Centers					CU		726	6520	-
Essential Services	P	P	P	P	P	P		-	6100, 6200 6310, 6440
Helipads					CU		733	4115	-
Hospitals				CU	CU		736	6530	4110
Medical Clinics & Social Services				P	P			6510, 6560	4120
Public and Semi-Public Buildings & Uses	P	P	P	P	P	P		6120, 6200 6300, 6400	4210, 4500
Religious Institutions	P	P	P	P	P	P	755	6600	3500
Television/Radio Stations Publishing & Information Services					P			4200	-
Trade & Technical Schools				P	P			6140	4230
<b>Recreational Uses</b>									
Campgrounds						SE	715	5400	-
Commercial Indoor Recreation					SE		717	5300	3200
Cultural Facilities, Galleries and Libraries				P	P			4242, 5200	3400, 4300 4400
Fraternal, Civic, or Social Clubs				P	P			6800	-
Outdoor Recreation, Entertainment, and Sports	SE					SE	745	5300	3300
Public Parks, Playgrounds	P	P	P	P	P	P		5500	6940, 6950 6970
Theaters					P			5100	3100
<b>Resource Production and Extraction Uses</b>									
Agricultural Operations and Products Processing					P	P	705	9100, 9200 9300	8000
Forestry	P	P	P	P	P	P	730	9400	-

<b>Land Use</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>S-1</b>	<b>Additional Regulations</b> (see Section)	<b>LBCS Function</b>	<b>LBCS Structure</b>
Mineral and Natural Resource Extraction and Processing					CU	CU	741	8000	-
Water Extraction & Bottling						CU	768	3110	2620, 6260
Wind Energy Facilities	CU* - WEF Overlay District						770	4314	6460



## **ARTICLE VI**

### **LOT AND YARD REGULATIONS**

#### **601 MINIMUM LOT AREA AND DIMENSION REGULATIONS**

- A. The minimum lot area and dimension requirements shown in Schedule II shall be met for all new dwelling units, principal buildings or uses where applicable, unless otherwise specified for specific uses or use groups in Article VII.
- B. In all zone districts where on-lot sewage disposal is utilized, the minimum lot size required per dwelling unit or principal structure shall be one (1) acre.
- C. Areas within public or private street or road rights-of-way shall not be included in the calculation of, or used to meet the minimum lot sizes for any proposed residential or non-residential use.
- D. The lot or yard requirements for any new building or use shall not include any part of a lot that is required by any other building or use to comply with requirements of this Ordinance. No required lot area or yard shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.
- E. In all cases, proposed lot dimensions and lot areas shall be adequate to provide space for all proposed buildings, structures, and use areas, and all required support facilities, parking and setback or yard areas.

#### **602 MINIMUM YARD REGULATIONS**

- A. Minimum yards or building setback distances shall be in accordance with Schedule II and as specified for specific uses in Article VII.
- B. Where a minimum depth of a front yard is specified in a district, an open space of at least the specified depth shall be provided between the street line or lines and the nearest point of any building or structure except as may be permitted elsewhere in this Ordinance.
- C. The front yard of an unimproved lot situated between two (2) improved lots having a principal building within twenty-five (25') feet of the side lot line of said unimproved lot may be reduced to the greatest depth of the front yard of the two (2) improved lots, but not to less than ten (10') feet.
- D. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Hearing Board may waive the requirements for the normal front yard and substitute therefore a special yard requirement that shall not exceed the average of the yards provided on adjacent lots.
- E. On a corner lot, the street side yard shall equal the required front yard for lots facing that street.
- F. Where a minimum width of a side yard is specified, no building or structure shall be erected within the specified distance from either side lot line, unless otherwise provided for in Article VII.

- G. Where a minimum depth of a rear yard is specified, no building or structure shall be erected within the specified distance from the rear lot line, unless otherwise provided for in Article VII.

**603 SCHEDULE II - LOT, YARD, COVERAGE, AND HEIGHT REGULATONS**

Lot, yard, coverage, and height regulations shall be as established by the following Schedule II.

**SCHEDULE II**

**LOT, YARD, COVERAGE, AND HEIGHT REGULATIONS**

REGULATIONS	DISTRICTS					
	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>S-1</b>
<b>Maximum Lot Coverage</b> <sup>(a)(e)</sup>	25% <sup>(f)</sup>	35% <sup>(f)</sup>	50% <sup>(f)</sup>	50%	70%	15%
<b>Maximum Building Height</b> <sup>(a)</sup>						
Stories	2-1/2	2-1/2	3	3	3	2-1/2
Feet	35	35	40	40	40	35
<b>Minimum Yards</b> (in Feet) <sup>(a)</sup>						
Front	50	40	40	25	25	40
One Side Yard/Combined Side Yards	15/40	12/30	12/30	10 <sup>(d)</sup> /25	10 <sup>(d)</sup> /25	25/60
Rear	25	25	25	20	25 <sup>(c)</sup>	30
<b>Minimum Lot Dimensions</b> <sup>(a)</sup>						
Width in feet	100	80	75	100	100	200
Area per dwelling unit in sq.ft. <sup>(b)</sup>	20,000	15,000 (SF) 7,000 (TF)	10,000 (SF) 7,000 (TF) 5,000 (MF)	10,000	10,000	80,000

**NOTES:**

- (a) Minimum yard and lot dimensions and heights shall be as set forth above unless otherwise specified under Articles VII and/or VIII of this ordinance.
  - (b) Where on-lot sewage disposal is utilized, a minimum land area of **one (1) acre** per dwelling unit, commercial, manufacturing or any other type of building is required.
  - (c) Except when abutting an R-district, then 100 feet shall be required for a manufacturing use.
  - (d) Except when abutting an R-district, then 25 feet shall be required.
  - (e) Includes the roof areas of all principal and accessory buildings plus areas of other impervious surfaces as defined by this Ordinance used for streets, driveways, parking areas, and tennis and other recreational courts (sidewalks, patios, uncovered porches, decks, and play apparatus areas excluded). See §803A for Pervious Pavement Standards.
  - (f) Fifty percent (50%) maximum lot coverage is allowed for permitted, non-residential uses (special exceptions and conditional uses excluded) in all R-districts unless otherwise specified under Articles VII and/or VIII of this ordinance.
- (SF) = Single-family dwelling  
 (TF) = Two-unit attached dwelling or Duplex on a single existing lot of record  
 (MF) = Multi-family dwelling (i.e. Townhouses, Garden Apartments, Two-unit attached dwellings or duplexes as part of a multi-building development)

## **ARTICLE VII**

### **SPECIFIC USE DEVELOPMENT REQUIREMENTS**

#### **701 APPLICABILITY**

- A. This Article establishes additional specific requirements for certain uses in addition to the requirements of Articles VI, VIII, IX and X. These uses, whether principal or accessory, have unique or differing characteristics and require more restrictive or greater than minimum general regulations. Wherever two or more conflicting requirements apply to the same use or structure, the most restrictive requirement shall apply.
- B. For uses allowed as Special Exceptions or Conditional Uses under Article V, the procedures and general standards set forth under Article XIII shall apply as well as the standards set forth in this Article VII.
- C. Measurement of additional setbacks required for specific uses in this Article VII shall be measured from the nearest edge of the building used for the specific use, in a straight line without regard to intervening structures or objects, to the nearest lot line of the premises of the use or zone district from which the required setback applies.

#### **702 ABUSED PERSON SHELTER (Conditional Use: C-2)**

- A. A maximum of fifteen (15) residents shall be allowed, including any staff or volunteers who routinely stay overnight.
- B. Secure locks and alarm systems to protect the occupants from physical violence shall be installed.
- C. The Governing Body may place conditions on the use as necessary to protect public safety.

#### **703 ADULT BUSINESS (Special Exception: C-1)**

- A. Findings.

In adopting these standards that apply to adult businesses, the Governing Body has made the following findings in regard to the secondary effects on the health, safety, and welfare of the citizens of the Borough of Moscow. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.* 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Northend Cinema, Inc. v. Seattle*, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including but not limited to Phoenix AZ, Minneapolis MN, Saint Paul MN, Manatee County FL, Houston TX, Indianapolis IN, Amarillo TX, Los Angeles CA, Austin TX, Seattle WA, Oklahoma City OK, Beaumont TX, and New York NY; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, June 6, 1989, State of Minnesota.

- 1. The concern over sexually transmitted diseases is a legitimate health concern of the Borough of Moscow that demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of its citizens.
- 2. Certain employees of sexually oriented businesses regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.

3. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
4. Offering and providing such space encourages such activities, which create unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infections (AIDS), genital herpes, hepatitis B, non-B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
7. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities.
8. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult-oriented films.
9. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
10. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas, study, have demonstrated this.
11. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin TX study, have demonstrated this.
12. The Borough of Moscow desires to minimize and control these adverse secondary effects and thereby protect the health, safety, and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve property values and the character of the surrounding community.

**B. Intent.**

The intent of this §703.B. is to:

1. Regulate adult businesses in order to promote the public health, safety, and welfare by minimizing the secondary effects on the community that are associated with such businesses, and that include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
2. Designate a zoning district where adult businesses are permitted, and establish reasonable content-neutral standards applicable to such uses.
3. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
4. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the United States Constitution.
5. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
6. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

C. Classification.

Adult businesses are classified as Special Exceptions in the C-1 Highway Commercial zoning district.

D. Standards.

The following standards shall apply to adult businesses, in addition to applicable general and conditional use standards contained in this Ordinance:

1. *Setbacks* — Adult businesses shall not be located less than:
  - a. Three hundred feet (300') from any
    - 1). residence
    - 2). group home
    - 3). retirement housing
    - 4). abused person shelter
    - 5). adult or child day care center
    - 6). drug treatment or treatment center
    - 7). public or semi-public buildings and uses, excluding schools
    - 8). parks, playgrounds, outdoor recreation and sports, or campgrounds
    - 9). hospital and medical clinics
    - 10). assisted living, personal care or nursing homes
    - 11). commercial uses catering primarily to persons under age 18
    - 12). any commercial use that sells alcoholic beverages
  - b. One thousand feet (1000') from any
    - 1). place of religious worship

- 2). public or private school
  - 3). colleges or universities and dormitories
2. *Similar Businesses* — Adult businesses shall not be located within five hundred feet (500') of any existing adult business.
3. *Measurements* — The setback distances established in §703.D.1. shall be measured from the nearest edge of the building used for an adult business, in a straight line without regard to intervening structures or objects, to the nearest lot line of the premises of the use from which the required setback applies.
4. *Enlargement* — Any enlargement or expansion of an existing, legally created adult business shall be considered a special exception subject to the provisions of this §703 and all other applicable standards of this Ordinance.
5. *Use Limit* — It shall be a violation of this Ordinance for any person to cause or permit the operation, establishment, or maintenance of more than one (1) adult business in the same business, structure or portion thereof, or an increase of floor areas of any adult business in any building, structure or portion thereof that contains another adult business.
6. *Nonconformity* — Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §703 shall be considered a nonconforming use. Such nonconforming uses shall be increased, enlarged, altered, or extended, only in accordance with Article 11 Nonconforming Uses and Structures and all other applicable standards of this Ordinance. The use may be changed to a conforming use. However, under no circumstances, shall a nonconforming use as defined and regulated by this Ordinance be changed to any type of adult business.
7. *New Neighboring Uses* — An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if a use, from which an adult business is required to provide a setback under this §703, is developed within the required setback distance.
8. *Alcohol* — No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.
9. *Signs* — No sexually explicit material, signs, displays, or words, shall be visible at any time from outside the building. Exterior signs shall comply with applicable sign regulations set forth in Article 9; however, contents of such signs shall be limited to only the text of the name of the business and hours of operation.
10. *Exemption for Modeling Class* — A person appearing in a state of nudity, doing so in a modeling class operated by any of the following, is exempt from classification as a participant of a nude model studio as defined in §302:
  - a. A proprietary school, licensed by the state, or an academically accredited college or university.
  - b. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

- c. In a structure
  - 1). that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - 2). where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  - 3). where no more than one (1) nude model is on the premises at any one time.
- d. An organization that qualifies under Section 501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

**E. Annual Permit.**

All adult businesses shall comply with annual permit requirements as may be established by any applicable ordinance of the Borough of Moscow.

**704 ADULT DAY CARE, CHILD DAY CARE, NURSERY AND/OR PRESCHOOL (Special Exception: C-1, C-2)**

- A. The use shall hold an approved PA Department of Welfare or PA Department of Education registration certificate or license, as appropriate, and shall meet all current state or federal regulations governing adequate indoor space, accessible outdoor play space and applicable state or local building and fire safety codes. All day care and nursery and/or preschools shall be fully protected by smoke detectors and fire extinguishers.
- B. Any outdoor activities shall be limited to the hours between 10 AM and 5 PM.
- C. A secure fence with a minimum height of four feet (4') shall surround any on-premises area used for outdoor play.
- D. When an off-premises outdoor play area is utilized, it must be located within one thousand feet (1,000') of the facility and safely accessible without crossing at grade any arterial street or other hazardous area.
- E. No portion of the outside play area shall be less than fifty feet (50') from an existing occupied dwelling with the dwelling owner's written consent.
- F. There shall be one off-street parking space provided for each employee and one safe passenger unloading space measured ten feet (10') by twenty feet (20') for each six (6) children that the facility is licensed to accommodate.
- G. Any sign shall comply with applicable sign regulations set forth in Article IX.
- H. No day care center, nursery or preschool shall be established within five hundred feet (500') of an existing day care center, nursery, or preschool.
- I. Borough officials reserve the right to make periodic inspections to ensure continued compliance with all state and local requirements.



- J. The regulations set forth in this §704 shall not apply to child day care centers operated as a home-based business (See §734) or located within a place of worship or business where care is limited to employees' children.

**705 AGRICULTURAL BUILDING, AGRICULTURAL OPERATION AND PRODUCTS PROCESSING, COMMERCIAL GREENHOUSE AND NURSERY (Permitted Uses: C-2, S-1)**

- A. Buildings in which livestock or poultry are kept shall not hereafter be erected within three hundred feet (300') of any lot line.
- B. Storage of manure and/or odor or dust-producing substances shall not be permitted within three hundred feet (300') of any lot line.
- C. Greenhouse heating plants shall be operated within one hundred feet (100') of any lot line.

**706 ANIMAL HOSPITAL, KENNEL, OR VETERINARY CLINIC (Permitted Uses: C-1, C-2; Special Exception: R-3, S-1)**

- A. All buildings in which animals are housed and all runs shall be located at least one hundred fifty feet (150') from any R-district or Residential Use as listed in Schedule I and defined by Article III of this Ordinance and fifty feet (50') from all other property lines.
- B. All applicable state laws governing kennels and/or animal hospitals and veterinary clinics must be met, and any license or certification must be provided to the Zoning Officer.
- C. No animal shall be permitted to use outdoor runs from 8 PM to 8 AM. Runs shall be separated from each other by visual barriers a minimum of four feet (4') in height, to minimize dog barking.
- D. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- E. The uses shall be maintained in a sanitary manner to avoid noxious odors to other properties. No incineration of refuse shall be permitted on-site.

**707 APARTMENTS ABOVE COMMERCIAL USE (Permitted Use: C-1)**

- A. A maximum of four (4) apartment units may be permitted on the upper floor(s) of a structure within the C-1 zone district where the principal use on the ground or first floor is clearly commercial in nature.
- B. One (1) off-street parking space for each apartment unit shall be provided on site, in addition to the minimum off-street parking spaces required for the commercial use.
- C. Fire escapes, where required, shall be in the rear of the building and shall not be located on any wall facing a street.
- D. Every apartment unit shall have two (2) means of egress in case of fire. Ingress and egress shall not be permitted through another apartment unit.

**708 ASSISTED-CARE ACCESSORY APARTMENT UNIT (Special Exception Accessory Use: All Zone Districts)**

- A. One (1) accessory apartment shall be allowed on any conforming residential lot containing a single-family detached dwelling without an increase in density per dwelling requirements. The apartment may be either in or attached to the principal structure or in a detached accessory structure. Accessory apartments shall not be allowed in conjunction with two-unit attached dwellings, duplexes, multi-family dwellings, mobile homes in a mobile home park, or bed and breakfast inns.
- B. Under no circumstance shall the use have a maximum gross floor area greater than 800 square feet. Any dwelling unit over 800 square feet shall be considered a principal dwelling or structure and shall be subject to all density and setback requirements for principal dwellings and structures.
- C. All applicable setback requirements for accessory uses and structures shall be met.
- D. Sewage flows from an accessory apartment shall not exceed 400 gallons per day. All applicable permits and approvals for connection to the public sewer system or an existing on-lot sewage disposal system or modification or installation of any additional on-lot sewage disposal systems shall be required.

**709 ASSISTED LIVING FACILITY, NURSING AND PERSONAL-CARE HOME (Special Exception: R-3, C-1)**

- 1. No assisted living facility, nursing or personal-care home shall be located in the Flood Plain Overlay District.
- 2. The uses shall have a minimum lot area of three thousand (3000) square feet for each bed or residential accommodation.
- 3. Proof of licensing from the appropriate state or federal agency shall be required for issuance of a building and zoning permit.
- 4. A minimum of five percent (5%) of the gross lot area shall be suitable and developed for outdoor passive recreation. This shall include sitting areas and pedestrian walks.
- 5. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**710 AUTO REPAIR, SERVICE STATION, AUTO BODY SHOP, AND CAR WASH (Permitted Use: C-2; Special Exception: C-1)**

- A. All major repair, welding, and painting shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent dwellings or structures.
- B. Reasonable efforts shall be made to prevent or minimize noise, odor, vibration, glare, or electrical interference nuisances to adjacent properties.
- C. Outdoor storage of motor vehicles shall not be within ten feet (10') of any property line or road right-of-way.

- D. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- E. Overnight outdoor storage of junk, as defined in §302, other than permitted vehicles, shall be prohibited within view of any street or abutting residential dwellings.
- F. Junk vehicles, as defined in §302, shall not be stored within view of any street or abutting residential dwellings. A maximum of five (5) junk vehicles may be stored on the premise for a period of thirty (30) days, in addition to the storage of one (1) junk vehicle for an unlimited time period as exempted from the definition of "Junk Yard" under §302. This provision does not apply to car washes.
- G. Whenever practical, service-bay doors or car wash stalls shall not face directly toward an abutting residential dwelling, other than a dwelling separated from the shop or station by a street right-of-way.
- H. Fuel pumps shall be at least twenty-five feet (25') from any existing street right-of-way. Canopies over fuel pumps shall be at least ten (10') from any street right-of-way.
- I. A minimum stacking area for three (3) vehicles at each cluster of pumps shall be provided without causing an obstruction of access to or from street rights-of-way.
- J. All required state or federal licenses or permits for storage and dispensing of petroleum products and other activities shall be secured by the applicant and provided to the Zoning Officer.

**711 BANQUET FACILITY (Permitted Use: C-1)**

- A. Banquet facilities that utilize outdoor gardens or tents must provide adequate portable toilet facilities and sinks for scheduled banquets and/or celebrations.

**712 BED AND BREAKFAST INN (Permitted Use: R-3, C-1, C-2, S-1)**

- A. The bed and breakfast use shall be clearly incidental and secondary to the principal use of the building as an owner-occupied primary dwelling.
- B. In addition to the parking requirements in Article X of this Ordinance for the principal use, off-street parking shall be provided on the subject property for a number of parking spaces equal to the number of rooms designated for rental use within the bed and breakfast.
- C. Off-street parking shall be separated from adjoining properties by live evergreen screening where deemed necessary by the Planning Commission and/or Zoning Officer.
- D. One (1) shall be allowed in conformance with applicable sign regulations set forth in Article IX.
- E. All refuse receptacles shall be completely screened from view.
- F. Guests shall be permitted occupancy for not more than fourteen (14) consecutive nights.
- G. Food service shall be limited to breakfast served only to guests lodging at the inn.
- H. Rooms used for overnight accommodations shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.

- I. No exterior alterations shall be made to any building for the purpose of providing a bed and breakfast inn. This provision does not include those necessary alterations needed to ensure the safety of the structure or its occupants, including the installation of fire escapes or other fire safety devices as required by state and local building codes.

**713 BILLBOARD AND OFF-SITE ADVERTISING (Permitted Use: C-2)**

- A. One (1) billboard or off-site advertising sign may be erected, constructed, or maintained on any premises in the C-2 zoning district only, in accordance with this §713.
- B. A billboard or off-site advertising sign shall not exceed three hundred (300) square feet in surface area, and each sign shall have only one (1) exposed face.
- C. A billboard or off-site advertising sign shall not be closer than one thousand feet (1,000') to another billboard or off-site advertising sign along the same side of the street or highway.
- D. A billboard or off-site advertising sign shall not be located within fifty feet (50') of any street or highway intersection.
- E. A non-illuminated billboard or off-site advertising sign shall not be located closer than one hundred feet (100') from any R-district boundary. An illuminated billboard or off-site advertising sign shall not be located closer than two hundred feet (200') from any R-district boundary. No billboard or off-site advertising sign shall be permitted that faces any abutting school, library, church, hospital, outdoor recreation area or similar institutional uses.
- F. The billboard or off-site advertising sign shall be located in accordance with the yard setbacks for structures in the C-2 zoning district and shall not be closer to a structure on the premises than four feet (4').
- G. A billboard or off-site advertising sign shall not project higher than the maximum height limit of structures for the C-2 zoning district, as set forth in Schedule II of this Ordinance.
- H. Any application for a billboard or off-site advertising sign shall be accompanied by certification, under seal by a Professional Engineer, that the existence of the billboard or off-site advertising sign, as proposed, shall not present a safety hazard.
- I. Temporary off-site directional or information signs, placed on borough-owned or borough-leased property in any zoning district shall be exempt from the provisions of this Section 713. A Sign Permit Application for a temporary sign on borough property must be completed by the sign owner and approved by the Zoning Officer. The sign must also comply with Section 906 G. of this ordinance regarding condition and repair.

**714 BULK FUEL STORAGE (Special Exception: C-2)**

- A. Bulk fuel storage facilities shall have a minimum gross lot area of three (3) acres, and minimum front, side and rear yard setback distances shall be one hundred feet (100') from all property lines.
- B. All bulk fuel storage facilities, including tank trucks, must be secured from vandalism with appropriate fencing at least eight feet (8') in height.
- C. All state and federal regulations concerning storage safety must be met and copies of all licenses and certificates required for storage of these materials must be provided to the Township Zoning Officer prior to issuance of a Certificate of Occupancy.

- D. All bulk fuel storage facilities including tank trucks and their containment areas shall be setback a minimum of one hundred (100') feet from any wetland or watercourse.

**715 CAMPGROUND (Special Exception: S-1)**

- A. No campsite shall be occupied for more than thirty (30) consecutive days, and no campsite shall be the primary or principal residence of the owner or occupant.
- B. The management of every campground shall be responsible for maintaining accurate records concerning the occupancy of all campsites. The Borough shall have access to, and the right to inspect, records for evidence of permanent residency or lack thereof.
- C. Each campsite shall have a minimum area of 5,000 square feet exclusive of street travelways and pedestrian walkways.
- D. No campgrounds shall be located within the Flood Plain Overlay District.
- E. Landscaping and Natural Vegetation Protection set forth in §808 shall be met.
- F. Campgrounds shall be designed to insure that all surface water is drained in a safe and efficient manner away from campsites. Campgrounds shall also conform to standards as set forth in the Moscow Borough Storm Water Management Ordinance.
- G. No individual campsite shall be located within one hundred feet (100') of any exterior property line or public road right-of-way. The land between the campsites and the exterior property lines shall have sufficient existing or planted trees and/or shrubbery to screen the campground to a height of six feet (6') from abutting properties.
- H. Campgrounds shall be served by a centralized or community sewage disposal system and central water supply. No individual on-site sewage or water supply systems shall be permitted.
- I. The storage, collection, and disposal of refuse in the campground shall be so managed as to create no health hazards or air pollution. All refuse shall be stored in fly-tight, watertight, rodent-proof containers, which shall not be located within one hundred fifty feet (150') of any campsite. Containers shall be provided in sufficient number and capacity to properly store all refuse as required by PA DEP. Rubbish shall be collected and disposed of at a facility approved by PA DEP as frequently as necessary to insure that the containers do not overflow.
- J. At least ten percent (10%) of the parcel shall be suitable for and improved to provide for open space and active recreation for users of the campground. Such active recreation may include, but is not limited to: swimming pools, playgrounds, play fields, ball fields, miniature golf courses, community buildings, and similar facilities.

**716 CEMETERY AND MAUSOLEUM (Special Exception: R-2, C-1, S-1)**

- A. All structures, graves, and places of permanent burial shall meet the minimum setback requirements set forth in Schedule II of this Ordinance for the zone district in which the cemetery is located.
- B. No gravesites shall be located within the Flood Plain Overlay District.

- C. The owner/applicant shall submit evidence to the Borough that proves to the satisfaction of the Zoning Hearing Board and the Borough Solicitor that there will be an appropriate financial system to ensure perpetual maintenance of the land.

**717 COMMERCIAL INDOOR RECREATION (Special Exception: C-2)**

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**718 STABLES, PRIVATE OR COMMERCIAL**

**Private Stable Accessory to a Residential Principal Use (Special Exception Accessory Use: R-1, R-2, R-3)**

- A. For Private Accessory Stables, the term 'horse' shall include all equines such as mules, ponies, donkeys, and miniature horses (zebras excluded).
- B. A minimum parcel of five (5) acres shall be required.
- C. No more than two (2) horses shall be kept; however, for each two (2) full acres over the minimum required, one (1) additional horse shall be allowed for a maximum of ten (10) horses. (i.e. On a seven-acre parcel, three (3) horses would be allowed. On a twenty-one-acre parcel or larger, the maximum of ten (10) horses would be allowed.)
- D. All horses shall be restricted from grazing or intruding on abutting properties by a secured four (4) board fence not less than four-feet-six inches (4'6") high from ground level. The fence must be setback a minimum of ten feet (10') from all property lines and road rights-of-way. The use of wire fencing is prohibited.
- E. Any stable building, corral, or other indoor/outdoor area used for feeding of animals, concentrated confinement of animals, or manure storage shall not be located closer than
1. two-hundred feet (200') from abutting property lines
  2. one-hundred feet (100') from abutting road rights-of-way
  3. seventy-five feet (75') from any dwelling
- F. Riding trails shall be separated from abutting properties and roads by a vegetative buffer no less than fifteen feet (15') in width.
- G. The use shall not create any nuisance due to odor, noise, dust, or other factor on any abutting property.
- H. Private accessory stables in all residential zones shall not include commercial breeding, boarding, riding and riding lessons, horse racing, horse rescues, equine-assisted therapy, sale or hire, or retail or wholesale sale of goods.

**Commercial Stable with or without a Residential Use or Private Stable with No Residential Principal Use (Special Exception: C-2, S-1)**

- A. For Commercial Stables or Private Stables in the C-2 and S-1 zone districts, the term 'horse' shall include all equines such as mules, ponies, donkeys, and miniature horses

(zebras excluded). Camelids such as llamas and alpacas shall also be allowed to be kept in conjunction with a commercial stable or private stable in the C-2 and S-1 zone districts.

- B. A minimum parcel of five (5) acres shall be required.
- C. No more than two (2) horses shall be kept; however, for each two (2) full acres over the minimum required, one (1) additional horse shall be allowed for a maximum of ten (10) horses. (i.e. On a seven-acre parcel, three (3) horses would be allowed. On a twenty-one-acre parcel or larger, the maximum of ten (10) horses would be allowed.)
- D. All horses shall be restricted from grazing or intruding on abutting properties by a secured four (4) board fence not less than four-feet-six inches (4'6") high from ground level. The fence must be setback a minimum of ten feet (10') from all property lines and road rights-of-way. The use of wire fencing is prohibited.
- E. Any stable building, corral, or other indoor/outdoor area used for feeding of animals, concentrated confinement of animals, or manure storage shall not be located closer than
  - 1. two-hundred feet (200') from abutting property lines
  - 2. one-hundred feet (100') from abutting road rights-of-way
  - 3. seventy-five feet (75') from any dwelling
- F. Riding trails shall be separated from abutting properties and roads by a vegetative buffer no less than fifteen feet (15') in width.
- G. The use shall not create any nuisance due to odor, noise, dust, or other factor on any abutting property.
- H. Off-street parking shall be provided in accordance with Article X of this Ordinance.
- I. Commercial breeding, boarding, riding and riding lessons, horse rescues, equine-assisted therapy, sale or hire shall be allowed in the C-2 and S-1 zone districts.

**719 COMMUNICATIONS ANTENNA (Special Exception: C-1, C-2, S-1)**

- A. Communications antennas shall only be permitted if they are mounted on existing public utility transmission towers, existing buildings or other structures, or existing communications towers.
- B. Building-mounted communications antennas shall not be located on any single-family attached or detached dwellings or two-family dwellings.
- C. Building-mounted communications antennas shall be permitted to exceed the height limitation of the applicable zone district by no more than twenty feet (20').
- D. Omni-directional or whip communications antennas shall not exceed twenty feet (20') in height and seven inches (7") in diameter.
- E. Directional or panel communications antennas shall not exceed five feet (5') in height and three feet (3') in width.

- F. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- G. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for compliance with the Uniform Construction Code, as adopted by the Borough of Moscow, and other applicable laws.
- H. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence or agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- I. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission (FCC) governing human exposure to electromagnetic radiation.
- J. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Borough.
- K. A communications equipment building shall be allowed as an accessory use to the communications antennas, provided that it meets all applicable height and setback requirements for unattached nonresidential accessory structures.
- L. The owner or operator of communications antennas shall be licensed by the FCC to operate such antennas.

**720 COMMUNICATIONS TOWER AND EQUIPMENT BUILDING (Special Exception: C-2)**

- A. The applicant shall demonstrate that it is licensed by the Federal Communications Commission (FCC) to operate a communications tower.
- B. The applicant shall demonstrate that the proposed communications tower and antennas to be mounted thereon comply with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- C. Communications towers shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of Aviation and applicable Airport Zoning Regulations.
- D. Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on existing buildings, structures, or communications towers. A good faith effort shall require that all owners of potentially suitable structures within a one (1)-mile radius of the proposed site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
  - 1. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.



2. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  3. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  4. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
  5. A commercially reasonable agreement could not be reached with the owners of such structures.
- E. Access shall be provided to the tower and equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty feet (20') in width and shall be improved to a width of at least ten feet (10') with a dust-free, all-weather surface for its entire length.
- F. A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the C-2 zoning district.
- G. Recording of a plat of subdivision or land development shall be required for a lease parcel on which a communications tower and equipment building is proposed.
- H. The applicant shall demonstrate that the proposed height of the tower is the minimum height necessary to perform its function.
- I. The maximum height of any communications tower shall be eighty feet (80').
- J. The foundation and base of any communications tower shall be set back from a property line (not lease line) abutting an R-district or residential property at least two hundred feet (200') and shall be set back from any other property line (not lease line) at least one hundred feet (100').
- K. The base of the tower shall be landscaped to screen the foundation and base and equipment building from abutting properties.
- L. The communications equipment building shall comply with the required yards (from lot lines, not lease lines) and height limitations for unattached nonresidential accessory structures.
- M. The applicant shall submit certification from a registered professional engineer that the proposed communications tower will be designed and constructed in accordance with the current *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Uniform Construction Code, as adopted by the Borough of Moscow.
- N. The applicant shall submit a copy of its current FCC license; the name, address, and emergency telephone number for the operator of the tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the tower and antennas.

- O. All guy wires associated with guyed towers shall be clearly marked to be visible at all times and shall be located within a fenced enclosure.
- P. The communications tower shall only be a monopole; lattice-type towers are prohibited.
- Q. The site of a communications tower shall be secured by a fence with a minimum height of eight feet (8') to limit accessibility by the general public.
- R. No signs or lights shall be mounted on a communications tower, except as may be required by the FCC, Federal Aviation Administration, or other government agency that has jurisdiction.
- S. If a communications tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the tower within six (6) months of the expiration of such twelve (12) month period.
- T. One off-street parking space shall be provided within the fenced area.

**721 CONTRACTOR'S OFFICE AND YARD (Permitted Use: C-1; Special Exception: C-2)**

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**722 CONVENIENT STORE WITH GAS PUMPS (Permitted Use: C-1, C-2)**

- A. All requirements set forth for auto service stations in §710 pertaining to the storage and dispensing of fuel, fuel pumps, and canopies shall apply to convenience stores with gas pumps.
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**723 CONVERSION FROM NON-RESIDENTIAL USE TO RESIDENTIAL UNITS (Permitted Use: R-1, R-2, R-3, S-1; Special Exception: C-1)**

- A. Any conversion of a non-residential building to a residential use shall comply with the requirements applicable to the dwelling type to which conversion is proposed.
- B. All conversions to residential uses shall be permitted only in the zoning districts where a new building of similar occupancy would be permitted by the Ordinance, and must comply with all applicable requirements set forth by this Ordinance for new buildings of similar occupancy. (i.e. Lots, Yard, and Building Regulations [Article VI], Off-Street Parking [Article X], and Performance Standards and Environmental Protection [Article VIII]).
- C. Conversion from a Non-Residential Use to Residential Units in the C-1 zoning district is allowable as a special exception for the conversion of non-residential uses into multi-family dwellings, garden apartments, and townhouses only. The conversion from non-residential uses to single-family dwellings or duplexes/two-unit attached dwellings on a single lot of record shall not be permitted in the C-1 zoning district.
- D. Conversion from a Non-Residential Use to Residential Units in the C-1 zoning district shall be subject to the requirements of §743 C., E. 2. and 3., G., J., K., and L. of this Ordinance. Minimum lot dimensions for the conversion from a non-residential use to residential units in

the C-1 zoning district shall follow the Minimum Lot Dimensions as set forth in §603, Schedule II, for multi-family dwellings (MF) in the R-3 zoning district.

**724 CORRECTIONAL FACILITY (Conditional Use: C-2)**

- A. No correctional facility shall be located in the Flood Plain Overlay District
- B. A minimum setback of one hundred feet (100') shall be required for all yards.
- C. The applicant shall prove to the satisfaction of Borough Council that the proposed use will include sufficient security measures to protect the general public.
- D. A correctional facility shall not be located closer than five hundred feet (500') from any of the following uses:
  - 1. places of religious worship
  - 2. public and semi-public buildings
  - 3. child day-care centers
  - 4. parks
  - 5. any R-district or residential property

**725 CREMATORIUM AND COLUMBARIUM (Conditional Use: C-2)**

- A. Crematoriums shall not be located within two hundred fifty feet (250') of any R-district or residential property.
- B. Crematoriums and columbariums shall meet the minimum setback requirements set forth in Schedule II of this Ordinance for the C-2 zone district, except as provided for in §725 A. above.
- C. No columbarium shall be located within the Flood Plain Overlay District.
- D. The owner/applicant shall submit evidence to the Borough that proves to the satisfaction of Borough Council and the Borough Solicitor that there will be an appropriate financial system to ensure perpetual maintenance of a columbarium.

**726 DRUG TREATMENT OR OTHER TREATMENT CENTER (Conditional Use: C-2)**

- A. The applicant shall provide a written description of the types of patients the use is intended to treat or rehabilitate over the life of the conditional use permit. Any future additions or modifications to the description shall require approval of Borough Council as a separate conditional use application.
- B. The applicant shall prove to the satisfaction of Borough Council, with the burden of proof being on the applicant, that the use will involve adequate supervision and security measures to protect public safety.
- C. Borough Council may place conditions on the use necessary to protect public safety, including conditions on the types of patients and security measures.

**727 FARM STAND (Permitted Accessory Use: C-2, S-1)**

- A. The stand shall not exceed eight hundred (800) square feet of gross floor area.

- B. The stand shall not be constructed or erected closer than one hundred feet (100') from the center of any road intersection.
- C. The stand shall be setback at least thirty feet (30') from any legal right-of-way.
- D. Off-street parking for vehicles shall be setback at least ten feet (10') from any legal right-of-way and shall comply with the provisions of Article X, Off-street Parking and Loading.

**728 FENCES, GATES AND WALLS (Permitted Accessory Use: All Zone Districts)**

- A. Fences, gates and walls may be erected up to lot lines; however, no fence, gate or wall may be erected within any road right-of-way.
- B. Solid fences, gates and walls in side- and rear-yard areas, measured from ground level along the full length of the fence, shall not exceed six feet (6') in height except as otherwise required for Specific Uses set forth in this Article VII. Solid fences, gates and walls erected in front yards, measured from ground level along the full length of the fence, shall not exceed four feet (4') in height except as otherwise required for Specific Uses set forth in this Article VII. The front yard of a property shall be the area between the front property line and the actual setback of the principal structure nearest to the front property line, not the minimum required front-yard setback as designated in Article VI of this Ordinance.
- C. Open or ornamental fences and gates, measured from ground level along the full length of the fence, shall not exceed six feet (6') in height. The open area between vertical members of the fence or gate shall either be four inches (4") or less, or twelve inches (12") or greater.
- D. Fences and gates not exceeding a height of ten feet (10'), measured from ground level along the full length of the fence, that are open mesh and screened as customarily required for tennis courts and other similar courts are permitted and may be equipped with the customary attached windbreaks. Fences and gates required for tennis and other similar courts shall be meet setback requirements as set forth in §751 of this Ordinance.
- E. No fence, gate or wall more than two feet (2') above the centerline grades of intersecting streets may be erected on any corner lot for a distance of thirty feet (30') measured along the street right-of-way lines from their point of junction.
- F. All fence posts or gateposts and other structural supports shall be located on the interior side of the fence or gate, facing the property to be fenced. The finished side of the fence or gate shall face the adjoining property and/or right-of-way.
- G. No fence, gate or wall shall be constructed within an easement in such a way that it would prevent the use of the easement for its intended purpose. The issuance of a permit should not impose any duty on the Borough to preserve an easement of which the Borough may not be aware. This duty shall be imposed on the property owner.
- H. Walls that are attached to a building shall be regulated as, and considered, part of the building.
- I. All fences, gates and walls must be maintained in good condition. No advertising shall be permitted on any fence, gate or wall in R-districts nor shall advertising be permitted on any fence, gate or wall erected on residential property in C- or S-districts.

- J. Fences, gates, walls, and the area between their exterior side and the nearest property line or roadway curb line or shoulder edge shall be properly maintained at all times. Broken, cracked, rotted, or rusted structural components shall be removed or repaired promptly. Grounds shall be kept clear or planted with vegetation appropriate to the site. A property owner who fails to provide proper maintenance may, after notice by the Zoning Officer and an opportunity to correct the situation, be required to remove the fence, gate or wall.
- K. In all zone districts, the following fences, gates or walls are strictly prohibited:
  - 1. Barbwire fences and gates or fence and gates using razor wire or any other material likely to cause physical injury to persons or animals. Fences and gates used for an agricultural operation or public facilities/utilities are exempt from this prohibition.
  - 2. Fences, gates or walls erected in such a manner as to inhibit or divert the natural drainage flow or cause the blockage or damming of surface waters.
  - 3. Fences, gates or walls that may create or enhance a fire hazard or other dangerous condition, or that may result in the obstruction to effectively fight a fire.
  - 4. Chain-link fences and gates having an unfinished or jagged top edge, or chain-link fence and gates that have the open spaces between wires covered by fabric sheeting or by strips of plastic or other material woven through the spaces.
  - 5. Temporary fences, such as snow fences or expandable and collapsible fences, unless necessary for use on sites under construction or for snow control; canvas or cloth fences, except when necessary for the protection of shrubs and vegetation.
- L. A Building/Zoning permit shall be required for the erection of all fences, gates and walls. The Zoning Officer shall have the duty and all power necessary to issue appropriate notices or orders directing property owners to correct any conditions that are in violation of this Ordinance.
- M. In the case of any fence, gate or wall erected before the effective date of this Ordinance, the requirements of this section shall apply upon the replacement of said fence or wall or any section(s) or components thereof comprising at least twenty-five percent (25%). Repairs, as this term is used in this Ordinance, shall not be interpreted to include painting.
- N. Engineered retaining walls, as defined by this Ordinance and necessary to hold back slopes, are exempt from the regulations of this section.

**729 FLEA MARKET (Conditional Use: C-2)**

- A. Indoor flea markets shall meet minimum parking requirements for retail businesses set forth in Article X.
- B. Outdoor flea markets not involving the use of a building or structure shall require a lease or letter of permission to occupy the property and operate the flea market, which shall be provided to the Borough along with the Zoning Permit Application. The Borough may require commercial outdoor flea market operators and vendors to provide a bond or vendors fee to assure that the operation thereof is carried out in a safe and environmentally sound manner.
- C. Both indoor and outdoor flea markets shall be provided with an approved water supply and sewage disposal system.

- D. For both indoor and outdoor flea markets, a ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**730 FORESTRY (Permitted Use: All Zone Districts)**

A. Purpose.

In order to conserve forested open space and the environmental and economic benefits they provide, it is the purpose of Moscow Borough to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations contained in this §730 are intended to further this purpose by:

1. Promoting good forest stewardship.
2. Protecting the rights of adjoining property owners.
3. Minimizing the potential for adverse environmental impacts.
4. Avoiding unreasonable and unnecessary restrictions on the right to practice forestry.

B. Applicability.

To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land throughout Moscow Borough, forestry activities, including timber harvesting, shall be subject to the requirements of this §730 where the value of the trees, logs, or other timber products removed exceeds \$1,000. These provisions do not apply to the cutting of trees for the personal use of the forestland owner or for pre-commercial timber stand improvement.

C. Permits/Fees, Notification of Completion, and Preparation of a Logging Plan.

1. *Permits/Fees* — For all timber harvesting operations that are expected to exceed one (1) acre, the forestland owner shall obtain a Timber Harvest Permit from the Zoning Officer at least forty-five (45) business days before the operation commences. The forestland owner shall be responsible for any cost incurred by the Borough for review of the Logging Plan required under 3. below by the Zoning Officer and/or Borough Engineer. No timber harvesting shall occur until the permit has been issued.
2. *Notification of Completion* — For all timber harvesting operations required to obtain a Timber Harvesting Permit, the forestland owner shall notify the Zoning Officer within thirty (30) business days before the operation is complete.
3. *Logging Plan* — Every forestland owner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this ordinance. No timber harvesting shall occur until the plan has been prepared. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation and shall be provided to the Zoning Officer upon request.
4. *Responsibility for Compliance* — The forestland owner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

D. Contents of the Logging Plan.

1. *Minimum Requirements* — As a minimum, the logging plan shall include the following:
  - a. Design, construction, maintenance, and retirement of the access system, including haul roads, skid trails, and landings.
  - b. Design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars.
  - c. Design, construction, and maintenance of stream and wetland crossings.
  - d. The general location of the proposed operation in relation to municipal and state highways, including any accesses to those highways.
2. *Map* — Each logging plan shall include a sketch map or drawing containing the following information:
  - a. Site location and boundaries, including both the boundaries of the property on which the timber harvesting will take place and the boundaries of the proposed harvest area within that property.
  - b. Significant topographic features related to potential environmental problems.
  - c. Location of all earth disturbance activities such as roads, landings, and water control measures and structures.
  - d. Location of all crossings of the waters of the Commonwealth.
  - e. The general location of the proposed operation to municipal and state highways, including any accesses to those highways.
3. *Compliance with State Law* — The logging plan shall address and comply with the requirements of all applicable state regulations including, but not limited to, the following:
  - a. Erosion and Sedimentation Control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 PS §691.1 et seq).
  - b. Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 PS §693.1 et seq).
4. *Relationships of State Laws, Regulations, and Permits to the Logging Plan* — Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25, Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified in paragraphs A. and B. of this section, provided that all information required by these paragraphs is included or attached.

**E. Forest Practices.**

The following requirements shall apply to all timber harvesting operations in the Borough:

1. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Borough or PennDOT, whichever is responsible for maintenance of the thoroughfare.
2. No tops or slash shall be left within twenty-five feet (25') of any public thoroughfare or private roadway providing access to adjoining residential property.
3. All tops and slash between twenty-five and fifty feet (25' and 50') from a public roadway or private roadway providing access to adjoining residential property or within fifty feet (50') of adjoining residential property shall be lopped to a maximum height of four feet (4') above the ground.
4. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
5. Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

**E. Responsibility for Road Maintenance and Repair and Road Bonding.**

Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67 Pennsylvania Code, Chapter 189, the forestland owner and the operator shall be responsible for repairing any damage to Borough roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic, and may be required to furnish a bond to guarantee the repair of such damages.

**F. Enforcement.**

1. *Inspections* — The Zoning Officer may go upon the site of any timber harvesting operation before, during, or after active logging to (1) review the logging plan or any other required documents for compliance with this §730 and (2) inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.
2. *Violation Notices, Suspensions, and Penalties* — Any timber harvesting operation found to be in violation of this Ordinance shall be subject to the penalty regulations set forth in §1209 of this Ordinance.

**731 GARAGE OR YARD SALE (Permitted Accessory Use: All Zone Districts)**

Permits shall not be required for garage or yard sales or private rummage sales, but shall be subject to the following specific regulations:

- A. Private rummage sales conducted by a service, non-profit, religious or charitable organization are permitted as accessory uses. Any such organization may conduct not more than two (2) such rummage sales in any one calendar year and each event shall be conducted for not more than seven (7) successive days. All vehicle parking shall be provided in off-street parking spaces.
- B. Individual, private-family yard or garage sales are permitted as accessory uses in all zone districts. Each individual property location may have a maximum of two (2) yard sales during any one (1) calendar year. Each sale may last a maximum of two (2) consecutive days. Yards or garage sales are meant to allow individuals the offering for sale of accumulated normal household items, and the buying and selling of commercial or surplus



material shall be considered a commercial operation and shall only be allowed in zone districts where retail sales of general merchandise is permitted.

**732 GROUP HOME (Permitted Use: R-1, R-2, R-3, S-1)**

- A. There shall be adequate supervision provided by an adequate number of persons trained in the field for which the group home is intended.
- B. The use shall be licensed or certified under an applicable state or federal program for group housing. A copy of any such license or certification shall be filed with the Zoning Officer.
- C. The use shall register the general type of treatment or care, maximum number of residents and sponsoring agency with the Zoning Officer. Such information shall be available to the public for review upon request.
- D. The group home shall notify the Zoning Officer within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents, or if any applicable license/certification is suspended or withdrawn.
- E. Any medical or counseling services provided shall be limited to residents.
- F. No exterior signs shall identify the use.
- G. Construction of a group home shall comply with minimum density and lot and yard regulations applicable to single-family dwellings set forth in Article VI of this Ordinance.

**733 HELIPAD (Conditional Use: C-2)**

- A. All applicable state and federal regulations shall be met and copies of applicable permits and licenses shall be provided to Borough Council.
- B. Safety to residential uses adjacent to the helipad shall be considered by the Borough in reviewing a helipad application.
- C. Yard setbacks shall be set on an individual site basis dependent upon specific safety requirements.

**734 HOME-BASED BUSINESS, MINIMAL IMPACT (Special Exception Accessory Use: All Zone Districts)**

- A. The following uses shall not be permitted as a minimal impact home-based business: adult business, animal hospital, kennel or veterinarian clinic; commercial stable; funeral home or mortuary; retail business; restaurant, café, or coffee house; auto repair or auto body shop; transit-related- or maintenance facility; wholesale business; or, warehousing and distribution.
- B. The Zoning Hearing Board may determine that other particular types or intensity of uses are unsuitable to be minimal impact home-based businesses or that the proposed lot area or setbacks are insufficient.
- C. The minimal impact home-based business shall be conducted completely indoors and may be within a principal dwelling or accessory structure. The total amount of floor area used for the minimal impact home-based business shall not be greater than twenty-five percent (25%) of the total floor area of the principal dwelling unit.

- D. Outdoor storage of materials, products, or equipment shall be prohibited.
- E. Display windows, business displays, or advertising visible from outside shall be prohibited. A personal sign identifying the minimal impact home-based business is permitted pursuant to the requirements of Article IX of this Ordinance.
- F. The use shall comply with the requirements of Commercial Vehicle Parking in R-districts and on Residential Property set forth in Article VIII of this Ordinance.
- G. No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. No use shall generate noise or glare in excess of what is typical in a residential neighborhood.
- H. The use shall comply with all performance standards and environmental protection standards set forth in Article VIII of this Ordinance.
- I. The use shall not routinely involve the parking of more than four (4) nonresident vehicles at any one time. The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use will have adequate area for off-street parking and loading spaces.
- J. The Zoning Hearing Board may regulate the location of needed off-street parking to maintain the residential character, and may deny a minimal impact home-based business if adequate off-street parking cannot be accommodated.
- K. The exterior of the dwelling and lot shall not be changed in such a way to decrease its residential appearance, except for permitted parking spaces and a personal sign identifying the business.
- L. A minimal impact home-based business shall not be conducted in a way that is perceptible from beyond the property boundaries and not between the hours of 8 PM and 8 AM. This time limit shall also apply to any loading or unloading of vehicles that causes noise to abutting properties.
- M. The use shall not involve the storage or use of hazardous, flammable, or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the storage or use of toxic substances.
- N. In addition to permanent residents, one (1) nonresident of the dwelling may work on the premises of a minimal impact home-based business.
- O. Child Day Centers operated as minimal impact home-based businesses shall also comply with the following:
  - 1. The number of children that care is provided to shall be from seven (7) to twelve (12). See §734A below for child day care for four (4) to six (6) children.
  - 2. Smoke detectors shall be provided throughout the building, an "ABC"-rated fire extinguisher shall be provided, lights shall be provided at all exits, and at least one (1) exit window shall be provided with an opening within six feet (6') of the exterior grade level.
  - 3. A minimum of one hundred (100) square feet of a safe, fenced-in exterior play area shall be provided. The play area shall not be within any front yard and shall be separated from any abutting residential property by evergreen screening.

4. All applicable provisions of the International Residential Code shall also be met and an Occupancy Permit for the business shall be required.
5. A plan shall be required for the drop off/pick up of the children that clearly demonstrates to the Zoning Hearing Board that traffic generated by the business will not impact the surrounding neighborhood in a negative manner.

**734A HOME-BASED BUSINESS, CHILD DAY CARE FOR FOUR (4) TO SIX (6) CHILDREN (Permitted Accessory Use: All Zone Districts)**

- A. Smoke detectors shall be provided throughout the building, an "ABC"-rated fire extinguisher shall be provided, lights shall be provided at all exits, and at least one (1) exit window shall be provided with an opening within six feet (6') of the exterior grade level.
- B. A minimum of one hundred (100) square feet of a safe, fenced-in exterior play area shall be provided. The play area shall not be within any front yard and shall be separated from any abutting residential property by evergreen screening.
- C. All applicable provisions of the International Residential Code shall also be met and an Occupancy Permit for the business shall be required.

**735 HOME-BASED BUSINESS, NO IMPACT (Permitted Accessory Use: All Zone Districts)**

- A. The no-impact home-based business shall be compatible with the residential use of the property and surrounding residential uses.
- B. The no-impact home-based business shall have no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a no-impact home-based business use, including, but not limited to, parking, signs, or lights.
- E. The use shall comply with the requirements of Commercial Vehicle Parking in R-districts and on Residential Property set forth in Article X of this Ordinance.
- F. The no-impact home-based business may not use any equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- G. The no-impact home-based business may not generate any solid waste or sewage discharge, in volume or type, that is not normally associated with residential use in the neighborhood.
- H. The no-impact home-based business shall be conducted only within the dwelling and may not occupy more than twenty-five percent (25%) of the habitable floor area.
- I. The no-impact home-based business may not involve any illegal activity.

**736 HOSPITAL (Conditional Use: C-1, C-2)**

- A. No hospital shall be located in the Flood Plain Overlay District.

- B. A minimum lot area of five (5) acres shall be required.
- C. The use must be served by a centralized sewage disposal system.
- D. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**737 HOTEL/MOTEL (Permitted Use: C-1, C-2)**

- A. A minimum lot area of three (3) acres shall be required.
- B. The use must be setback a minimum of one hundred feet (100') from all property lines.
- C. The use must be served by a centralized sewage disposal system.
- D. Each rental room shall contain a minimum of one hundred fifty (150) square feet of habitable floor space.
- E. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**738 INDUSTRY, HEAVY (Permitted Use: C-2)  
INDUSTRY, LIGHT (Special Exception: C-1; Permitted Use: C-2)**

- A. A minimum lot area of three (3) acres shall be required for all facilities defined as Heavy Industry under §302 of this Ordinance.
- B. All structures, including storage equipment and other materials, shall be set back a minimum of fifty feet (50') from all property lines, wetlands, and watercourses.
- C. All applicable performance standards as required under Article VIII of this Ordinance shall be met.
- D. All applicable Federal and/or state regulations shall be met. Copies of any required licenses and/or permits shall be provided to the Zoning Officer.
- E. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**739 JUNK YARD OR AUTOMOBILE WRECKING FACILITY (Special Exception: C-2)**

- A. All proposed junk yards or automobile wrecking facilities shall meet all applicable performance standards as required under Article VIII of this Ordinance, as well as all requirements of the Moscow Borough Junk Yard Ordinance, as amended.

**740 MACHINE SHOP (Special Exception: C-1; Permitted Use: C-2)**

- A. All machine shops, as defined by §302 of this Ordinance, shall comply with §738, subsections B. through E. of this Ordinance.

**741 MINERAL AND NATURAL RESOURCE EXTRACTION AND PROCESSING (Conditional Use: C-2, S-1)**

- A. Evidence of compliance with all state and Federal laws applicable to the extraction and processing for which a permit is sought shall be provided to Borough Council.
- B. A description of the character, timing, and duration of the proposed operation, including maps and plans showing the area and extent of the proposed activity, the location and design of all structures, depth of the excavation, areas for storage of soil materials, and facilities for processing, loading and transportation of minerals shall be submitted.
- C. The location of all structures and land uses that may be affected by the proposed operation and measures that will be taken to protect all structures and land uses from adverse impacts from extraction.
- D. Measures that will be taken to insure that any loss, diminution, or pollution of water supplies in areas affected by extraction will be corrected or replaced shall be provided.
- E. Measures that will be taken to insure that the performance standards contained in all sections of this ordinance shall be met shall be provided.
- F. Description of plans for the transportation of the extracted product, including routes of travel, number and weight of vehicles, and measures that will be taken to maintain all roads within the Borough that are used to transport minerals and to repair any damages that may result from the use of roads for loads and volumes of traffic shall be provided.
- G. Plans for the restoration and reclamation of all land affected by the extraction and processing operation to a condition that will support uses that are permitted in the zone district shall be provided.
- H. In deciding upon an initial application for a conditional use permit for extraction or processing, Borough Council shall evaluate the impact of the proposed activity upon adjacent areas and upon the community at large and shall approve granting of a permit only if it finds that:
  - 1. The scale, pace, and duration of the proposed activity are reasonable in relationship to the ability of other portions of the community to maintain normal patterns of activity while extraction activities are ongoing.
  - 2. Adequate safeguards are provided to insure that damage will not be done to property elsewhere in the Borough or to the natural environment.
  - 3. The proposed plan for reclamation and reuse of land is acceptable. If the proposed reclamation plan is for Forestry or other undeveloped use, grading, drainage, and vegetation must be compatible with other such use areas in the Borough. If the proposed reclamation is for Development, the proposed Development should be compatible with the regulations of the zone district in which it is located.
- I. In deciding upon an application for any expansion or change in an extraction or processing application, Borough Council shall consider all of the factors listed above and in addition shall grant a Conditional Use permit only if the following conditions are met:
  - 1. The performance of the applicant to date has been in conformance with all of the agreements made at the time of the initial conditional use approval; and
  - 2. No expansion in area of an extraction operation shall be permitted until extraction activities have been completed on an equivalent area of land and the land shall have

been graded and vegetation established in accordance with the approved plan for reclamation of the site.

- J. In no case shall a conditional use permit granted by Borough Council extend to an area of land or mode of operation that is larger or in any way different from the scope of permits issued concurrently by state and/or federal permitting authorities for the same existing or proposed extraction or processing activity.
- K. Outdoor lighting, if any, shall be shielded and/or reflected away from adjoining properties in accordance with lighting standards as established by this Ordinance or other applicable Borough Ordinances.
- L. This §741 shall not apply to excavations for home sites, driveways, roads, or other approved land developments.

**742 MOBILE HOME PARK (Special Exception: R-3, S-1)**

- A. The use shall have a minimum lot area of five (5) acres.
- B. All mobile home parks shall be served by a central sewage disposal system and central water supply system.
- C. Minimum density per unit and setbacks shall be the same as for single-family dwellings in the R-3 zone district, as established in Schedule II of this Ordinance.
- D. No mobile home park shall be located in the Flood Plain Overlay District.
- E. All mobile home parks must meet Design Standards for such use set forth in the Moscow Borough Subdivision and Land Development Ordinance.

**743 MULTI-FAMILY DWELLING, GARDEN APARTMENT, AND TOWNHOUSE (Permitted Use: R-3; Special Exception C-1, S-1)**  
**RETIREMENT HOUSING (Permitted Use: R-3; Special Exception C-1, S-1)**  
**TWO-UNIT ATTACHED DWELLING (Permitted Use: R-2, R-3; Special Exception: S-1)**  
**DUPLEX (over/under units) (Permitted Use: R-2, R-3; Special Exception: S-1)**

- A. The requirements of this §743 do not apply to the construction of one (1) two-unit attached dwelling or one (1) duplex on an individual zone lot. Minimum lot, yard, and coverage requirements for one (1) two-unit attached dwelling or one (1) duplex shall be as set forth under Schedule II of this Ordinance for (TF) dwellings as noted in said Schedule II for the applicable zone district in which the two-unit attached dwelling or duplex is located.
- A1. This §743 applies to the new construction of multi-family dwellings, garden apartments, townhouses, and two (2) or more duplexes or two-unit attached dwellings on a single lot of record. This §743 shall not apply to Conversion from a Non-Residential Use to Residential Units in so far as governed by §723. See §723 for the specific use requirements and applicable subsections of this §743 for Conversion from Non-Residential Use to Residential Units.
- B. A minimum net lot area for multi-family dwellings, garden apartments, townhouses, two (2) or more two-unit attached dwellings, and two (2) or more duplexes shall be two (2) acres.
- C. All multi-family dwellings, garden apartments, townhouses, two (2) or more two-unit attached dwellings, and two (2) or more duplexes shall be served by an existing or approved public or community sewage and water supply system.

- D. All multi-family dwellings, garden apartments, townhouses, two (2) or more two-unit attached dwellings, and two (2) or more duplexes shall be setback a minimum of one hundred feet (100') from the project property boundaries. Maximum lot coverage, maximum building height, and minimum lot dimensions shall be as set forth under Schedule II of this Ordinance for (MF) dwellings as noted in said Schedule II for the applicable zone district in which the multi-family dwellings, garden apartments, townhouses, two (2) or more two-unit attached dwellings, and two (2) or more duplexes are located.
- E. As defined under §302 of this Ordinance, the maximum number of dwelling units per building or structure shall not exceed the following:
  - 1. Two-unit attached or duplex: two (2)
  - 2. Townhouses: six (6)
  - 3. Garden Apartments: eight (8)
- F. In addition to the minimum yard requirements, off-street parking, streets, and storm water drainage facilities, a minimum of ten percent (10%) of the gross site area of Garden Apartment developments shall be set aside as Common Open Space, as defined under §302 of this Ordinance, and shall be maintained in accordance with the Moscow Borough Subdivision and Land Development Ordinance.
- G. Off-street parking shall be provided in accordance with the requirements of Article X of this Ordinance.
- H. All buildings or structures shall be separated by no less than twenty-five feet (25').
- I. Access roads through the development shall comply with the street standards for Minor Streets, including minimum right-of-way widths, as required by the Moscow Borough Subdivision and Land Development Ordinance, as amended. Direct access of individual parking spaces to the minor street shall not be permitted; instead, private access drives to the parking areas or building groups shall be provided.
- J. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards where the project abuts any existing single- or two-family dwellings. The initial height of the evergreen planting shall be four feet (4').
- K. Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to respective parking areas and common open space areas.
- L. Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers.
- M. A minimum of two (2) changes in the front wall plane with a minimum offset of four feet (4') shall be provided for every attached grouping of townhouses in one (1) building.

**743A NEW OR USED CAR, MOTORCYCLE, MOPED, ATV OR TRAILER RENTAL OR SALES**  
**(Special Exception: C-1; Permitted Use: C-2)**

- A. No vehicle or trailer on display shall occupy any part of an existing street right-of-way or within the area designated as customer parking.
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards where the project abuts any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

- C. The use shall comply with lighting and glare requirements as set in §814 of this Ordinance.

**744 OUTDOOR FURNACE (Special Exception Accessory Use: All Zone Districts)**

- A. Outdoor furnaces shall only be permitted to be installed and operated on parcels of two (2) or more acres.
- B. Outdoor furnaces shall not be located less than two hundred feet (200') from any neighboring property line.
- C. A permanent chimney must extend at least two feet (2') above the highest peak of the residence, building, or structure being served by the Outdoor Furnace.
- D. The only fuels allowed shall be those listed fuels recommended by the manufacturer. The following are specifically prohibited: unseasoned firewood, trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties, and pressured-treated wood), leaves, paper products and cardboard.
- E. All outdoor furnaces are required to meet the emissions standards required by the Environmental Protection Agency (EPA) at the time an application is made to Borough for the installation of the furnace.
- F. All outdoor furnaces shall be installed, operated, and maintained in strict conformance with the manufacturer's instructions and the regulations set forth in this §744. In the event of a conflict, the stricter regulation shall apply.
- G. No homemade outdoor furnace are permitted to be installed or used within the Borough.
- H. All outdoor furnaces may only be operated between the dates of October 1 and April 30, and may only be utilized as a supplemental heating system.
- I. If an outdoor furnace is more than fifty percent (50%) torn down, deteriorated, or decayed, the furnace must be removed and/or replaced with a new unit. Any new unit being installed or replaced must meet all requirements of this §744.
- J. The Special Exception Use permit pursuant to this §744 may be revoked by the Zoning Officer as may be necessary to protect the public health, safety and welfare of the residents of the Borough if any of the following conditions occur:
1. Malodorous air contaminants from the outdoor furnace are detectable outside the property of the individual on whose land the furnace is located.
  2. The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property.
  3. The emissions from the outdoor furnace cause damage to vegetation or property.
  4. The emissions from the outdoor furnace are or may be harmful to human or animal health.



**745 OUTDOOR RECREATION, ENTERTAINMENT, AND SPORTS (Special Exception: R-1, S-1)**

- A. Uses defined as Outdoor Exhibition, Sports Assembly, Entertainment, and Amusement in §302 of this Ordinance shall not be located closer than one thousand feet (1000') from the following:
  - 1. any Residential Use as listed in Schedule I and defined by Article III of this Ordinance
  - 2. public or private school
  - 3. cultural facility, gallery, or library
  - 4. hospital
- B. Minimum setbacks shall be one hundred feet (100') for all yards for all uses defined as Outdoor Exhibition, Sports Assembly, Entertainment, and Amusement in §302 with the exception of miniature golf courses. Minimum setbacks for miniature golf courses shall be fifty feet (50') for all yards.
- C. Proof of any licensing from appropriate state or federal agencies shall be required for issuance of a building and zoning permit.
- D. The noise factor shall be considered, and noise deadening devices or other means to prevent the noise from becoming objectionable to surroundings areas shall be required.
- E. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- F. Minimum setbacks shall be fifty (50') for all yards for all uses defined as Outdoor Sports in §302 of this Ordinance.
- G. Golf courses shall be designed that golf balls are highly unlikely to enter public roads or abutting properties. Fairways and greens shall be setback a minimum of fifty feet (50') from all property lines.
- H. Clubhouses, retail sales of equipment, swimming pools, and restaurants may be permitted as accessory uses to outdoor sports. All buildings and swimming pools shall be located no less than one hundred feet (100') from any Residential Use as listed in Schedule I and defined by Article III of this Ordinance, unless the owner of such abutting use(s) grants a waiver in writing to reduce the setback to fifty feet (50').
- I. Clubhouses, retail sales, and restaurants permitted as accessory uses shall meet minimum parking requirements for such uses set forth in Article X of this Ordinance as if they were principal permitted uses.
- J. Outdoor shooting or target ranges shall have a barrier behind the target area that is of sufficient height and thickness to adequately provide for public safety. This barrier shall be made of earth for any firearms range.
- K. An outdoor firearms range shall be setback a minimum of five hundred feet (500') from any Residential Use as listed in Schedule I and defined by Article III of this Ordinance.
- L. An outdoor firearms range shall be fenced and properly posted, and shall comply with National Rifle Association standards and other applicable federal, state, or local regulations.
- M. Noise limits set forth in §809 of this Ordinance shall be met for all Outdoor Sports uses.

**746 PLANNED UNIT DEVELOPMENT (Conditional Use: R-1, R-2, R-3, S-1)**

It is the purpose and intent of this Section to permit and encourage a more varied, efficient, attractive and economical development pattern, to increase flexibility in the location and arrangement of homes; to provide a more usable pattern of open space; to provide for flexibility of design, and to reduce the long-term costs of maintaining infrastructure to the community while furthering the purpose of this Ordinance. The uses permitted in a Planned Unit Development may include all types of residential uses, and those nonresidential uses listed below.

**A. Procedure:**

Planned Unit Developments shall be processed concurrently with the subdivision/land development process set forth in the municipal Subdivision and Land Development Regulations, and shall comply with the development requirements for a major development or subdivision.

**B. Minimum Size:**

Planned Unit Developments shall contain a minimum of ten (10) acres of land that shall be part of the same parcel of land and contiguous.

**C. Lot Size and Density of Development:**

Individual single-family building lots shall be reduced up to 25% of the lot area required for the zone district in which the development is located; however, all proposed structures must meet the setback requirements set forth in Schedule II. In no case shall the overall density of the development exceed the density or land area requirements per dwelling unit set forth in Schedule II of this ordinance.

**D. Setbacks:**

Planned Unit Developments proposing two-unit attached dwellings, duplexes, townhouses, multi-family dwellings, garden apartments, or non-residential uses in an R-1 Zone District shall not locate the structures closer than one-hundred feet (100') to a perimeter property line of the development

**E. Sewers:**

Planned Unit Developments shall be served by a central sanitary sewer system.

**F. Water Supply:**

If water service is to be provided by means other than by private wells owned and maintained by the individual owners of the lots within the Planned Unit Development, the developer or applicant must present evidence that the PUD is to be supplied water service by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

G. Open Space:

1. All areas of a Planned Unit Development not conveyed to individual lot owners and not occupied by buildings and required or proposed improvements shall be dedicated in perpetuity as permanent open space to be used for the sole benefit and enjoyment of the residents of the development. Land designated as open space shall be maintained as open space and shall not be sold, used to meet open space requirements for other developments, subdivided, developed or dedicated to any other use.
2. Open space areas shall be maintained so that their use and enjoyment as open space are not reduced or destroyed. Open space areas shall be preserved and maintained by either one or both of the following methods:
  - a. Dedication to a property owners association that assumes full responsibility for protection and maintenance of the open space.
  - b. Deed-restricted private ownership that shall prevent development of the open space, provide for its maintenance, and protect the rights of owners or occupants of the dwelling units of the proposed project to use and enjoy, in perpetuity, such open space.
3. At least fifty percent (50%) of the designated open space area shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over twenty-five percent (25%), or acreage used for improvements. Storm drainage facilities and sewage effluent disposal areas shall be considered improved areas.

However, in no case shall less than twenty-five percent (25%) of the gross area of the tract or parcel be dedicated to open space. The developer shall submit a schedule or plan, and proposed agreement(s) showing the proposed open space ownership and maintenance, as indicated in item 2.

H. Non-residential Uses:

Non-residential uses shall be permitted to be incorporated into the Planned Unit Development provided the following conditions are satisfied:

1. A minimum of one-hundred (100) dwelling units must be planned for development within the contiguous area of the tract.
2. No non-residential structures may be constructed until a minimum of fifty percent (50%) of the planned dwelling units have been constructed.
3. Non-residential uses shall be limited to the following:
  - a. A maximum of two-hundred (200) gross square feet of non-residential floor area may be constructed per dwelling unit.
  - b. All non-residential uses shall meet the applicable zoning regulations for setbacks (Schedule II), parking and loading areas (Schedules III and IV), and parking area landscaping requirements.
  - c. Only the following uses may be constructed and integrated into a Planned Unit Development:

- Child day-care centers
- Retail businesses serving the development
- Commercial or professional offices or services

**747 PRIVATE GARAGE AND CARPORT (Four bays or less, Permitted Accessory Use: All Zone Districts; Greater than 4 bays, Special Exception Accessory Use: All Zone Districts)**

- A. A private garage or carport attached to a principal building shall be considered a part of the principal building and shall conform to the building height limitations and minimum required setbacks for principal structures.
- B. Unattached private garages or carports may not be erected in any required front yard, but shall be allowed in side and rear yards, provided that the regulations set forth in this §747 are met.
- C. On corner lots, unattached private garages or carports shall not be located in any yard abutting a street right-of-way.
- D. No unattached private garages or carports shall be located closer than ten feet (10') from a principal structure or exceed a wall height of fifteen feet (15').
- E. All unattached private garages or carports shall be setback a minimum of ten feet (10') from all property lines.
- G. The exterior architectural appearance of private garages and carports shall be compatible to that of the principal residential structure.
- H. A maximum of four (4) bays shall be allowed for detached private garages or carports or any combination thereof. On lots greater than one (1) acre, newly proposed detached private garages or carports or any combination thereof may contain more than four (4) bays; however, any new private garage or carport or combination thereof proposing more than four (4) bays shall be considered a special exception use and require approval by the Zoning Hearing Board prior to construction.
- I. Private garages or carports attached, or proposed to be attached, to a principal dwelling shall be considered a part of the principal dwelling and shall not be subject to any bay limitations as set forth in §747 H. above.

**748 PRIVATE GREENHOUSE (Permitted Accessory Use: All Zone Districts)**

- A. Private, noncommercial greenhouses and nurseries and home gardens may not be erected or established in any required front yard, but shall be allowed in side and rear yards.
- B. Private greenhouses or nurseries shall be setback a minimum of ten feet (10') from all property lines.
- C. Private, noncommercial greenhouses and nurseries shall not exceed one thousand (1,000) square feet of gross floor area.

**749 PRIVATE INDOOR RECREATION (Special Exception Accessory Use: R-1, S-1)**

- A. A private indoor recreation accessory use as defined by §302 of this Ordinance may only be approved, established, or constructed on parcels of three (3) acres or more.

- B. A private indoor recreation accessory use shall not exceed three thousand (3,000) square feet of gross floor area.
- C. The use shall only be located within a rear yard and shall be setback a minimum of fifty feet (50') from all property lines.
- D. The use shall be effectively screened from adjacent properties by evergreen plantings, subject to approval by the Zoning Hearing Board.
- E. The maximum building height shall be twenty-five feet (25').
- F. Water and sewage disposal facilities may be installed in the building, subject to approval by the Borough's Sewage Enforcement Officer or appropriate permitting officer or agency.
- G. The exterior architectural appearance of the building or structure shall be compatible with that of the principal residential dwelling, subject to approval by the Zoning Hearing Board.
- H. No equipment, motors, heating or cooling systems or other similar operational apparatus shall be permitted that produces noise, noxious odor, vibration, electrical interference or radio or electromagnetic interference beyond the boundary of the property. Lighting and glare associated with the use shall be subject to the requirements set forth in §814 of this Ordinance.

**750 FUNERAL HOME OR MORTUARY (Special Exception: R-2; Permitted Use: R-3, C-1)**

- A. A minimum net lot area of 20,000 square feet shall be required for all funeral homes or mortuaries.
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**751 PRIVATE OUTDOOR TENNIS AND SIMILAR COURT (Special Exception Accessory Use: R-1, R-2, R-3, S-1)**

- A. Outdoor tennis and other similar courts, including any apron or walkway, shall only be allowed in rear yards and shall be setback a minimum of fifteen feet (15') from all property lines.
- B. Outdoor tennis and other similar courts may be completely or partially surrounded by a fence or wall, provided that such fence or wall is erected in conformance with §728 D. of this Ordinance.
- C. Lighting and glare associated with the use shall be subject to the requirements set forth in §814 of this Ordinance. All lights must be off when the court or courts are not in use.

**752 PRIVATE SWIMMING POOL AND HOT TUBS (Permitted Accessory Use: All Zone Districts)**

- A. In-ground swimming pools shall be completely surrounded by a secure fence, wall, portion of a building, or other structure not less than four feet (4') in height, constructed, installed, secured and enclosed in accordance with the requirements of the International Residential Code. Pool safety and security measures shall be constructed to make it difficult for small children to climb up or slip through. All gates or door openings through the enclosure (other

than a door to a building) shall be self-closing and include a self-latched device on the poolside for keeping the gate or door securely closed at times when not in use.

- B. Aboveground swimming pools shall include a secure fence, wall, or other enclosure a minimum of four feet (4') high above the surrounding average ground level, constructed, installed, secured and enclosed in accordance with the requirements of the International Residential Code. Aboveground pools shall be equipped with an access ladder that can be raised and located in a position that is a minimum of four feet (4') above the surrounding ground level or otherwise completely inaccessible to children when the pool is unattended. Exempt from this enclosure requirement are swimming pools less than twenty-four inches (24") deep or having less than 250 square feet of surface area, provided such pools do not have a water re-circulating system or involve structural materials.
- C. Outdoor hot tubs must be securely covered when not in use.
- D. All private swimming pools, hot tubs, and decks or patios surrounding a pool or hot tub shall be setback a minimum of ten feet (10') from all side and rear lot lines. No pool or hot tub shall be located in any front yard or in any yard that abuts a street right-of-way in the case of corner lots.
- E. No pool or hot tub shall be located above any underground electrical lines.
- F. All private swimming pools and hot tubs shall not be filled or contain any water until all security measures and safety enclosures, as are set forth in the current edition of the International Residential Code, have been completed and installed by the owner/contractor, and the owner has been issued a Certificate of Occupancy or Completion by the Zoning Officer and/or Building Inspector.

**753 PUBLIC OR COMMERCIAL PARKING (Permitted Use: C-1, C-2)**

- A. Maximum height of a multi-level parking structure shall be forty feet (40') or three (3) levels, whichever is less.
- B. A public or commercial parking lot shall not be used for parking of heavy construction equipment, vehicle repairs or vehicle sales.
- C. Public or commercial parking lots shall be designed and landscaped in accordance with §1003 of this Ordinance.
- D. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**754 RECYCLING FACILITY (Conditional Use: C-2)**

- A. Materials to be dropped-off, processed, separated, and/or collected shall be paper, fabric, cardboard, plastic, metal, aluminum and glass. All materials shall be kept in appropriate containers, with appropriate sanitary measures and frequent emptying to prevent the attraction of insects and/or rodents and to avoid fire hazards.
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**755 RELIGIOUS INSTITUTION (Permitted Use: All Zone Districts)**

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**756 RESEARCH LABORATORY (Special Exception: C-2)**

- A. Research activities that require outdoor facilities shall be enclosed by a fence a minimum of six feet (6') in height.
- B. Proof of compliance with any federal and state permits or regulations shall be required prior to the issuance of a building and zoning permit.
- C. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**757 ROOMING AND BOARDING HOUSE (Special Exception: C-1)**

- A. Each sleeping room shall be limited to two (2) adults, with a maximum of three (3) persons per sleeping room.
- B. The use shall be limited to a maximum number of thirty (30) residents, including all permanent residents.
- C. Each rental room shall contain a minimum of one hundred fifty (150) square feet of habitable floor space.
- D. One (1) full bathroom shall be provided for each four (4) rental rooms.
- E. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- F. Any type of identifying sign shall be limited to a surface area of six (6) square feet per side.
- G. Proof of any necessary federal or state structural or operating permits or licenses shall be required prior to the issuance of a building and zoning permit.

**758 SANITARY LANDFILL AND SOLID WASTE FACILITY (Conditional Use: C-2)**

- A. Solid waste facilities, as defined and regulated by the Pennsylvania Department of Environmental Protection (DEP), shall include the following operations: landfills, transfer facility, refuse vehicle staging areas, leaf composting facility, resource recovery facility, and waste disposal and processing facility. Solid waste facilities shall also include solid waste storage areas and vehicular waste transportation staging areas defined as areas designated for the use or staging of any type of vehicle or container utilized for the use of transportation of solid waste.
- B. No solid waste facility shall be located closer than one-thousand feet (1000') to any of the following: existing public right-of-way; property line; residential structure; public, semi-public, or institutional use; commercial or recreational facility. The access road and other improvements, serving the solid waste facility, shall be constructed according to the regulations contained in the municipal Subdivision and Land Development Regulations.

- C. All solid waste facilities shall be completely enclosed by a chain link fence not less than ten feet (10') in height. The fence shall be completely erected within six (6) months after issuance of a zoning permit for the facility. All gates shall be closed and locked when the operation is closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising sign of any kind placed on the fence. The perimeter of the entire facility shall be landscaped to effectively screen the facility from adjacent properties
- D. The solid waste facility's hours of operation shall be limited to the following: between the hours of 8:00 A.M. to 5:00 P.M. Monday to Friday; between the hours of 8:00 A.M. to 12:00 P.M. on Saturday; and shall not operate on Sunday or national holidays. In no event shall filled or partially filled refuse trucks be allowed to remain on site after closing time.
- E. Prior to the issuance of a Zoning permit, the owner/developer of the facility shall prepare a surface water and groundwater study for the proposed operation. The study shall detail the existing surface and subsurface water conditions and explain the precautions that will be undertaken to prevent any surface or groundwater contamination from the proposed facility.
- F. All solid waste facilities shall comply with the applicable regulations of the Pennsylvania Department of Environmental Protection (DEP).
- G. Exempt from the provisions of this Section are:
  - 1. Refuse vehicles parked at retail business establishments for a maximum of three (3) hours while the operator of the refuse vehicle uses the establishment.
  - 2. Solid waste containers designed to accept solid waste from retail business establishments, wholesale business establishments and residential buildings.

**759 COLLEGE AND DORMITORY (Conditional Use: C-2)**

- A. A minimum setback of eighty feet (80') shall be required for all yards.
- B. Dormitories shall be limited to full-time students, faculty, or staff of an accredited educational institution.
- C. A maximum of one (1) cooking area per twenty (20) students shall be provided for dormitories.

**760 SELF-STORAGE FACILITY (Special Exception: C-2)**

- A. Minimum distance between buildings shall be twenty feet (20').
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- C. The facility shall be surrounded by a fence no less than six feet (6') in height and designed to restrict access. There shall be defined entrances and exits.
- D. No locker/warehouse shall be used for any of the following:
  - 1. habitation
  - 2. residential purposes



3. storage or keeping of animals
  4. storage of food or other types of perishable materials
  5. storage of solid or liquid waste
  6. storage of hazardous materials
- E. No locker/warehouse shall be used for any other purpose except storage, and shall not be used for any other type of commercial or manufacturing activity. No materials, supplies, equipment, or goods shall be stored outside of the warehouse structures, with the exception of vehicles used for the operation of the facility, boats, recreational vehicles, and trailers.
- F. The use shall be provided with adequate outdoor lighting for security. Such lighting shall conform to performance standards set forth in Article §814 of this Ordinance.
- G. All applications for a building and zoning permit shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the application and shall provide specific rules to insure the requirements of this §760 are satisfied.
- H. All lockers/warehouses shall be fire and water-resistant.

**761 SHOPPING MALL, CENTER OR PLAZA (Conditional Use: C-1, C-2)**

- A. Any site proposed for multiple-occupant commercial establishments shall be held in single ownership or in unified control. The applicant shall provide the Borough with evidence of such ownership or control.
- B. One (1) ingress/egress point shall be allowed on each abutting street and shall be designed and constructed according to PennDOT guidelines.
- C. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**762 SIGN (Permitted Accessory Use: All Zone Districts)**

- A. All signs shall be subject to the requirements of Article IX of this Ordinance.

**763 SLAUGHTERHOUSE (Conditional Use: C-2)**

- A. A minimum of two (2) acres shall be required.
- B. The use shall be setback seventy-five feet (75') from all property lines.
- C. The use shall not be located closer than five hundred feet (500') from any R-district or any Residential Use as listed in Schedule I and defined by Article III of this Ordinance.
- D. All applicable federal or state permits or licenses shall be provided to the Borough prior to the issuance of a Building and Zoning Permit.
- E. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards. The initial height of the evergreen planting shall be four feet (4').

**764 SOLAR COLLECTOR (Permitted Accessory Use: All Zone Districts)**

- A. Roof-mounted solar collectors shall be permitted to extend a maximum of five feet (5') above the maximum building height for the zone district in which it is located.

- B. Ground-mounted solar collectors shall be located in rear and side yards only and shall be subject to minimum setback and building height requirements for unattached accessory structures for the zone district in which it is located.
- C. All installations shall meet the requirements of any applicable building code.

**765 TEMPORARY USE (Permitted Accessory Use: All Zone Districts)**

The Zoning Officer may issue a temporary permit for accessory structures or uses necessary during construction, or other special circumstances or events of a nonrecurring nature, subject to the following provisions:

- A. The life of such permit, excluding a permit for a temporary outdoor festival, shall not exceed one (1) year and may be renewed semi-annually for an aggregate period of not more than two (2) years.
- B. Such structures or uses shall be removed completely upon expiration of the permit without cost to the Borough.
- C. Recreational vehicles inhabited as temporary uses shall not be located in the Flood Plain Overlay District.
- D. Temporary outdoor festivals; carnivals; celebrations; country, craft, or county fairs; block parties; or picnics, held in conjunction with profit or non-profit organizations, shall require a permit, and the use shall not be conducted for a period longer than fourteen (14) days. The organization or individual conducting the activity shall provide the Zoning Officer with specific information on the activity or activities to be conducted. Measures for adequate security and clean up and temporary comfort facilities may also be required. No temporary outdoor activity shall conduct any business or event defined as an Adult Business by this Ordinance.

**766 TRANSIT-RELATED BUSINESS AND MAINTENANCE FACILITY (Special Exception: C-2)**

- A. All activities and all storage of equipment, materials, and/or vehicles shall not be located within fifty feet (50') of any road rights-of way and one hundred feet (100') of any wetland, watercourse, or surface drainage facility.
- B. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').
- C. For a site not abutting an R-district or residential use, a ten-foot-wide (10') evergreen buffer strip may be required along one or more property lines dependent upon specific location characteristics. The initial height of the evergreen planting shall be four feet (4').
- D. Parking of school and church buses or vans on residential property shall not be considered a bus or truck terminal as defined by this Ordinance.

**767 WAREHOUSING, DISTRIBUTION OR OUTDOOR STORAGE (Special Exception: C-2)**

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

- B. The use shall be subject to Regulation of Nuisance Elements (§809) and Lighting and Glare (§814) standards as set forth in this Ordinance.

**768 WATER EXTRACTION AND BOTTLING (Conditional Use: S-1)**

- A. All water extraction and bottling operations as defined by this Ordinance must provide the Borough Council with evidence of an approved construction/operation permit from the appropriate Commonwealth permitting agency.

**769 WHOLESALE BUSINESS (Special Exception: C-1; Permitted Use: C-2)**

- A. A ten-foot-wide (10') evergreen buffer strip shall be provided along all side and rear yards that abut any Residential Use as listed in Schedule I and defined by Article III of this Ordinance. The initial height of the evergreen planting shall be four feet (4').

**770 WIND ENERGY FACILITY (Conditional Use: Wind Energy Facility Overlay Zone District)**

- A. A permit shall be required for every wind farm and windmill installed at any location in the Borough.
- B. All other uses ancillary to the wind farm (such as a business office, maintenance depot, etc., greater than 1,000 sq. ft.) are prohibited from the wind farm. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind farm.
- C. A wind farm may be permitted on a property with an existing use subject to the following land development standards:
1. The minimum lot area, minimum setbacks and maximum height required by the underlying zone district shall apply to the wind farm and windmills, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements of the underlying zone district.
  2. The vehicular access to the equipment building shall, whenever feasible, be provided along existing driveways. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.
- D. The applicant shall demonstrate that the windmills are at the minimum height required to function satisfactorily. No windmill that is taller than this minimum height shall be approved.
- E. If the parcel on which the wind farm is a separate and distinct parcel, the underlying zone district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. No windmill shall be located closer to any property line than its height plus the normal setback for the underlying district. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of fifty feet (50').
- F. If the land on which the wind farm is leased, or is used by license or easement, the setback for any windmill, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of fifty feet (50') from the line of lease, license or easement. In any case, no windmill shall be located closer to any property line (not lease, license or easement line) than its height plus the normal setback for the underlying district.

- G. No windmill shall be located less than five hundred feet (500') from any principal residential structure existing prior to the erection of the windmill.
- H. The applicant shall demonstrate that the proposed windmills are safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All windmills shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed wind farm and support structure will be designed and constructed in accordance with accepted engineering practices and all requirements of any applicable construction code. Within forty-five (45) days of initial operation, the owner and/or operator of the wind farm shall provide a certification from a Pennsylvania registered professional engineer that the wind farm and all structures comply with all applicable regulations.
- I. A fence may be required around windmills and other equipment, unless the design of the structures adequately provides for safety.
- J. Landscaping may be required to screen as much of the wind farm ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the wind farm ground features from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
- K. The applicant must demonstrate that it has obtained the required licenses from governing state and federal agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the wind farm; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the wind farm.
- L. Access to the wind farm shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty feet (20') in width and shall be improved to a width of at least ten feet (10') with a dust-free, all-weather surface for its entire length. If the wind farm site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- M. Windmills shall comply with all applicable Federal Aviation Administration (FAA) and PennDOT Bureau of Aviation regulations. No windmill may be artificially lighted except as required by FAA requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PennDOT Bureau of Aviation.
- N. The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the wind farm developer.
- O. A wind farm shall not be located within five-hundred feet (500') of any structure listed on any public historic register.
- P. Should any wind farm or windmill cease to be used, the owner or operator or then owner of the land on which the wind farm or windmill is located, shall be required to remove the

same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees. In addition, at the time of zoning permit issuance for any windmill, the Borough shall require a financial guarantee, in a term, form and amount determined by the Borough Council with the advice of the Borough Solicitor, to guarantee the removal of the windmill.

- Q. A full site plan shall be required for all wind farm sites, showing the wind farm, windmills, building, fencing, buffering, access, and all other items required for conditional uses by this Ordinance.

**771 WIND TURBINE (Special Exception Accessory Use: All Zone Districts)**

- A. This §771 shall apply to a wind turbine accessory to a principal structure that is sized and intended to be used to generate electricity for the principal structure to which it is accessory.
- B. No accessory wind turbine shall exceed a height (defined as Wine Turbine Height under §302 of this Ordinance) of one hundred feet (100'). Any such structure shall maintain a setback from all property lines not less than one hundred twenty percent (120%) of the height of the structure, but in no case shall be less than fifty feet (50') from any property line.
- C. The minimum height between any wind turbine blade and the ground shall not be less than thirty feet (30').

## **ARTICLE VIII**

### **SUPPLEMENTAL PROVISIONS**

#### **801 STREET FRONTAGE REQUIRED**

Every principal building shall be built upon a lot with frontage upon a public street improved to meet Borough standards or for which such improvements have been insured by the posting of a performance guarantee pursuant to the Subdivision and Land Development Ordinance. Except that the Borough Council may approve the subdivision and development of one single family residential lot having no road frontage but access to a public road by means of an approved private access drive as provided for in the Moscow Borough Subdivision and Land Development Ordinance.

#### **802 TWO OR MORE PRINCIPAL USES**

Two or more principal uses or structures are permitted on a parcel in a single ownership provided that all applicable requirements for such uses and structures as specified within the Borough Subdivision and Land Development Ordinance and elsewhere in this Zoning Ordinance are met and that the following additional requirements are met:

##### **A. Residential Uses and Structures**

1. The minimum distance between detached single-family dwelling structures and/or two-unit attached or duplex structures shall be twice the required side yard distance for such structures in the applicable zoning district. The minimum distance between multi-family dwelling, garden apartment, and/or townhouse structures shall be as required in §743 of this Ordinance.
2. The number of housing units permitted on a single parcel shall be determined by totaling the required net lot area for all the housing units proposed.

##### **B. Non-residential Uses and Structures**

1. The minimum distance between permitted principal residential and non-residential structures shall be the sum of their minimum required side yards within the applicable zoning district.
2. The minimum distance between permitted principal non-residential structures shall be the sum of their minimum required side yards within the applicable zoning district. Each such non-residential structure to be erected on a single parcel shall meet all applicable requirements for minimum lot area, minimum yards, parking, maximum lot coverage and maximum building coverage of Article VI of this Ordinance, the same as if each such non-residential structure was to be erected on a separate conforming parcel.
3. Single structures designed or used for more than one permitted principal non-residential use (e.g. shopping malls, centers, or plazas; multiple occupancy offices; condominium type commercial professional, office; or retail structures etc.) shall meet all applicable requirements for minimum lot area, minimum yards, maximum lot coverage and maximum building coverage of Article VI of this Ordinance and any specific requirements under Article VII. They shall further meet the parking requirements of Article X of this Ordinance. Where no specific use of any area of any such structure is specified at the time of application for a land development permit, parking for such area shall meet the provisions of Article X of the Ordinance requiring

the greatest number of parking spaces for uses permitted in structures of the type to be erected.

### **803 MAXIMUM HEIGHT OF BUILDINGS AND STRUCTURES**

- A. MAXIMUM BUILDING HEIGHT. The maximum height of all buildings and structures within all Zone Districts shall be as provided for in Schedule II of this Ordinance.
- B. RESIDENTIAL AND AGRICULTURE BUILDING HEIGHT EXCEPTIONS. District height limitations shall not apply to church spires, belfries, cupolas and domes, monuments, chimneys, farm silos, radio and television masts or aerials and parapet walls extending not more than four feet (4') above the limiting height of the building.
- C. COMMERCIAL, UTILITY AND INDUSTRIAL STRUCTURE HEIGHT EXCEPTIONS. District height limitations may be exceeded for masts, aerials, towers, chimneys, solar energy equipment, windmills and communications equipment. These height limitation exceptions are subject to specific-use height limitations as set forth in Article VII of this Ordinance.

### **803A PERVIOUS PAVEMENT STANDARDS REGARDING MAXIMUM LOT COVERAGE**

- A. When pervious concrete pavement, as defined by this Ordinance, is used in the development of a lot, twenty-five percent (25%) of the area covered by the pervious concrete pavement shall be regarded as impervious surface and shall be calculated as part of the maximum lot coverage requirements set forth in Schedule II of this Ordinance.
- B. If other types of pervious surfaces are proposed, they will be reviewed and, if acceptable, approved on a case-by-case basis by the Borough Engineer. The credit for the pervious coverage shall be based upon actual field performance data provided by the manufacturer of such pervious surface type.
- C. Pervious concrete pavement and any other approved pervious pavement surface can not be replaced with any impervious surface material, as defined by this Ordinance. In addition, design and maintenance of the pervious pavement surface shall be done in accordance with the Moscow Borough Storm Water Management Ordinance and the Commonwealth's Storm Water Management Best Management Practices, regardless of the size of the pervious pavement area.
- D. Performance of the pervious concrete design, installation, and maintenance shall be guaranteed through the provision of a Developer's Agreement and through the creation of a permanent Improvement Maintenance Guarantee as set forth in the Moscow Borough Subdivision and Land Development Ordinance, as amended.

### **804 EXCEPTIONS TO MINIMUM LOT AREAS, LOT WIDTHS AND YARDS**

- A. Irregularly Shaped Lots. In the case of irregularly shaped lots, the minimum lot width specified in the district where the lot is located shall be measured from the minimum required front yard, provided that in no case shall the lot frontage measured at the street right-of-way line be less than seventy percent (70%) of the minimum lot width except in the following situations: on cul-de-sacs or street centerline curves of less than three hundred feet (300') radius where the lot frontage measured at the street right-of-way line shall not be less than forty percent (40%) of the minimum lot width.
- B. Through Lots. Front yards shall be provided along all portions of a through lot abutting any street right-of-way, except where a provision of a different yard will comply with the prevailing front yard pattern on adjoining lots.

- C. Corner Lots. Front yards shall be provided along all portions of a corner lot abutting any street right-of-way, except where the provision of a different yard will comply with the prevailing yard pattern on adjoining lots.
- D. Flag Lots. Flag lots as defined under §302 of this Ordinance shall be allowed under circumstances where there is sufficient acreage to create an additional lot but not sufficient road frontage for both lots to meet minimum lot widths. Only one (1) flag lot may be located directly to the rear of a lot with adequate road frontage. Such flag lots, when permitted, shall contain a minimum twenty-five (25') foot-wide access strip leading to the net, or buildable, portion of the lot, which must meet applicable area, width, depth, and setback requirements for the zone district in which the lot is located.

## **805 TRAFFIC VISIBILITY ACROSS CORNERS**

### **A. Sightlines at Street Intersections**

At an intersection, a triangle area shall be graded and sight obstructions shall be removed so that vision between heights of from two to ten feet (2'-10') above the centerline grades of the intersecting streets is not obscured. Furthermore, by deed restriction, by lease restriction, or by plan amendment, whichever method is applicable, vegetation shall not be planted or allowed to be grown in such a manner as to obscure vision between heights of from two to ten feet (2'-10') above the centerline grades of the intersecting streets. Such triangular area shall be determined by the intersecting street centerlines and a diagonal from a point on the centerline of the intersecting road distant fifteen feet (15') from the nearest edge of the travelway of the through road to a point on the centerline of the through road for a distance of:

1. Seven hundred (700') feet if the through road is an arterial street.
2. Five hundred (500') feet if the through road is a connector street.
3. Four hundred (400') feet if the through road is a collector street.
4. Three hundred (300') feet if the through road is a minor or local access street.

### **B. Sightlines at Private Driveway and Street Intersections**

At each point where a private driveway intersects a public street or road, a clear-sight triangle of ten (10') feet measured from the point of intersection of the street line and the edge of the driveway, shall be maintained, within which vegetation and other visual obstructions shall be limited to a height of not more than two (2') feet above the centerline grade.

## **806 BUFFER YARDS AND SCREENING**

Buffer yards and/or screening or fencing may be required between residential and nonresidential uses or between Permitted and Special Exception uses. Installation and maintenance of the buffer yard or screening or fence shall be the responsibility of the applicant proposing non-residential or special exception uses and shall be a condition of the application approval. The buffer yards shall comply with the following:

- A. The buffer yard shall be measured from the lot or parcel boundary line or from the near street line where a street serves as the lot or parcel boundary line. Buffer yards may not be part of an existing or future street right-of-way, but shall be in addition to that right-of-way.



- B. The buffer yard may be coterminous with required side, or rear yards, and in case of conflict, the larger yard requirements shall apply.
- C. In all buffer yards, the exterior width beyond the planting screen shall be planted with grass seed, sod or ground cover, and shall be maintained and kept clean of all debris, and rubbish.
- D. The buffer yard shall be a landscaped area free of structures, manufacturing, processing activity, materials, storage of materials and vehicular parking. No driveways or streets shall be permitted in the buffer yards except at point of ingress or egress.
- E. All buffer yards shall include a dense screen planting of trees, shrubs or other plant materials, or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare and noise. Such screen planting shall be in accordance with the following requirements.
  - 1. The screen planting shall be maintained permanently and any plant material which does not live shall be replaced within one year.
  - 2. The screen planting shall be so placed that at maturity it will not be closer than one foot (1') from any street or property line.
  - 3. The screen planting or fence shall be broken only at points of vehicular or pedestrian access.
- F. Fences or walls may be required on an individual site basis as a supplement or alternative to required screening. Where required for screening, fences or walls shall be constructed of approved materials in accordance with §728.

#### **807 PROJECTIONS INTO REQUIRED YARDS**

Certain architectural features may project into required yards as follows:

- A. Cornices, canopies, eaves or other architectural features, may project a distance not exceeding two inches (2") per one foot (1') of side yard width but may not exceed a total of three feet (3').
- B. Fire escapes may project a distance not exceeding four feet, six inches (4' 6").
- C. Any stair and necessary landings may project a distance not to exceed six feet (6'), provided such stair and landing shall not extend above the first floor of the building.
- D. Bay windows, balconies, fire places and chimneys may project a distance not exceeding three feet (3'), provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.

#### **808 LANDSCAPING AND NATURAL VEGETATION PROTECTION**

- A. Residential Uses.

Any part of a residential site where existing vegetation has been disturbed and is not used for dwellings, accessory structures, parking, or sidewalks shall be provided with all-season ground cover.

**B. Non-Residential Uses.**

A landscaping plan for all non-residential uses shall be required. Minimum landscaping requirements shall be as follows:

1. All disturbed areas of the site and all unusable areas in and around parking facilities shall be landscaped.
2. Plants shall be of a type compatible with the Borough's climate.
3. Required buffers shall be landscaped with evergreen plants and be of adequate size to effectively screen for a reasonable number of years.
4. Attractive natural features shall be preserved to the greatest extent possible.
5. DELETED
6. Plastic landscape materials shall not be used in place of live trees, shrubs, and ground cover.
7. All trees to be planted shall have a trunk diameter of at least one inch (1") measured one foot (1') above the ground.
8. Ground cover shall be spaced to allow for complete fill-in within one (1) year of planting.
9. Adequate soil preparation in accordance with accepted landscaping practices shall be required.
10. The property owner shall maintain all landscaping in good growing condition.

**809 REGULATION OF NUISANCE ELEMENTS**

No land or structure in any Zoning District shall be used or occupied in any manner that creates any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazards; noise, or vibration; smoke, dust, odor or other form of air pollution; heat, electromagnetic or other radiation, or other condition in such manner or in such amount as to affect adversely the reasonable use of the surrounding area or adjoining premises.

**A. Noise Control**

1. No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound which is steady, fluctuating or intermittent with a recurrence greater than one time in any fifteen (15) second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the following table when measured at or beyond the property boundary of the receiving land use.

**Continuous Sound Levels by Receiving Land Use**

Receiving Land Use Category	Time	Sound Level Limit
-----		
Residential, Public Space, Open Space, Agricultural or Institutional	1 7:00 a.m.- 7:00 p.m.	60 dBA
	2 7:00 p.m.- 7:00 a.m. plus Sundays & Legal Holidays	50 dBA
Commercial or Business	1 7:00 a.m.- 7:00 p.m.	65 dBA
	2 7:00 p.m.- 7:00 a.m. plus Sundays & Legal Holidays	60 dBA
Industrial	At all times	70 dBA

2. For any source of sound that emits a pure tone, the maximum sound level limits set forth in the above table shall be reduced by 5 dBA. For any source of sound that emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one time in any fifteen (15)-second interval) the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound pressure level, regardless of time of day or night or receiving land use, using the "fast" meter characteristic of a Type II meter, meeting the ANSI specifications S1.4-1971.
3. The maximum permissible sound levels by the receiving land use category as listed in the previous table shall not apply to any of the following noise sources:
  - a. The emission of sound for the purpose of alerting persons to the existence of an emergency.
  - b. Emergency work to provide electricity, water, or other public utilities when public health or safety is involved.
  - c. Domestic power tools, between the hours of 8:00 a.m. and 9:00 p.m.
  - d. Explosives and construction operations.
  - e. Agriculture.
  - f. Motor vehicle operations.
  - g. Public celebrations, specifically authorized by the Borough.
  - h. Surface carriers engaged in commerce by railroad.
  - i. The unamplified human voice.

**B. Vibration Control**

Operating or permitting the operations of any device that creates vibration that is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at fifty feet (50') (meter) from the source if on a public space or public right-of-way shall be prohibited. For the purposes of this section, "vibration perception threshold" means the minimum ground-or-structure-borne vibration motion

necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

**C. Outdoor Storage Control**

1. No flammable or explosive liquids, solids, or gases shall be stored in bulk above the ground except for tanks or drums of fuel directly connecting with energy devices, heating devices, or appliances located and operated on the same lot as the tanks or drums of fuel.
2. All outdoor storage facilities for fuel, raw materials, and products stored outdoors, including those permitted in paragraph 1 above, shall be enclosed by a fence of a type, construction and size as shall be adequate to protect and conceal the facilities from any adjacent properties. Fencing shall not only encompass the question of safety but also of screening and the screening shall preferably be evergreens. All National Office of Safety and Health Administration (O.S.H.A.) regulations shall be met.
3. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse. Applicable Department of Environmental Protection regulations shall apply.
4. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards. Applicable Department of Health and National O.S.H.A. regulations shall apply.

**D. Sewage Waste Treatment and Disposal Control**

All methods of sewage and waste treatment and disposal shall be approved by the Pennsylvania Department of Environmental Protection and in accordance with the Sewage Plan for the Borough. The standards of such regulations, or the following, whichever is more restrictive, shall apply.

1. There shall be no discharge of any toxic substance, gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid or gas, any liquid having a temperature higher than 150°F. or any matter containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any solid or viscous substance capable of causing obstructions or other interference with the proper operation of a sewage treatment plant, or any liquid having a pH lower than 5.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel, or material which would be harmful to the treatment of sewage.
2. Acidity and alkalinity of wastes shall be neutralized with a pH 7.0 as a daily average on a volumetric basis, with a temporary variation of pH 5.0 to 9.0.
3. Wastes shall contain no cyanides and no halogens, and shall not contain more than 10 ppm of the following gases: Hydrogen sulfide, sulfur dioxide and nitrogen dioxide.

4. Wastes shall not contain any insoluble substances in excess of 10,000 ppm, or exceed a daily average of 500 ppm, or fail to pass a No. 18 sieve, or have a dimension greater than 0.25 inch.
5. Wastes shall not have:
  - a. A chlorine demand in excess of 15 ppm.
  - b. Phenols in excess of 0.0005 ppm.
  - c. Grease fats or oils, or any oily substance in excess of 100 ppm or exceeding a daily average of 25 ppm.

**E. Dust, Dirt, Smoke, Vapors, Gases, Odors, Glare and Heat Control**

1. The air pollution control regulations promulgated by the State Air Pollution Control Act of January 9, 1960, Public Law 2119, as amended, shall be used to control the emissions of dust, dirt, smoke, vapors, gases, odors, glare and heat in the Borough.
2. The regulations are part of Title 25 Rules and Regulations, Department of Environmental Protection, Subpart C, Protection of Natural Resources, Article III Air Resources.

**F. Light, Glare and Heat Control**

No use shall carry on an operation that will produce light, heat or glare beyond the property line of the lot on which the operation is situated. Refer to §815 for specific light and glare requirements.

There shall be no flashing or intermittent lights, flood lighting or illumination of an outside wall for advertising or any other purposes visible from any point outside of the lot or parcel. Safety lighting to the minimum extent necessary shall be permitted. However, all light sources shall be shaded from direct view of any point outside the boundary of the lot or parcel.

**G. Containment of Dumpsters**

1. Temporary dumpsters for the removal of unwanted items, debris, or construction materials for all uses and/or properties within the Borough shall require a dumpster permit from the Zoning Officer subject to the following requirements:
  - a. They shall not to be used for customary household trash, food waste, or hazardous materials.
  - b. They may be placed on the owner's property or on the street or sidewalk abutting the nearest curb, subject to borough approval.
  - c. They must be equipped at each corner with reflectors, caution tape, or lights (if applicable).
  - d. They shall not obstruct pedestrian or vehicular traffic.
  - e. The permit holder shall maintain the dumpster in a neat and safe manner subject to all requirements or exceptions granted with the permit.

- f. The permit shall be valid for a period up to ninety (90) days from the date of issuance. An extension up to an additional forty-five (45) days may be granted by the Zoning Officer if the period exceeds ninety (90) days. A maximum of two (2) extensions may be requested. The permit holder must request the extension(s) in writing.
- 2. Dumpsters for multi-family residential complexes; commercial, industrial, and institutional uses must be completely, permanently, and securely screened and enclosed. They shall be located in rear or side yards only and setback from any R-district boundary or adjacent residential property by the minimum applicable rear or side yard setback for an accessory use in the zone district in which the dumpster is located. There shall be no setback requirement for dumpsters if the property is adjacent to a C- or S-district boundary on all side and rear property lines. The dumpster shall be enclosed from view from residential properties, public properties, or any street, sidewalk, or trail. This section shall apply to all new applicable uses as listed above and to existing dumpsters if there is a change of use on the property on which the dumpster is located or if the dumpster is re-located on the property fifteen feet (15') or more in any direction from its current location.

## **810 EXCAVATIONS, MINES AND FILL OPERATIONS**

Any excavations for the removal of topsoil or other earth materials, stone or mineral products must be carried out with respect for the environment, the health, safety, welfare of the neighborhood and community and meet the specific use requirements of Article VII of this Ordinance. All mining, excavation, filling operations and expansions of the operating areas existing at the time of this Ordinance shall comply with the following permit requirements:

- A. The applicant shall submit a soil erosion and stream sedimentation plan in an acceptable form to the local State authorized review agency.
- B. The applicant may be required to submit an environmental effects study defining the impact during activity. The applicant shall submit an operating plan and schedule and a reclamation plan describing the proposed reclamation conditions after the activity is completed. At a minimum, the land shall be returned to approximately the same degree of slope as the surrounding lands and shall be planted with suitably selected new trees or other plant materials to assure a successful forest growth or other suitable re-vegetation of the site. Fill materials shall meet PA DEP approval.
- C. The applicant will assure, and may be required to post bond to assure, the Borough that the operation will be carried out in a proper manner consistent with preservation of the environment and satisfaction of appropriate State requirements and to assure maintenance of an adequate vegetative cover for a period of five (5) years following conclusion of reclamation activities.
- D. The dumping of earth, gravel, rock or other materials not subject to decay, noxious or offensive odors may be permitted in any zone or any vacant land provided that the existing grade shall not be raised more than three feet (3') above the nearest road, that hazardous or nuisance conditions are not created or that an unsightly appearance or unstable slopes are not created. No substance controlled, regulated or monitored by state or federal statute or regulation shall be transported into, transshipped, stored or disposed of within Moscow without Borough approval.
- E. Slopes shall be covered with a suitable ground cover. A maximum of a thirty percent (30%) graded incline or decline shall be permitted in relationship to existing adjoining property grades after excavation.

- F. The Borough may require an annual permit for operations which extend beyond one (1) year and/or which change in character from the permit description of activity.
- G. All activities shall comply with all applicable State and Federal regulations, copies of required licenses and permits shall be provided to the Borough Zoning Officer.

**811 MOBILE HOMES**

- A. All mobile homes placed on single family lots or within mobile home parks within Moscow Borough shall meet the specifications for manufacture of mobile homes set forth in United States Standard Institute for Mobile Homes U.S.A., Standard A119.1-1969, NFPA No. 501B-1968 and all subsequent modifications and amendments of said standards. Building and zoning permits shall be required for the location or relocation of any mobile home within Moscow Borough.
- B. Mobile homes placed upon single residential lots outside of mobile home parks shall meet the following requirements:
  - 1. Mobile homes shall contain a minimum of nine hundred feet (950) square feet of living space.
  - 2. Mobile homes shall be installed upon a full continuous masonry foundation with appropriate frost-free footers and shall have permanent steps.
  - 3. Mobile homes shall have the wheels, axles and hitches removed prior to placement upon the above mentioned full continuous masonry foundation. The mobile home must be fully secured to said masonry foundation.
  - 4. Mobile homes shall comply in all respects with the requirements set forth in this Ordinance for single-family residences.
- C. Mobile homes placed within mobile home parks shall meet the following requirements:
  - 1. Mobile homes shall contain a minimum of seven hundred (700) square feet of living space.
  - 2. Mobile homes shall be installed upon a foundation consisting of five pairs of concrete piers installed to frost level, a perimeter foundation of poured concrete or block construction or a concrete slab.
  - 3. Mobile homes shall be secured to the foundation with anchors and tie-downs at least at each corner of the mobile home. Each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds.
  - 4. Mobile homes shall be enclosed from the bottom of the mobile home to the ground or stand using industry-approved, fire-resistant skirting material.

**812 MODULAR HOMES**

- A. Modular homes shall be installed upon a full continuous masonry foundation with appropriate frost-free footers and shall have permanent steps to all doorways.

- B. Modular homes shall have all wheels, axles and hitches, required for transportation, removed prior to placement upon the permanent foundation. The modular home shall be fully secured to said masonry foundation.
- C. Modular homes shall comply in all respects with the requirements set forth in this Ordinance for single-family residences.

### **813 STORM WATER MANAGEMENT**

Any development project proposed within Moscow Borough shall meet all storm water management requirements of the Moscow Borough Storm Water Management Ordinance and Pennsylvania Title 25, Chapter 102, Department of Environmental Protection requirements for Erosion and Sedimentation Control. Applicants for Borough Zoning and Building Permits shall prepare and submit storm water management control plans as required by these Pennsylvania Act requirements and also as required by Moscow Borough ordinances governing site grading and drainage and storm water management. Borough occupancy permits shall not be issued for any project until all applicable requirements of the Borough ordinances are complied with.

### **814 LIGHTING AND GLARE**

- A. Purpose. To require and set minimum standards for outdoor lighting to:
  - 1. Provide lighting in outdoor public places where public health, safety and welfare are potential concerns.
  - 2. Protect drivers and pedestrians from the glare of non-vehicular light sources that shine into their eyes and thereby impair safe traverse.
  - 3. Protect neighbors and the night sky from nuisance glare and stray light from poorly aimed, placed, applied, maintained or shielded light sources.
  - 4. Protect and retain the suburban/rural character of the Borough.
- B. Applicability
  - 1. Outdoor lighting shall be required for safety and personal security for uses that operate during hours of darkness where there is public assembly and traverse, including but not limited to the following uses: multi-family residential, commercial, industrial, public-recreational and institutional.
  - 2. The Zoning Officer, Zoning Hearing Board, or Borough Council may require lighting be incorporated for other uses or locations, as they deem necessary.
  - 3. The glare-control requirements herein contained apply to lighting in all above-mentioned uses as well as, but not limited to, sign, architectural, landscape and residential lighting.



C. Criteria

1. Illumination Levels

Use/Task	Maintained Footcandles	Uniformity Avg. : Min.
(a) Streets, local commercial Residential	0.9 Avg. 0.4 Avg.	6:1 6:1
(b) Parking, multi-family residential, • Low vehicular/pedestrian activity • Medium vehicular/pedestrian activity	0.2 Min. 0.6 Min.	4:1 4:1
(c) Parking, industrial/commercial/institutional/municipal • High activity, e.g., regional shopping centers/fast food facilities, major athletic/civic/cultural events. • Medium activity, e.g. community shopping centers, office parks, hospitals, commuter lots, cultural/civic/ recreational events • Low activity, e.g., neighborhood shopping, industrial employee parking, schools, church parking.	0.9 Min. 0.6 Min. 0.2 Min.	4:1 4:1 4:1
(d) Sidewalks	0.5 Avg.	5:1
(e) Building entrances, commercial, industrial, institutional	5.0 Avg.	-
(f) Service Station Pump Islands	10.0 Avg.	
(g) Car Dealerships	20.0 Max.	5:1 Max :Min.

- Notes: 1. Illumination levels are maintained horizontal footcandles on the task, e.g., pavement or area surface.  
2. Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. E.g., for commercial parking high activity, the average footcandles shall not be in excess of 3.6 (0.9 x 4).
- a. Lighting, where required by this Ordinance, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as contained in the IESNA Lighting Handbook.
- b. Future amendments to said recommended practices shall become a part of this Ordinance without further action of the Borough.
- c. Examples of intensities for typical outdoor applications, as extracted from the 8<sup>th</sup> Edition of the Lighting Handbook, are presented below.

2. Lighting Fixture Design

- a. Fixtures shall be of a type and design appropriate to the lighting application and aesthetically acceptable to the Borough.
- b. For lighting horizontal tasks such as roadways, sidewalks, entrances and parking areas, fixtures shall meet IESNA "full-cutoff" criteria (no light output emitted above 90 degrees at any lateral angle around the fixture).
- c. The use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes and spheres and other fixtures not meeting IESNA "full-cutoff" criteria, shall be permitted only with the approval of the Borough, based upon applicability in retaining the rural character of the Borough and achieving acceptable glare control.

- d. When requested by the Borough, fixtures shall be equipped with or be modified to incorporate light directing and/or shielding devices such as shields, visors, skirts or hoods to redirect offending light distribution and/or reduce direct or reflected glare.
- e. For residential applications, omni-directional fixtures, e.g., post top, wall bracket, wall pack, globe and sphere, shall meet IESNA "full-cutoff" criteria.
- f. NEMA-head fixtures, a.k.a. "barn lights" or "dusk-to-dawn lights," shall not be permitted where they are visible from other uses, unless fitted with a reflector to render them full cutoff.

3. Control of Nuisance and Disabling Glare

- a. All outdoor lighting, whether or not required by this ordinance, on private, residential, commercial, industrial, municipal, recreational or institutional property; shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
- b. All outdoor lighting fixtures shall be shielded in such a manner that no light is emitted above a horizontal plane passing through the lowest point of the light emitting element, so that direct light emitted above the horizontal plane is eliminated. All individual outdoor lighting fixtures that illuminate the area under outdoor canopies shall comply with this requirement. Outdoor canopies include, but are not limited to, the following applications:
  - 1). Fuel island canopies associated with service stations and convenience stores.
  - 2). Exterior canopies above storefronts in shopping centers and malls.
  - 3). Exterior canopies above driveways and building entrances.
  - 4). Pavilions and gazebos.
- c. Floodlights and spotlights shall be so installed or aimed that they do not project their output into the windows of neighboring residences, adjacent uses, skyward or onto a public roadway. The use of searchlights or laser source lights for advertising or entertainment purposes is prohibited.
- d. Unless otherwise permitted by the Zoning Officer, Zoning Hearing Board, or Borough Council, e.g., for safety or security or all-night operations, lighting for commercial, industrial, public recreational and institutional applications shall be controlled by automatic switching devices such as time clocks or combination motion detectors and photocells, to permit extinguishing outdoor lighting fixtures between 11 p.m. and dawn, to mitigate nuisance glare and sky-lighting consequences.
- e. Lighting proposed for use after 11 p.m., or after the normal hours of operation for commercial, industrial, institutional or municipal applications, shall be reduced by seventy-five percent (75%) from then until dawn, unless supporting a specific purpose and approved by the Zoning Officer, Zoning Hearing Board, or Borough Council.

- f. All illumination for advertising signs, buildings and/or surrounding landscapes for decorative, advertising or esthetic purposes is prohibited between 11:00 p.m. and sunrise, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.
- g. Illumination for flagpole lighting may not exceed 10,000 lumens.
- h. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, 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.
- i. In no case shall the intensity of illumination exceed 0.1 vertical footcandle measured line-of-site at the property line.
- j. Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign and aimed downward. Such fixtures shall be automatically extinguished between the hours of 11 PM and dawn except as specifically approved by appropriate officers or agents of the Borough.
- k. Except as specifically approved by appropriate officers or agents of the Borough, fixtures meeting IESNA "full-cutoff" criteria shall not be mounted in excess of twenty feet (20') above finished grade and fixtures not meeting IESNA "cutoff" criteria shall not be mounted in excess of sixteen feet (16') above grade.
- l. Directional fixtures for such applications as façade, fountain, feature and landscape illumination shall be aimed so as not to project their output beyond the objects intended to be illuminated, shall be extinguished between the hours of 11 p.m. and dawn and shall not be in conflict with the Borough's aim to maintain its rural character.
- m. Service-station canopy lighting shall be accomplished using flat-lens full-cutoff downlighting fixtures, shielded in such a manner that the edge of the fixture shield shall be level with or below the light source envelope.
- n. The use of white strobe lighting for tall structures such as smokestacks and chimneys is prohibited, and no lights, whatsoever, shall be mounted on a communications tower, except as may be required by the FCC, Federal Aviation Administration, or other government agency that has jurisdiction.

4. Installation

- a. For new installations, electrical feeds for fixtures mounted on poles shall be run underground, not overhead.
- b. Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces shall be placed a minimum of five feet (5') outside paved area or on concrete pedestals at least thirty inches (30") high above the pavement, or suitably protected by other approved means.
- c. Lighting fixtures shall not be mounted in excess of 20 feet above grade.

5. Maintenance

Lighting fixtures and ancillary equipment shall be maintained so as always to meet the requirements of this Ordinance.

D. Plan Submission

1. For subdivision and land-development applications where site lighting is required or proposed, lighting plans shall be submitted to the Borough for review and approval and shall include:
  - a. A site plan, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent use that might be adversely impacted by the lighting, containing a layout of all proposed fixtures by location and type
  - b. Isofootcandle plots for individual fixture installations, or 10' x 10' illuminance-grid plots for multi-fixture installations, that demonstrate compliance with the intensity and uniformity requirements as set forth in this Ordinance.
  - c. Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole foundation details and mounting methods.
2. The Zoning Officer, Zoning Hearing Board, or Borough Council may elect, at their discretion, to require that lighting plans for other than subdivision and land development applications also be submitted to the Borough for review and approval.
3. When requested by the Zoning Officer, Zoning Hearing Board, or Borough Council, applicant shall also submit a visual-impact plan that demonstrates appropriate steps have been taken to mitigate on-site and off-site glare and to retain the suburban/rural character of the Borough.
4. Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the Borough for review and approval.

E. Post Installation Inspection

The Borough reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this Ordinance, and if appropriate, to require remedial action at no expense to the Borough.

F. Compliance Monitoring

1. Safety Hazards

- a. If the Zoning Officer, Zoning Hearing Board, or Borough Council judge a lighting installation creates a safety or personal-security hazard, the person(s) responsible for the lighting shall be notified in writing and required to take remedial action.

- b. If appropriate corrective action has not been effected within thirty (30) days of written notification, the Borough may commence legal action as provided in Section H. below.

2. Nuisance Glare and Inadequate Illumination Levels

- a. When the Zoning Officer, Zoning Hearing Board, or Borough Council judge an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this Ordinance, the Borough may cause written notification of the person(s) responsible for the lighting and require appropriate remedial action.
- b. If appropriate corrective action has not been effected within thirty (30) days of notification, the Borough may commence legal action as provided in Section H. below.

G. Nonconforming Lighting

Any lighting fixture or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance shall be considered as a lawful nonconformance subject to the following:

Unless minor corrective action is deemed by the Borough to be an acceptable alternative, a nonconforming lighting fixture or lighting installation shall be made to conform with the applicable requirements of this Ordinance when:

- 1. It is deemed by the Borough to create a safety hazard
- 2. It is replaced, abandoned or relocated
- 3. There is a change in use

H. Violations and Penalties

Any person found to be in violation of the lighting and glare regulations set forth in this section shall be subject to enforcement and penalty regulations set forth in §1209 of this Ordinance.

**815 WETLANDS**

If the Borough determines that wetlands may be present or may be impacted, a delineation of the wetlands, as defined and regulated by the U.S. Army Corps of Engineers and Fish and Wildlife Service, and PA DEP, may be required on any building and zoning permit proposing a new land-use or expansion of an existing use. The applicant shall be responsible for the delineation and shall guarantee that the wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect.

No development in wetlands shall be undertaken except in accordance with all Federal and state wetland regulations, and evidence of such compliance shall be furnished to the Borough.

No building and zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the applicant with any Federal or state wetland regulations. The Borough shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

**816 WATERCOURSES AND WATER BODY BUFFERS**

A minimum buffer zone or building setback of fifty feet (50') shall be maintained from the top of the bank of any natural watercourse or body of water for the purposes of protecting water quality and ensuring recreational access. No structures, sewage disposal systems, or any impervious surfaces shall be constructed or placed within these buffer zones; exceptions are uncovered docks, boat launches, and street or driveway crossings. In residential subdivisions, these buffer zones shall be established via a protective easement.

## **ARTICLE IX**

### **SIGN REGULATIONS**

#### **901 PURPOSE**

It is recognized that signs, placed upon the premises and/or structures to which they relate, serve a vital communicative function by allowing residents and visitors alike to readily ascertain the availability and location of facilities that serve their needs.

It is the purpose of this code to optimize the communicative value of on-premise signs within the landscape and along public thoroughfares by providing for an orderly and equitable means for the presentation and assimilation of the messages that such signs contain.

#### **902 DEFINITIONS**

**Abandoned Sign** - A sign that no longer identifies or advertises a location, product, or activity conducted on the premises on which the sign is located.

**Animated Sign** - A sign employing actual motion or the illusion of motion. Animated signs, that are differentiated from *changeable* signs as defined and regulated by this code, include the following types:

1. Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.
2. Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
3. Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
  - a. Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four (4) seconds.
  - b. Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Architectural Projection** - Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building but that does not include signs as defined herein. See also: Awning; Back-lit Awning; and Canopy, Attached and Freestanding.

**Awning** - An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a

supporting framework that may be either permanent or retractable.

**Awning Sign** - A sign displayed on or attached flat against the surface or surfaces of an awning. See also: Wall or Fascia Sign.

**Back-lit Awning** - An awning whose covering material exhibits the characteristic of luminosity obtained by means of a source of illumination contained within its framework.

**Banner** - A flexible substrate on which copy or graphics may be displayed.

**Banner Sign** - A sign utilizing a banner as its display surface.

**Billboard** - See: Off-Premise Sign and Commercial Outdoor Advertising Sign.

**Building Facade** - That portion of any exterior elevation of a building extending vertically from grade to the top of the parapet wall or eaves and horizontally across the entire width of the width of the building elevation.

**Canopy (Attached)** - A multi-sided overhead structure or architectural projection supported by attachment to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. Similar to a Marquee.

**Canopy (Freestanding)** - A multi-sided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

**Canopy Sign** - A sign affixed to the visible surface(s) of an attached or freestanding canopy. May be internally or externally illuminated. Similar to a Marquee Sign. Refer also to Section III herein for visual reference example.

**Changeable Sign** - A sign with the capability of content change by means of manual or remote input and includes the following types:

1. Manually Activated - Changeable sign whose message copy or content can be changed manually on a display surface.
2. Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also: Electronic Message Sign or Center.

**Commercial Outdoor Advertising Sign** - A permanent off-premise sign erected, maintained or used in the outdoor environment for the purpose of providing copy area for commercial or noncommercial messages.

**Copy** - The graphic content or message of a sign.

**Copy Area of Sign** - The actual area of the sign copy as applied to any background. Copy area on any individual background may be expressed as the sum of the geometrically computed area(s) encompassing separate individual letters, words, or graphic elements on the background.



**Directional Sign** - Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**Double-faced Sign** - A sign with two faces, back to back.

**Electric Sign** - Any sign activated or illuminated by means of electrical energy.

**Electronic Message Sign or Center** - An electrically activated Changeable Sign whose variable message capability can be electronically programmed.

**Exterior Sign** - Any sign placed outside a building.

**Facade** - See Building Facade.

**Fascia Sign** - See Wall Sign

**Flashing Sign** - See Animated Sign, Electrically Activated

**Freestanding Sign** - A sign principally supported by one or more columns, poles, or braces placed in or upon the ground. Refer also to Section §903 herein for visual reference examples.

**Frontage (Property)** - The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

**Frontage (Building)** - The length of an exterior building wall or structure of a single premise along either a public way or other properties that it faces.

**Ground Sign** - See Freestanding Sign

**Illuminated Sign** - A sign characterized by the use of artificial light, either projecting through its surface(s) [Internally illuminated]; or reflecting off its surface(s) [Externally illuminated].

**Interior Sign** - Any sign placed within a building, but not including Window Signs as defined by this ordinance. Interior Signs, with the exception of Window Signs as defined, are not regulated by this ordinance.

**Mansard** - A roof-like facade comparable to an exterior building wall.

**Marquee** - See Canopy (Attached). Definition is similar.

**Marquee Sign** - See Canopy Sign. Definition is similar.

**Multiple-Faced Sign** - A sign containing three (3) or more faces.

**On-Premise Sign** - A sign that is erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**Outdoor Advertising Signs** - A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**Parapet** - The extension of a building facade above the line of the structural roof.

**Pole Sign** - See Freestanding Sign.

**Political Sign** - A temporary sign intended to advance a political statement, cause, or candidate for office.

**Portable Sign** - Any sign not permanently attached to the ground or to a building or building surface.

**Projecting Sign** - A sign other than a Wall Sign that is attached to or projects more than eighteen inches (18") from a building face or wall or from a structure whose primary purpose is other than the support of a sign. Refer also to §903 herein for visual reference example.

**Real Estate Sign** - A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.

**Revolving Sign** - A sign that revolves three hundred and sixty degrees (360°) about an axis. See also: Animated Sign, Mechanically Activated.

**Roof Line** - The uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

**Roof Sign** - A sign mounted on the main roof portion of a building or on the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs. Refer also to Section §903 herein for visual reference example of roof sign, and comparison of differences between roof and fascia signs.

**Sign** - Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any other flags displayed from flagpoles or staffs will not be considered to be signs.

**Sign Structure** - Any structure designed for the support of a sign.

**Temporary Sign** - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

**Under Canopy Sign or Under Marquee Sign** - A sign attached to the underside of a canopy or marquee.

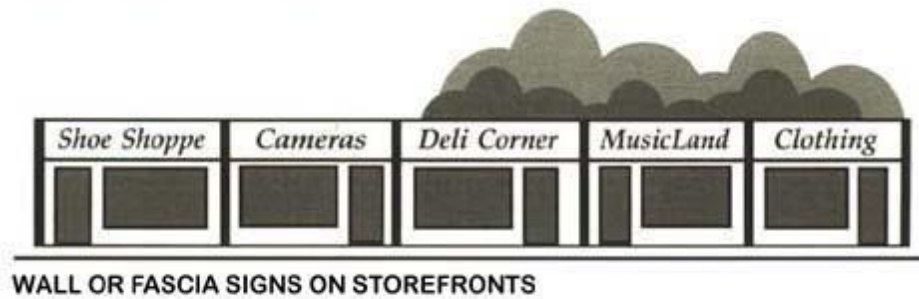
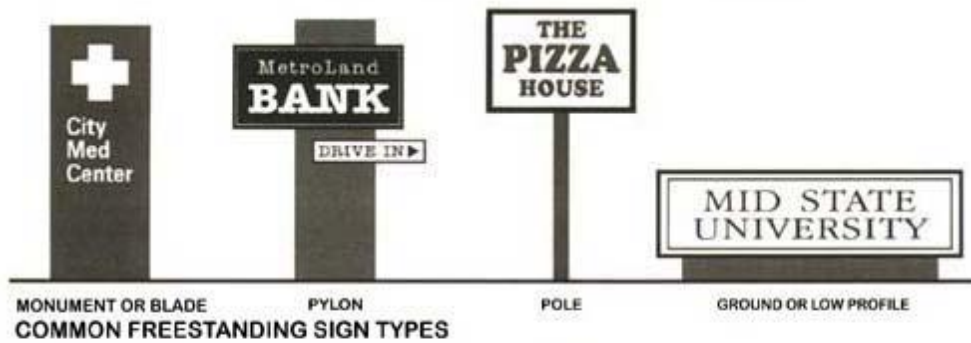
**V-Sign** - A sign containing two faces of equal size, positioned at an interior angle subtending less than one hundred seventy-nine degrees (179°) at the point of juncture of the individual faces.

**Wall or Fascia Sign** - A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than eighteen inches (18") from the building or structure wall. Also includes signs affixed to architectural projections that project from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. Refer also to section III herein for visual reference examples, and comparison examples of differences between wall or fascia signs

and roof signs.

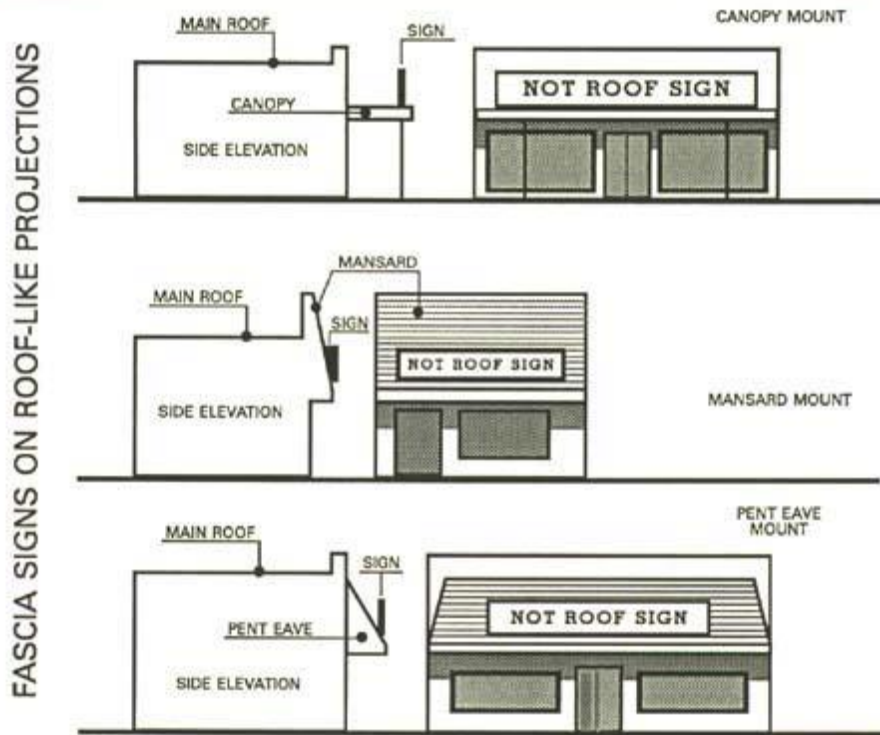
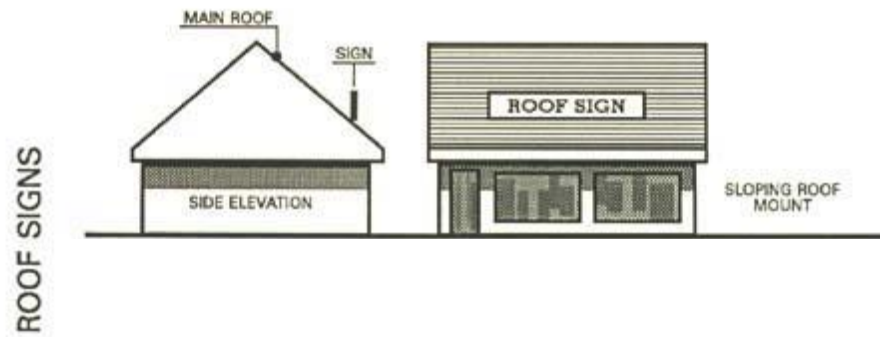
**Window Sign** - A sign affixed to the surface of a window with its message intended to be visible to exterior environment.

**903 GENERAL SIGN TYPES**



General Sign Types

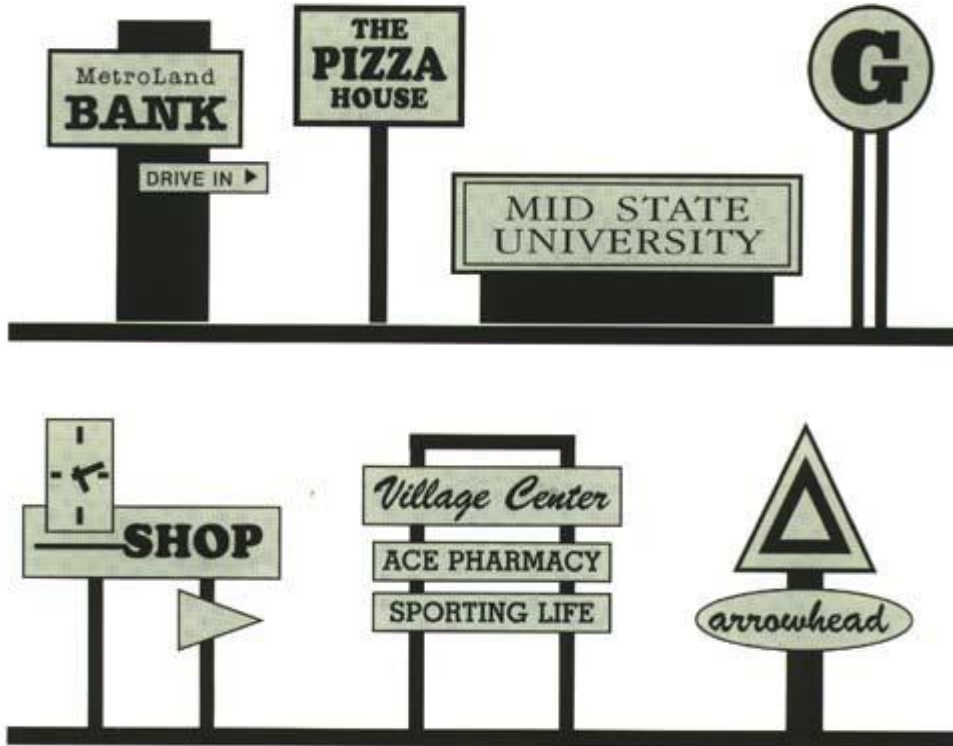
**904    COMPARISON - ROOF & WALL OR FASCIA SIGNS**



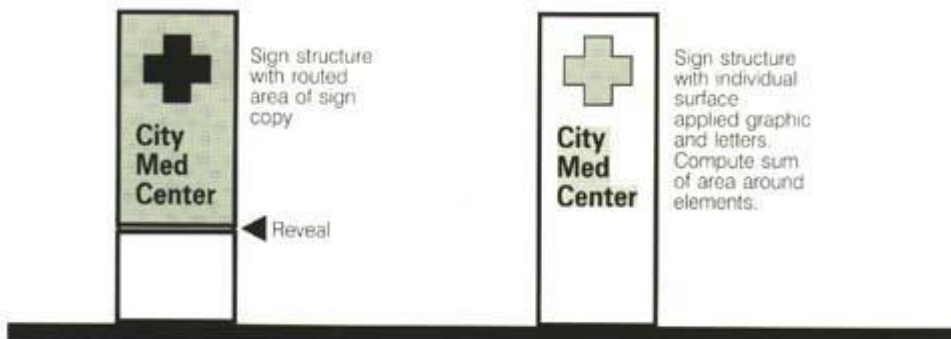
Comparison - Roof and Wall or Fascia Signs

**905 SIGN AREA - COMPUTATION METHODOLOGY**

**Sum Of Shaded Areas Only Represent Sign Area**



Sign structures



**SIGN AREA - COMPUTATION METHODOLOGY**  
**Sum of Shaded Areas Only Represent Sign Area**  
**Signs constructed with panels or cabinets**

**Sum Of Shaded Areas Only Represent Sign Area For Code Compliance  
Purposes**

**Signs consisting of individual letters, elements, or logos placed on building walls or  
structures**

METROLAND BANK  
Drive In Branch

◀ Compute area around  
copy elements only.

Compute area  
inside defined  
border or inside  
contrasting  
color area.



METROLAND BANK  
Drive In Branch



Arrowhead

Compute sum of  
areas of individual  
elements on wall or  
structure

PARKING ▶

Village Center

In computing area for upper  
and lower case lettering,  
include ascenders OR  
decenders, but not both.  
Calculate super ascenders  
separately as indicated.

**SIGN AREA - COMPUTATION METHODOLOGY**

**Sum of Shaded Areas Only Represent Sign Area for Code Compliance Purposes**

**Signs consisting of individual letters, elements, or logos placed on building walls or structures**

**906 GENERAL PROVISIONS**

- A. Any sign hereafter erected or maintained shall conform to the provisions of this Ordinance and the provisions of the Municipal Building Code and any other ordinance or regulations of the municipality.
- B. No sign other than an official traffic sign or similar sign shall be erected within the lines of any street or public way unless specifically authorized by other ordinances or regulations of the municipality or by specific authorization of the municipal authorities.
- C. Signs projecting over public walkways may do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of ten feet (10') from grade level to the bottom of the sign. Signs, architectural projections, or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the municipality for such structures.
- D. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape, or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
- E. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated may then be applied to permitted signs placed on each separate wall or property line frontage.
- F. Animated signs are permitted in commercial zones only. Changeable signs, Manually Activated, are permitted in all zones. Changeable signs, Electrically Activated, are permitted in all non-residential zones. Animated, and Changeable signs, both Manually Activated and Electrically Activated, shall be limited to fifteen (15) square feet per side of total signage area.
- G. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Zoning Officer, or if any sign shall be unlawfully installed, erected, or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Zoning Officer forthwith in the case of immediate danger and in any case within not more than ten (10) days, make such sign conform to the provisions of this ordinance, or shall remove it. If within ten (10) days, the order is not complied with, the Zoning Officer may remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
- H. Any sign that no longer advertises or identifies a use conducted on the property on which said sign is erected must be removed within ten (10) days after written notification from the municipal Zoning Officer; and upon failure to comply with such notice, the Zoning Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure, or ground on which the sign is located.
- I. Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height, or size with the regulations of the zone in which such sign is located shall be considered a legal non-conforming use or structure and may continue in such status until such time as it is either abandoned or removed by its owner.



- J. Temporary signs, unless otherwise regulated by specific provisions of this ordinance relating to size, use, and zone in which placed, shall be subject to the following regulations:
1. Except for those temporary signs whose time of display is specifically addressed elsewhere in this ordinance, no temporary sign shall be permitted to be displayed for a period in excess of ninety (90) days in any one period of three hundred sixty-five (365) days, unless a longer span of display time is approved by the Zoning Officer.
  2. Except for those temporary signs whose size is specifically addressed elsewhere in this ordinance, the size of any temporary sign shall not be in excess of the size permitted for any permanent sign of like configuration and/or type in a given zone.
  3. Any temporary sign that is electrically energized or that contains any electrical device must conform to the same requirements that relate to permanent electric signs under this ordinance.

## **907 PERMITS**

- A. Unless specifically exempted, a permit must be obtained from the Zoning Officer for the erection and maintenance of all signs erected or maintained in the municipality. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accord with all the other provisions of this ordinance.
- B. Before any permit is granted for the erection of a sign or sign structure requiring such permit, plans and specifications shall be filed with the Zoning Officer showing the dimensions, materials, and required details of construction including loads, stresses, anchorage, and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected.
- C. No new sign shall hereafter be erected, constructed, or maintained except as herein provided and until after a permit, if required, has been issued by the Zoning Officer.
- D. No sign shall be enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, display and/or graphic matter, or the content of any sign or sign structure shall not be deemed an alteration.
- E. Permit fees to erect, alter, or relocate a sign shall be in accordance with the sign fee schedule adopted by the municipality.

## **908 AREA OF SIGNS**

- A. Signs containing integral background areas: The area of a sign containing a clearly defined background area as defined herein shall be expressed as the area of the smallest standard geometric shape capable of encompassing the perimeter of the background area of shape capable of encompassing the perimeter of the background area of the sign. In the case of signs in which multiple background areas are separated by open space, sign area shall be expressed as the sum of the areas of all separate background areas, calculated as referenced above, but without regard for any open space between the separate background areas.

- B. Signs without integral background areas: In instances in which a sign consists of individual elements such as letters, symbols, or other graphic objects or representations that are painted, attached to, or otherwise affixed to a surface such as a wall, window, canopy, architectural projection, or to any surface not specifically designed to serve as a sign background, the sign area shall be expressed as the sum of the individual areas of the smallest geometric shapes capable of encompassing the perimeters of the individual elements comprising the sign.
- C. In computing the area of a double-faced sign, only one side shall be considered provided all faces are identical in size. The area of multiple-faced signs in which the interior angle formed by the faces is greater than ninety-one degrees (91°) shall be expressed as the sum of the areas of all the faces, except for multiple-faced signs containing faces that are configured back to back, in which case the area of the faces configured back to back will be calculated according to the rule for double-faced signs.

## **909 ELECTRICAL STANDARDS**

No sign shall be illuminated by other than electrical means, and electrical devices, components, and wiring shall be installed and maintained in accordance with the requirements of the electrical code as adopted by the municipality. In no case shall an open spark or flame be used for display purposes unless specifically approved by the Zoning Officer.

## **910 REGULATION BY ZONE DISTRICT**

### **A. On-Premise Signs Permitted In All Zones**

In addition to any signs designated as allowable in this Ordinance, the following signs and/or sign types are permitted in all zones:

- 1. One sign per premises or property, suitable for the display of commercial or non-commercial speech, provided that the area of any such sign shall not exceed six (6) square feet, and further provided that, if freestanding, such sign shall not exceed a height above the grade level on which it is placed of four feet (4') to the top of the sign. Premises or properties with frontage on more than one street shall be permitted one such sign on each separate street frontage.
- 2. Temporary Real Estate signs as defined herein, provided that the area of such signs shall not exceed the following limitations by zone:

Residential and Conservation - six (6) square feet  
Commercial - twelve (12) square feet

and further provided that not more than one (1) such sign shall be placed on property held in single and separate ownership unless such property fronts on more than one street, in which case one such sign shall be permitted only during the time in which the property advertised is available for sale, lease, or rental, and must be removed within ten (10) days after execution of an agreement of sale, lease, or rental.

- 3. Trespassing signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall not exceed six (6) square feet.

4. Temporary signs erected in connection with the development or proposed development of the premises or property provided that the area of any such sign shall not exceed fifteen (15) square feet per each five thousand (5000) square feet of lot area in the subject development, or ninety-six (96) square feet, whichever is smaller. Not more than one (1) such sign shall be placed on property held in single and separate ownership unless the property fronts on more than one (1) street, in which case one (1) such sign shall be permitted on each separate street frontage. Such signs shall be removed within ten (10) days after the development has been completed and/or the last structure occupied.
5. Temporary Political signs as defined herein provided that the area of any such signs shall not exceed six (6) square feet and that not more than two (2) such signs shall be displayed on any single privately owned premises or property, unless such premises or property fronts on more than one street in which case two (2) such signs shall be permitted on each separate street frontage. If used for the purpose of advertising political parties and/or candidates for election or issues subject to referendum, such signs shall be removed within ten (10) days following such election or referendum.
6. Temporary signs advertising special events and/or promotions of a commercial or non-commercial nature, provided that such signs shall be non-illuminated, shall be displayed during a time period of no more than forty-five (45) days prior to the special event and/or promotion, and shall be removed within five (5) days following the special event and/or promotion; and further provided that not more than one (1) such sign shall be placed on any single premises or property unless such premises or property fronts on more than one street in which case one (1) such sign shall be permitted on each separate street frontage. The area of any such sign shall not exceed the following limitations by zone:  
  
Residential and Conservation - sixteen (16) square feet.  
Commercial - sixty-four (64) square feet.
7. Informational or public service signs as required on any premises or property for the purpose of advertising the availability of rest rooms, telephones, or similar facilities of public convenience provided that the area of any such sign shall not exceed four (4) square feet.
8. Memorial signs or historical signs or tablets, provided that the area of any such sign shall not exceed four (4) square feet.
9. Directional signs as defined herein and as required on any premises or property provided that the area of any such sign shall not exceed the following limitations by zone:  
  
Residential - four (4) square feet.  
All other zones - nine (9) square feet.

**B. On-Premise Signs Permitted In Residential and Conservation Zones**

1. Signs displaying the name and address of the occupant of the premises provided that the area of any such sign shall not exceed two (2) square feet and that not more than one (1) such sign shall be erected or displayed for each occupant of a premise, unless such premises fronts on more than one (1) street in which case one (1) such sign shall be permitted on each separate street frontage.

2. Temporary signs of contractors or artisans displayed during the period such contractors or artisans are performing work on the premises on which such signs are displayed, provided that the area of any such sign shall not exceed twelve (12) square feet. Such signs shall be limited to one (1) sign per contractor or artisan, and shall be removed immediately upon completion of the work of the contractor or artisan.
3. One sign per premises advertising a home occupation or avocation provided that the area of any such sign shall not exceed two (2) square feet.
4. Subdivision identification signs, and/or signs identifying apartment or condominium complexes, provided that the area of any such sign shall not exceed thirty-two (32) square feet, and further provided that one (1) such sign shall be permitted for each separate street and/or separate building frontage occupied by the subdivision, apartment, or condominium complex and/or for each means of entrance to or exit from the subdivision, apartment, or condominium complex.
5. Signs for permitted non-residential or permitted institutional uses provided that the area of any such sign shall not exceed thirty-two (32) square feet, and further provided that one (1) such sign shall be permitted for each separate street and/or separate building frontage occupied by the permitted use, and for each means of entrance to or exit from the permitted use.

C. General Regulation - On-Premise Signs In Residential and Conservation Zones

1. Unless otherwise regulated by specific reference herein, freestanding signs shall be limited to a height above the grade level on which they are placed of nine (9) feet to the top of the sign.
2. Animated signs are prohibited.
3. Roof signs are prohibited.

D. On-Premise Signs Permitted In Commercial Zones

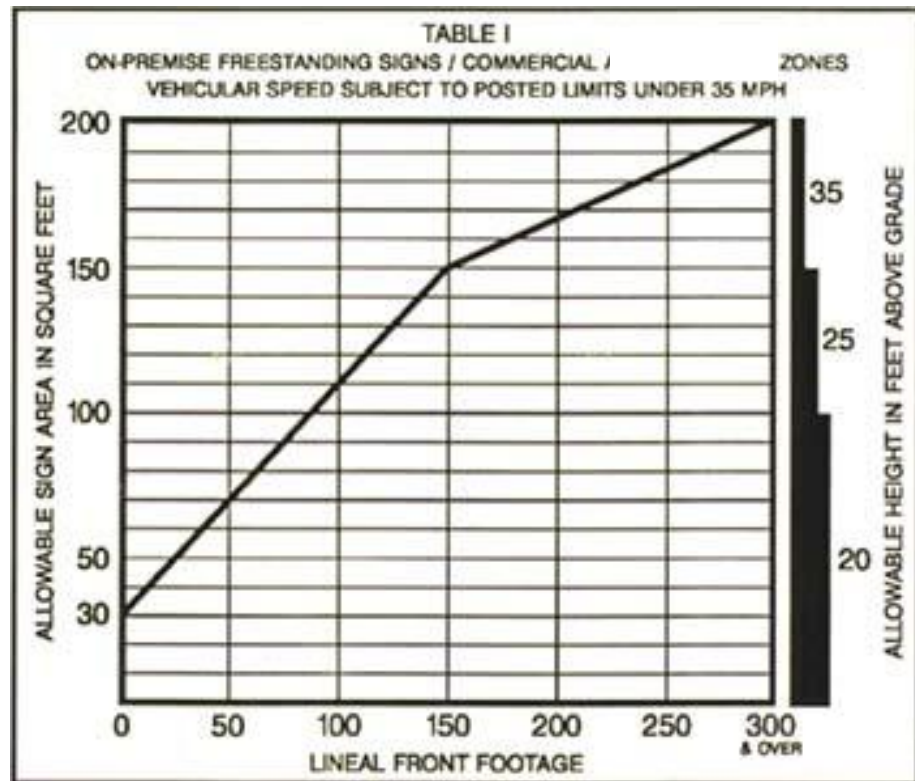
1. Freestanding Signs:
  - a. Freestanding signs shall be limited to one (1) except for a use that fronts on more than one street or other property usage, in which case one (1) such sign shall be permitted for each separate street frontage or frontage on other property usage. If a use exceeds three hundred lineal feet (300') on any frontage, one additional such sign on such frontage shall be permitted; and for each multiple of three hundred lineal feet (300') of frontage thereafter, one additional such sign shall be permitted for each separate street frontage or frontage on other property usage.

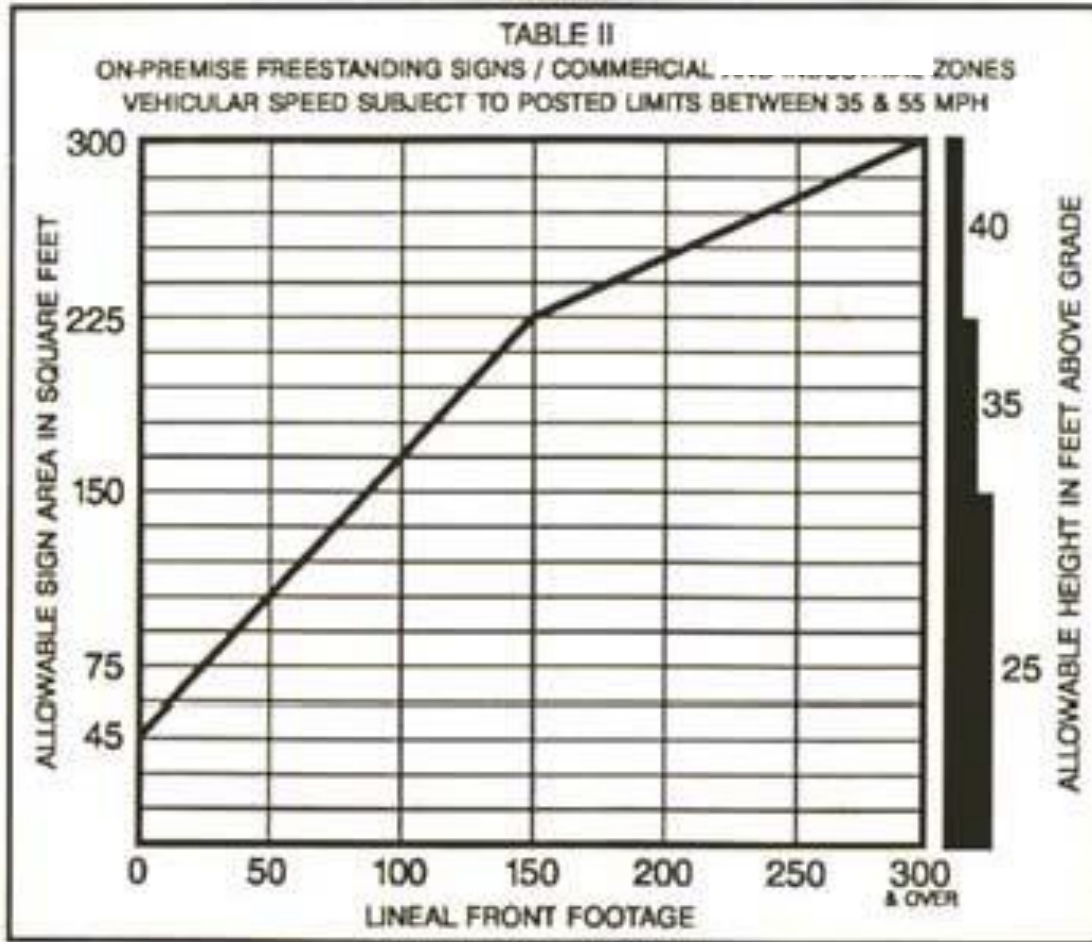
Unless otherwise regulated by specific reference herein, the area and height above grade of any freestanding sign shall not exceed the amounts specified below in Table I (uses bordering streets or roads with posted speed limits up to 35 MPH) or Table II (uses bordering streets or roads with posted speed limits up to 55 MPH).

- b. In the case of a use designated as a shopping center or planned industrial park, one (1) freestanding sign per each three hundred lineal feet (300') of

frontage or multiple thereof shall be permitted for each separate street frontage, frontage on other property usage, and/or for each means of entrance to or exit from the use. The area of any such sign shall not exceed the product of one-half (1/2) of one percent (1%) of the aggregate lot area of the subject premises, or five hundred (500) square feet, whichever is smaller, and the height above the grade level on which the sign is placed shall not exceed fifty feet (50') to the top of the sign.

- c. Within the environs of a use designated as a shopping center or planned industrial park, freestanding signs shall be permitted as required for the primary purpose of promoting traffic safety through the provision of directional information within the environs of the use, provided that any such sign shall not exceed an area of one hundred (100) square feet nor a height above the grade level on which it is placed of sixteen feet (16') to the top of the sign.





- a. Parallel Signs include wall or fascia signs, roof signs, and permanently applied window signs or signs otherwise permanently applied to walls or other building surfaces.
- b. The total area of all signs affixed or applied essentially in a parallel plane to any given building facade shall not exceed an area computed as a percentage of the building facade, including window and door areas and cornices to which they are affixed or applied in accordance with Table III below:
- c. In the case of a shopping center or a group of stores or other business uses on a lot held in single and separate ownership, the provisions of this section relating to the total area of signs permitted on a premises shall apply with respect to each building, separate store, or similar use. Only parallel signs shall be permitted for individual establishments.
- d. Roof signs, Special Considerations:

<b>TABLE III - PARALLEL SIGNS</b>	
DISTANCE of sign from road or adjacent commercial zone	PERCENTAGE of building face or wall permitted for sign area
0 to 100 feet	Fifteen (15%)
101 - 300 feet	Twenty (20%)
Over 300 feet	Twenty-Five (25%)

1. The area calculation in accordance with Table III for any roof sign whose orientation on a roof may be other than parallel to an individual building facade shall be computed with reference to the building facade which most closely parallels the orientation of such sign.
3. Canopy Signs (Also Marquee Signs and Signs on Architectural Projections):
  - a. Signs affixed or applied in an essentially flat plane to the face of a building or freestanding canopy, marquee, or architectural projection provided that the copy area of any such sign, as defined herein, does not exceed an area equal to forty percent (40%) of the product of the height and length of the face area of the canopy, marquee, or architectural projection to which such sign is affixed or applied.
  - b. Graphic treatment in the form of striping or patterns shall be permitted on the face of any building or freestanding canopy, marquee, or architectural projection without restriction, and the area of any such graphic treatment shall not be calculated as a component of permitted copy area.
4. Awning Signs:
  - a. Signs affixed or applied to the face or side surfaces of an awning or backlit awning provided that the copy area of any such sign, as defined herein, does not exceed an area equal to fifty percent (50%) of the total background area of the awning or backlit awning surface to which it is affixed or applied; or alternatively, does not exceed an amount equal to the amount of copy area

permitted for parallel signs as provided herein, whichever is greater.

- b. Graphic treatment and/or embellishment in the form of striping, patterns, or valances shall be permitted on the face or side surfaces of any awning or backlit awning without restriction, and the area of any such graphic treatment and/or embellishment shall not be calculated as a component of permitted copy area.

5. Projecting Signs:

- a. Projecting signs shall be limited to one (1) per building facade on which any such sign is mounted except for a use that fronts on more than one street or other property usage, in which case, one (1) such sign shall be permitted per facade for each separate street frontage or frontage on other property usage. In the case of a building in which any individual facade exceeds two hundred lineal feet (200'), one (1) such sign shall be permitted for each two hundred lineal feet (200') of such facade or multiple thereof on each separate street or other property usage on which such facade fronts.
- b. The area of any projecting sign shall not exceed one (1) square foot per every two (2) lineal feet of the building facade on which such sign is mounted, except that no such sign shall be larger in area than one hundred (100) square feet.
- c. No projecting sign shall extend in a vertical dimension above the highest architectural point of the facade to which it is mounted in excess of twenty-five percent (25%) of the vertical dimension of the facade itself.
- d. Projecting signs extending over a public sidewalk shall be limited to a projection distance not to exceed two-thirds (2/3) of the width of the sidewalk.
- e. Projecting signs shall not be permitted in addition to any permitted freestanding signs on any given property frontage, except that, in the case in which a premises is permitted either freestanding or projecting signs on any one frontage, projecting signs may be substituted for any of the permitted freestanding signs on such frontage, provided that the requirements herein specifically relating to size, height, and extension of projecting signs are met.

6. Under Canopy Signs:

Signs affixed to the underside of a canopy, marquee, or architectural projection shall be limited to a copy area not to exceed eight (8) square feet. One such sign shall be permitted for each means of entrance to or exit from a premises utilizing a canopy-type structure, and/or for every one hundred lineal feet (100') of such canopy-type structure.

7. Temporary Signs (Exterior):

- a. Temporary signs, in the form of banners, portable signs, or other means of graphic communication shall be in accord with the provisions of Section §906 J, General Provisions, as provided herein. The area of any temporary sign shall not exceed an area computed in accord with (1) and (2) below. The area allowances so computed shall not be included in any computation of area



allowances for other signs as provided herein.

- b. Freestanding temporary signs - Forty percent (40%) of the area permitted for permanently installed freestanding signs as provided herein.
- c. Building-mounted temporary signs - Fifteen percent (15%) of the building facade on which such sign is mounted.

8. Temporary Signs (Window):

Temporary signs displayed as window signs as defined herein shall be in accord with the provisions of Section §906 J, General Provisions, as provided herein and shall not exceed an area equal to fifty percent (50%) of the window area on which such signs are displayed. This area allowance shall not be included in any computation of area allowances for other signs as provided herein.

**ARTICLE X**

**OFF-STREET PARKING AND LOADING**

**1001 REQUIRED OFF-STREET PARKING SPACES**

It is the intent of this Article to provide adequate off-street parking for all residents, clients, customers and employees of every use.

The following provisions of Schedule III apply to new uses and to any enlargement or expansion of an existing use.

Off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building or use that, after the effective date of this Ordinance, is established, erected, enlarged or altered for any of the following purposes or uses in any district: (For uses not specifically listed, the requirements for the most similar use listed shall be followed. When a use not specifically listed is dissimilar from listed uses, the Borough Zoning Hearing Board shall determine the requirements based upon the intent of this Article as stated above.)

**SCHEDULE III  
OFF-STREET PARKING REQUIREMENTS**  
(sfgfa = square feet of gross floor area; sf = square feet)

<b>Land Use</b>	<b>Required Parking Spaces</b>
<b>Residential Uses</b>	
Single-family dwellings	2 spaces per dwelling unit
Two-unit attached dwellings	2 spaces per dwelling unit
Duplex (over/under)	2 spaces per dwelling unit
Townhouses	2 spaces per dwelling unit
Multi-family dwellings, garden apartments	2 spaces per dwelling unit
Planned Unit Development	2 spaces per dwelling unit
Mobile Home Parks	1 space per dwelling unit
Apartments above Commercial Use	1 space per dwelling unit
Group Homes	1 space per two beds + 1 space per employee on largest shift
Rooming and Boarding Houses	1 space per rental unit + 2 spaces per permanent dwelling unit
Bed and Breakfast Inns	1 space per rental unit + 2 spaces per permanent dwelling unit
Assisted Living, Nursing & Personal Care Homes	1 space per 3 residents + 1 space per employee on largest shift
Retirement Housing	0.75 spaces per dwelling unit
Hotels/Motels	1 space per rental unit + 1 space per 3 three employees on largest shift + 1 space per 400 sf of meeting area + 1 space per 3 seats of restaurant area
Conversion from Non-residential Use to Residential Units	2 spaces per conversion unit
<b>Commercial Uses</b>	
Adult Businesses	1 space per 300 sfgfa open to the public
Animal Hospital, Kennel or Veterinary Clinic	1 space per 400 sfgfa; no fewer than 4 spaces
Auto Repairs, Service Stations, Auto Body Shops, and Car Washes	<u>Auto Repairs, Service Stations, Body Shops</u> : 1 space per service bay and mechanic <u>Car Wash</u> : two stacking spaces per bay + 1 space per employee on largest shift
Banks, Finance, and Insurance	1 space per 300 sfgfa + 5 stacking spaces for each drive-through window
Banquet Facilities	1 space per 4 seats at maximum capacity
Bicycle Rentals or Sales	3 spaces per 1,000 sf of showroom or outdoor display area + 1 space per employee on largest shift
Boutique Wineries	1 space per 400 sfgfa open to the public + 1 space per employee on largest shift
Bulk Fuel Storage	1 space per employee on largest shift
Commercial Greenhouses or Nurseries	1 space per 1,000 sf of sales area
Commercial or Professional Offices or Services	1 space per 300 sfgfa
Contractor's Offices and Yards	1 space per employee on largest shift
Convenient Store with Gas Pumps	1 space per 200 sfgfa open to the public
Flea Markets	1 space per 500 sf of sales area, indoor or outdoor
Funeral Homes or Mortuaries	1 space per 5 seats at maximum cap. + 1 space per employee on largest shift
Horse Stables	1 space per 3 horses boarded on premise
Lumberyards	3 spaces per 1,000 sf of sales area + 1 space per employee on largest shift
New or Used Car, Motorcycle, Moped, ATV, or Trailer Rentals or Sales	3 spaces per 1,000 sf of showroom or outdoor display area + 1 per employee on largest shift
Nightclubs, Taverns and BYOB Establishments	1 space per every 3 seats

<b>Land Use</b>	<b>Required Parking Spaces</b>
Restaurants, Cafes or Coffee Houses	1 space per every 3 seats + 1 space per 2 employees on largest shift + 5 stacking spaces for each drive-through window (if applicable) <u>Carry-out Restaurant</u> : no fewer than 5 spaces
Retail Businesses	1 space per 300 sfgfa
Self-Storage Facilities	1 space per 10 storage units + 1 space per employee on largest shift
Shopping Malls, Centers or Plazas	1 space per 300 sf of leaseable area
Tire Re-treading and Recapping	1 space per employee on largest shift
Transit-Related Businesses and Maintenance Facilities	1 space per employee on largest shift
Wholesale Businesses	1 space per 800 sfgfa
Wine Tasting Rooms	1 space per 400 sf open to the public
<b>Manufacturing Uses</b>	
Industry, Heavy	1 space per employee on largest shift
Industry, Light	1 space per employee on largest shift
Junk Yards & Automobile Wrecking	1 space per employee on largest shift
Machine Shops	1 space per employee on largest shift
Recycling Facilities	1 space per employee on largest shift
Research Laboratories	1 space per employee on largest shift
Sanitary Landfills	1 space per employee on largest shift
Sawmills	1 space per employee on largest shift
Slaughterhouses	1 space per employee on largest shift
Solid Waste Facilities	1 space per employee on largest shift
Warehousing, Distribution, or Outdoor Storage	1 space per employee on largest shift or 1 space per 4,000 sfgfa, whichever is greater
<b>Services &amp; Public Uses</b>	
Abused Person Shelters	1 space per 3 sleeping rooms + 1 space per employee on largest shift
Adult or Child Day Care Centers or Nursery Schools and Preschools	1 space per employee on largest shift + 1 space per 3 clients/students at maximum designed capacity
Colleges and Dormitories	<u>Colleges</u> : 1 space per 3 employees/faculty + 1 space per 3 students no residing on campus. <u>Dormitories</u> : Spaces equal to 75% of maximum designed occupancy.
Correctional Facilities	1 space per employee on largest shift + 1 space per 25 inmates
Drug or Other Treatment Centers	1 space per 2 beds + 1 space per employee on largest shift
Hospitals	1 space per 5 beds + 1 space per 2 employees on largest shift + 1 space per doctor on staff
Medical Clinics & Social Services	1 space per examination room + 1 space per employee on largest shift + 1 space per doctor on staff
Public and Semi-Public Buildings & Uses	<u>Non-School Public or Semi-Public Building</u> : 1 space per 400 sfgfa open to public + 1 space per employee on largest shift. <u>Public or Private Elementary/Middle School</u> : 1 space per teacher and staff member + 1 space per classroom. <u>Public or Private High School</u> : 1 space per teacher and staff member + 5 spaces per classroom.
Religious Institutions	1 space per 4 seats + 1 space per 200 sf of meeting room area + 1 space per 2 employees
Television/Radio Stations Publishing & Information Services	5 spaces + 1 space per employee on largest shift
Trade & Technical Schools	1 space per 2 students based on maximum designed capacity + 1 space per instructor and/or employee

<b>Land Use</b>	<b>Required Parking Spaces</b>
<b>Recreational Uses</b>	
Campgrounds	1 space per camp site
Commercial Indoor Recreation	<u>Amusement Arcade</u> : 1 space per 300 sfgfa + 1 space per 2 game machines. <u>Billiard Hall</u> : 2 spaces per table. <u>Bowling Alley</u> : 5 spaces per alley + 1 space per employee on largest shift. <u>Health or Membership Club</u> : 1 space per 2 patrons based on maximum designed capacity + 1 space per employee on largest shift. <u>Indoor Courts</u> : 3 spaces + 2 spaces per court. <u>Indoor Swimming Pools</u> : 1 space per 75 sf of water area. <u>Indoor Skating Rinks, Shoot Ranges, Gymnasium</u> : 1 space per 300 sfgfa.
Cultural Facilities, Galleries and Libraries	1 space per 400 sfgfa + 1 space per employee on largest shift
Fraternal, Civic, or Social Clubs	1 space per 300 sfgfa
Outdoor Recreation, Entertainment, and Sports	<u>Amusement Park</u> : 1 space per 300 sfgfa of enclosed buildings + spaces equal to 33% of maximum capacity of outdoor facilities. <u>Arena or Stadium</u> : 1 space per 3 seats (bench capacity computed at 1 seat for each 36" of bench length). <u>Golf Course, Drive Range, or Miniature Golf</u> : 2 spaces per hole and/or tee + 1 space per 2 employees on largest shift. <u>Groves and/or Outing Facilities</u> : Spaces equal to 10% of active recreation area. <u>Shooting or Archery Range</u> : 1 space per target area. <u>Racetrack or Cart-Track</u> : 1 space per seats (bench capacity computed at 1 seat for each 36" of bench length). <u>Tennis Courts</u> : 2 spaces per court. <u>Zoos</u> : 1 space per 2000 sf of land area.
Theaters	1 space per 3 seats (bench capacity computed at 1 seat for each 36" of bench length) + 1 space per 2 employees on largest shift
<b>Resource Production and Extraction Uses</b>	
Agricultural Products Processing	1 space per employee on largest shift
Mineral and Natural Resource Processing	1 space per employee on largest shift
Water Extraction & Bottling	1 space per employee on largest shift

## **1002 GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES**

### **A. Existing Parking**

Structures and uses in existence at the effective date of this Ordinance shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced to an amount less than that required by this Ordinance.

### **B. Fractional Space**

Where the computation of required parking spaces results in a fractional number, the fraction of one quarter or more shall be counted as one.

### **C. Changes in Use**

Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwellings, seating capacity or otherwise to create a need, based upon the requirements of Schedule III, for an increase of ten percent (10%) or more in the number of existing parking spaces, the number of additional spaces to be provided shall be based upon the incremental change or enlargement.

D. Conflict With Other Uses

No parking area shall be used for any other use that interferes with its availability for the parking need it is required to serve.

E. Continuing Character of Obligation

All required parking facilities shall be provided and maintained so long as the use that the facilities were designed to serve still exists. Off-street parking facilities shall not be reduced in total extent except when such reduction is in conformity with the requirements of this Article in conjunction with a change in the nature of the use.

F. Joint Use

Two or more uses may provide for required parking in a common parking lot; the total number of spaces in such lot shall not be less than the sum of the spaces required for each use individually, unless such lot is provided as otherwise specified in this section.

G. Mixed Uses

Where a permitted use contains or includes more than one of the types of uses identified in Schedule III, the number of parking spaces required shall be computed according to the most restrictive parking requirements.

H. Location of Parking Spaces

Required off-street parking spaces shall be on the same lot or premises with the principal use served, or where this requirement cannot be met, within four hundred feet (400') walking distance of the principal use.

In all commercial zone districts, required parking spaces shall be located in the side or rear yards of the lot and shall not be located in the front yard between the structure or use and the street right-of-way.

I. Central Business District Overlay Zone Parking Exemption

Uses identified as Commercial Uses and allowable as Permitted Uses only (Special Exceptions and Conditional Uses excluded) in Schedule I of this Ordinance that are located in the C-1 zone district within the Central Business District Overlay Zone (as identified on the official zoning map) shall be exempt from providing required off-street parking facilities.

J. Modification of Parking Requirements

The Zoning Hearing Board may authorize a modification, reduction, or waiver of the off-street parking requirements in exceptional cases of use, zone lot size or shape, or other unusual situations.

**1003 DESIGN STANDARDS FOR OFF-STREET PARKING FACILITIES**

A. Applicability

The design standards specified in this Section shall be mandatory for all new off-street parking facilities with a capacity of four (4) or more vehicles.

B. General Requirement

Such facilities shall be designed so that their use shall not constitute a nuisance, or hazard, or unreasonable impediment to traffic.

C. Space and Aisle Dimensions

All parking spaces shall have a total stall area of no less than one hundred eighty (180) square feet. The minimum parking aisle width for 90° parking shall be twenty-four feet (24'); for 45° parking it shall be fifteen feet (15') and for 30° parking it shall be eighteen feet (18').

D. Accessibility

Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.

E. Entrance and Exit Drives

The width of entrance and exit drives shall be a minimum of twelve feet (12') and maximum of fifteen feet (15') at curb line for one-way use only and a minimum of twenty feet (20') and maximum of thirty feet (30') at the curb line for two-way use. Driveways entering state highways shall meet PennDOT regulations and a Highway Occupancy Permit shall be acquired from PennDOT.

F. Access Points

At least forty feet (40') shall be provided between access points and no access point shall be closer than thirty feet (30') from any street intersection.

G. Design

Parking areas shall be arranged and marked for orderly, safe movement. No parking areas shall be designed to require or encourage parked vehicles to back into a public street in order to leave a parking space.

H. Grading, Surface, Drainage

Except for areas that are landscaped and so maintained, all portions of required parking facilities, including driveways, shall be surfaced with a 4" sub-base, a 2" bituminous base course and 1" bituminous wearing course (or similar durable and dustless surface), graded and drained to dispose of all surface water.

I. Nighttime Illumination

All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, designed for use by more than four (4) cars after dusk, other than those related to an individual dwelling, shall be illuminated in accordance with Section 814 of this Ordinance.

J. Separated from Street

Except where entrance and exit drives cross street lines, all parking areas for any purpose other than single-family residences shall be physically separated from any public street by a concrete curb and by a landscaped planting strip that shall be not less than ten feet in depth

(10'). This ten foot (10') planting strip shall be parallel to the street line and shall be measured from the street line.

**K. Perimeter Landscaping and Screening**

Perimeter landscaping shall be required along any side of a parking lot of ten (10) or more spaces that abuts adjoining property that is not a right-of-way. A landscaping strip a minimum six feet (6') in width shall be located between the parking area and the abutting property lines.

One tree for each forty feet (40') shall be planted in the landscaping strip. This requirement does not mean that a tree must be planted at every 40-foot interval around the perimeter of the parking lot, but is intended to allow the designer some latitude in designing the landscape plans.

**L. Interior Landscaping**

Parking lots of ten (10) or more spaces shall be constructed, enlarged, or reconstructed with interior landscaping, subject to approval by the borough zoning officer, borough council, and/or borough engineer. Not less than six percent (6%) of the interior of a parking lot shall be landscaped and one (1) shade tree shall be planted for every one thousand (1,000) square feet of parking space area. All planting material shall be suitable for planting in the county and require minimal maintenance. All shade trees to be used shall be eight (8') to ten feet (10') in overall height upon planting and a variety that shall attain an average mature spread greater than twenty feet (20').

**M. Maintenance**

The owners and their agencies shall be responsible for providing, protecting, and maintaining all parking lot landscaping in healthy and growing condition, replacing it when necessary and keeping it free of refuse and debris.

**1004 OFF-STREET LOADING**

**A. General Requirement**

Every building or use that requires the receipt or distribution of material or merchandise by vehicles shall provide at least one (1) off-street loading berth and shall also provide additional berths in accordance with Schedule IV of this Ordinance.

**B. Minimum Size and Location**

Each off-street loading and unloading space shall be a minimum of twelve feet (12') wide by forty-five feet (45') long and fourteen feet (14') in height, and, in addition, have sufficient maneuvering room separate from other parking to eliminate traffic conflicts within off-street loading and parking areas.



**SCHEDULE IV  
OFF-STREET LOADING BERTH REQUIREMENTS  
(in addition to §1004 A.)**

<b>USES</b>	<b>SQUARE FEET GROSS FLOOR AREA</b>	<b>ADDITIONAL REQUIRED LOADING BERTHS</b>
Schools, Public or Private	15,000 or more	1
Hospitals (in addition to ambulance space)	10,000 – 30,000	1
	For each additional 30,000 or major fraction thereof	1
Funeral Homes or Mortuaries	>5,000	1
	For each additional 5,000 or major fraction thereof	1
Hotels/Motels & Professional Offices	>15,000	1
Commercial Uses, Wholesale, Manufacturing Uses, & Storage Facilities	15,000 – 25,000	1
	25,000 – 40,000	2
	40,000 – 60,000	3
	60,000 – 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional

## **1005 RESIDENTIAL DRIVEWAYS AND SIDEWALK OPENINGS**

The maximum width of driveways and sidewalk openings measured at the street lot line shall be thirty feet (30'); the minimum width shall be ten feet (10').

## **1006 COMMERCIAL VEHICLE PARKING IN R-DISTRICTS AND ON RESIDENTIAL PROPERTY**

- A. In the R-1, R-2, and R-3 zoning districts and on residential property in any zoning district, a maximum of one (1) commercial vehicle as defined in §302 of this Ordinance may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in the R-1, R-2, and R-3 zoning districts and on residential property in any zoning district shall have a gross vehicle weight over 15,000 pounds if parked outside an enclosed building.
- B. In the R-1, R-2, and R-3 zoning districts and on residential property in any zoning district, the engine of a tractor-trailer shall not be idled for more than ten (10) minutes between the hours of 10 PM and 6 AM or be repaired, except for clearly emergency repairs.
- C. No trailer of tractor-trailer shall be parked, stored, or maintained in the R-1, R-2, and R-3 zoning districts and on residential property in any zoning district for more than eight (8) hours in any forty-eight (48) hour period.
- D. The following vehicles are exempt from this §1006 provided they are in operational condition:
  - 1. Municipally-owned and government vehicles
  - 2. Active Emergency vehicles (ambulance, fire, rescue, police)
  - 3. School or commuter vans
  - 4. Vans used for transporting persons to or from a place of worship
  - 5. U.S. Postal Service vehicles
  - 6. Vehicles actively engaged in the construction or repair of buildings, streets, or utilities in the immediate area
  - 7. Vehicles actively engaged in routine household deliveries or services to a property adjacent to or on the same lot as the vehicle
  - 8. Vehicles that are customarily accessory to a lawful principal business use

## **1007 RECREATIONAL VEHICLE PARKING**

A maximum of one (1) uninhabited recreational vehicle in transportable condition may be stored or parked on a lot outside of an enclosed structure provided that the following are met:

- A. The recreational vehicle must be owned by the occupants of the property upon which the recreational vehicle is located.
- B. The recreational vehicle shall not be stored in any front yard or in any yard abutting a street.

## **ARTICLE XI**

### **NON-CONFORMING USES AND STRUCTURES**

#### **1101 STATEMENT OF INTENT**

- A. The zoning districts established by this Ordinance are designed to guide the future use of land in the municipality by encouraging the development of desirable residential, commercial, agricultural, and manufacturing areas, with appropriate groupings of compatible and related uses, to the end of promoting and protecting the public health, safety, comfort, prosperity and other aspects of the general welfare.

To achieve this end, lawful existing uses that would be prohibited or restricted under the terms of this Ordinance, or future amendments, and that do not conform to the character and regulations of the zoning district in which they are located must be subject to certain limitations. The regulations set forth below are intended to provide a gradual remedy for the undesirable conditions resulting from indiscriminate mixing of uses, and to afford a means whereby nonconforming uses can be gradually eliminated and reestablished in more suitable locations within the municipality. Similarly, lots, buildings or other structures that do not comply with one or more of the applicable district requirements as to lot width, minimum lot area and yard spaces, building coverage or height, etc. are deemed to be nonconforming.

- B. To avoid undue hardship, nonconforming uses of land, buildings, and structures shall generally be permitted to remain; the purpose of regulating non-conforming uses, which are not appropriate for their location, is to restrict further investment, when economically reasonable, in such non-conforming uses. Exceptions shall be made in those instances where extensive investment is involved to avoid any unnecessary harassment or hardship in the use of such facilities.
- C. To eliminate any undue hardship, nothing in this Ordinance shall be deemed to require any change in plans, specifications, construction or intended use of any building or structure for which plans, specifications and contract negotiations, or construction has started, prior to the effective date of this Ordinance, or amendments thereof.

#### **1102 CONTINUATION OF USE**

- A. A use, building or structure that shall be made nonconforming, as defined in Section 302, at the time of passage of this Ordinance, or any applicable amendment thereto, may be continued except as otherwise set forth in this Article.
- B. A use, building or structure in existence at the time of passage of this Ordinance shall be considered nonconforming if the yards, area, height, coverage, dimensions, off-street parking, or other condition do not conform with the regulations for the zone district (as enumerated in Article VI) in which the use, building or structure is located.

#### **1103 REGISTRATION OF NONCONFORMING USES**

- A. The owner of the premises occupied by a lawful nonconforming use, structure or building shall secure, within a year of adoption of this Ordinance, a Certificate of Nonconformance from the Zoning Officer. Such certificate shall be authorized by the Zoning Hearing Board and shall be for the purpose of insuring to the owner the right to continue such nonconformance.

- B. In order to administer this Ordinance, the Zoning Officer shall prepare a complete list of all nonconforming; uses, buildings, lots, structures and signs in existence, immediately after the adoption of this Ordinance.

#### **1104 REGULATION OF NONCONFORMING USES**

An existing nonconforming use, building or structure cannot be enlarged, reconstructed, substituted or structurally altered unless required to do so by law, order, or as follows:

A. Enlargement

Any registered nonconforming use, building or structure may be enlarged up to, but not more than thirty-five percent (35%) of its floor area and/or lot area, as it existed at the time of passage of this Ordinance. Such enlargement must conform to all other regulations of the District where it is situated. This provision may be used only once for each zone lot.

B. Repairs and Maintenance

1. Normal maintenance repairs and incidental alteration of a building or other structure containing a non-conforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use.
2. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.

C. Displacement and Change of Use

1. A nonconforming use may be changed into a conforming use, or to another nonconforming use that more closely approaches the uses permitted in the District in which such use is located, with the review and approval of the Zoning Hearing Board.
2. A nonconforming use shall not be extended to displace a conforming use, except to provide room for parking or loading facilities that will serve the nonconforming use and that will subsequently lessen traffic congestion resulting from the nonconforming use.
3. Buildings or structures, regardless of conformity or ownership, shall not be combined for the purpose of extending an existing nonconforming use, or for creating a different nonconforming use.

D. Restoration

When a nonconforming building is partially or totally destroyed by fire, explosion or other disaster, it may be restored to its original use provided the owner of the structure secures a building permit within six (6) months of such incident and the structure must be totally restored within one (1) year of such incident.

Should the owner of the structure not comply with the time limits for restoring the structure, any future restoration or reconstruction of the structure and use must conform to the regulations of the zoning district.

**E. Termination**

When discontinued for a period of one (1) year or more, a nonconforming use shall be terminated. If, however, in the opinion of the Zoning Hearing Board, the structure is not substandard and the design of the structure does not lend itself to conversion to a conforming use, this provision shall not apply. Change to a conforming use shall be considered an abandonment of the nonconforming use, and such nonconforming use cannot be reestablished. A nonconforming agricultural use may be discontinued for a period of up to two (2) years before it is considered an abandoned nonconforming use.

**F. Approval Granted Prior to Passage of Ordinance**

A building, structure or use, planned, constructed or designed in compliance with existing laws prior to the passage of this Ordinance, shall be deemed a legal nonconforming use, provided that:

1. The construction or use was actually started prior to passage of this ordinance, and
2. The entire building, structure or use is completed or installed and ready for occupancy or operation within one year of the passage of this Ordinance.

**1105 NONCONFORMING LOTS**

Any principal-permitted use may be erected on any existing vacant lot of record, provided that all district regulations regarding minimum setbacks, maximum lot coverage, and maximum structure height; Supplemental Regulations; Specific Use Development Requirements; and Supplemental Provisions are met. However, any principal-permitted use that requires larger minimum lot dimensions (Article VII) than those required by Schedule II of this Ordinance shall not be permitted on nonconforming lots.

In all R-districts and the S-1 district, side- and rear-yard setbacks may be reduced on vacant nonconforming lots as follows:

<u>Zone District</u>	<u>Side Yard</u>		<u>Rear Yard</u>
	<u>One Yard</u>	<u>Both Yards Combined</u>	
R-1	7 ft	15 ft	20 ft
R-2	5 ft	10 ft	20 ft
R-3	4 ft	8 ft	20 ft
S-1	10 ft	30 ft	25 ft

**1106 CHANGE IN OWNERSHIP**

Change in ownership of a nonconforming use, structure, or lot shall not affect its nonconformance status and shall be allowed to continue. However, the new owner shall reregister the use within sixty (60) days of assuming ownership.

## **ARTICLE XII**

### **ADMINISTRATION AND ENFORCEMENT**

#### **1201 GENERAL PROCEDURE**

##### **A. Sequence of Permit Steps**

Under the terms of this Ordinance, all new construction, alterations or changes in type of occupancy must be made in conformance with the requirements contained in this ordinance. All persons desiring to undertake such new construction, major alterations or changes shall conform to the following general procedure, as well as to all other applicable provisions of this Ordinance.

1. Application for Permit. The applicant shall apply to the Zoning Officer for a Zoning Permit and Occupancy Permit by filling out the appropriate application and by submitting the required fee.
2. Issuance of Zoning Permit. If the applicant's proposed action is in compliance with the regulations contained in this Ordinance, a Zoning Permit shall be issued by the Zoning Officer either on his own authority or, in certain cases as described below, after referral to the Zoning Hearing Board or to the Planning Commission.
3. Action in Accordance with Zoning Permit. After receipt of the Zoning Permit, the applicant may proceed to undertake the construction, alteration or change in use permitted by the Zoning Permit.
4. Inspection by Zoning Officer. After completion of the construction, alteration or change in use, and before occupancy takes place on the premises, the Zoning Officer inspects the premises and issues an Occupancy Permit if the actions are in accordance with the Zoning Permit.
5. Issuance of Occupancy Permit. The receipt of the Occupancy Permit by the applicant ensures the right to continue the use as approved.

##### **B. Zoning Permit Types**

Under the terms of this Ordinance, six (6) general classes of Zoning Permits may be issued which complies with the appropriate sections of this Ordinance. Each of these classes requires a different procedural action as described below:

1. Permitted Use. An application for a "Permitted Use" Zoning Permit requires the review of the Zoning Officer, who determines whether the proposed construction, major alteration or change in use is in accordance with the requirements of this Ordinance. The Zoning Officer then either issues or refuses to issue a Zoning Permit accordingly.
2. Special Exception. An application for a "Special Exception" Zoning Permit must be referred to the Zoning Hearing Board and to the Planning Commission by the Zoning Officer. The Zoning Officer is not empowered to make an independent decision on this matter, although he may submit recommendations to the Zoning Hearing Board and to the Planning Commission. The Planning Commission reviews the application and analyzes the proposed "Special Exception" to determine compliance with the provisions of this Ordinance. The Planning Commission then gives its

recommendations to the Zoning Hearing Board which shall meet and make the final decision on the "Special Exception". The Zoning Hearing Board shall then notify the Zoning Officer to either issue or refuse a Zoning Permit accordingly.

3. Conditional Use. An application for a "Conditional Use" Zoning Permit must be referred to the Planning Commission by the Zoning Officer. The Zoning Officer is not empowered to make an independent decision on this matter, although the Zoning Officer may submit recommendations to the Planning Commission. The Planning Commission shall review the application and analyze the proposed "Conditional Use" to determine compliance with the provisions of this Ordinance. The Planning Commission shall submit its recommendations to the Borough Council which shall meet and make the final decision and notify the Zoning Officer to either issue or refuse the Zoning Permit accordingly.
4. Zoning Permit after an Appeal. The applicant may appeal any action taken by the Zoning Officer by submitting an application for an appeal to the Zoning Officer and to the Secretary of the Zoning Hearing Board. The Zoning Hearing Board shall give notice of the date for a public hearing to review the application to determine if the Zoning Officer has acted properly. After the public hearing, and after reaching its decision, the Zoning Hearing Board shall order the Zoning Officer to either issue or refuse a Permit accordingly.
5. Permit After a Variance Request. Where the applicant feels that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance the applicant may appeal for a variance by submitting an application requesting such variance to the Zoning Officer and to the Secretary of the Zoning Hearing Board. The Zoning Hearing Board shall give notice of the date for a public hearing to review the application for a variance. After the public hearing and after reaching its decision, the Zoning Hearing Board shall order the Zoning Officer to issue or refuse the Zoning Permit accordingly.
6. Permit After Request for Reclassification or Amendment. Where an applicant feels that the Zoning Ordinance is in need of change in any part, the applicant may petition the Borough Council to consider an Amendment to this Ordinance. Such a petition shall be referred to the Planning Commission for its recommendation. The Borough Council shall then, after proper notice, hold a public hearing on the proposed Amendment. After the hearing, the Borough Council shall make their decision on the Proposed Amendment. If the Amendment is adopted the applicant can then proceed to apply for a Zoning Permit in the manner applicable to the type of use that the applicant wishes to propose.

## **1202 ZONING OFFICER**

### **A. Appointment**

The Zoning Officer shall be appointed by the Borough Council and shall not hold any elective office in the municipality. The Zoning Officer shall continue to serve the municipality until such time as the Borough Council declares otherwise. The Zoning Officer shall meet any qualifications established by the Borough Council and shall be able to demonstrate to their satisfaction a working knowledge of municipal zoning regulations.

**B. Administration and Enforcement**

The provisions of this Ordinance shall be administered by the Zoning Officer. The Zoning Officer shall have the following duties and powers:

1. Inform Applicants. The Zoning Officer shall provide information for prospective applicants as to the type of form to be filed, the information to be submitted, and explain the procedures for filing applications. Such information shall be offered as a public service and no charge shall be made for such service.
2. Form of Applications, Permits and Certificates. The form of all applications, permits and certificates to be used by the Zoning Officer under the terms of this Ordinance shall be prescribed by the municipality. Said applications, permits and certificates may be combined with other applications, permits and certificates required by the Building Code.
3. Receive Applications. The Zoning Officer shall receive and examine all applications for permits, certificates and variances and other applications required under the terms of this Ordinance.
4. Issue Permits. The Zoning Officer shall issue permits for the construction, major alteration and occupancy of all uses which are in accord with the requirements of this Ordinance within thirty (30) days of the receipt of the applications for such permit.
5. Refuse Permits. The Zoning Officer shall refuse applications for permits or certificates which are not in accord with the requirements of this Ordinance within thirty (30) days of the receipt of such application. Said refusal shall be in writing and shall state the reasons for such action. Duplicate copies of such refusals shall be forwarded to the Zoning Hearing Board.
6. Issue Notice of Violation. The Zoning Officer shall make a written notice of a violation and issue the same on the person, firm or corporation violating any provisions of this Ordinance. Said written notice shall set forth the action on the part of such persons or corporation that he deems to be in violation. Duplicate copies of said notice shall be referred to the Zoning Hearing Board and to the Borough Council.
7. Keep Records. The Zoning Officer shall keep records of applications, permits or certificates issued or denied, of variances granted, of inspections made, or reports rendered and of notice of orders issued.
8. Monthly Report. The Zoning Officer shall submit a monthly report to the Borough Council, the Zoning Hearing Board and the Planning Commission on the number of applications made, or permits or certificates issued or denied, of variances granted, of inspections made, of reports rendered, of notice of orders issued, and of any other information requested by the Borough Council, Zoning Hearing Board or Planning Commission in the furtherance of their duties.
9. Other Powers and Duties. The Zoning Officer shall perform all other duties as may be provided or made necessary by the terms of this Ordinance.

**1203 ZONING HEARING BOARD**

**A. Creation of Zoning Hearing Board**



The Zoning Hearing Board of The Borough of Moscow is hereby created (also referred to as the "Board") as set forth in the Pennsylvania Municipalities Planning Code, as amended.

**B. Appointment and Terms of Members**

The Zoning Hearing Board shall consist of three (3) residents of the Borough appointed by resolution of the Borough Council. The terms of office of the three-member Zoning Hearing Board shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur and any appointment to fill any vacancy shall be only for the unexpired portion of the term. No business may be transacted unless two of the members are present at a properly conducted meeting. All actions shall require the affirmative vote of at least two (2) members.

The Borough Council may also appoint, by resolution, up to (3) residents of the Borough to serve as alternate members of the Zoning Hearing Board. The term of office of the alternate members shall be three (3) years. An alternate member of the Zoning Hearing Board may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated unless designated by the chairman of the Zoning Hearing Board as a voting alternate member.

All members and alternate members of the Zoning Hearing Board shall hold no other office in the Borough, including membership on the Borough Planning Commission or serve as the Zoning Officer.

**C. Duties and Powers**

The Zoning Hearing Board shall be responsible for the interpretation of this Ordinance, and shall adopt, and make available to the public, rules for the exercise of its functions. The Zoning Hearing Board shall have the following duties and powers:

1. To Hear and Decide Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Ordinance in accordance with Section 1205.
2. Permit Special Exceptions. To hear and decide requests for special exceptions. Prior to action by the Zoning Hearing Board, requests for special exceptions shall be referred to the Planning Commission for their review and recommendation in accordance with Subsection 1203 D.

The Zoning Hearing Board shall determine that the standards set forth in Articles V, VI, and VII have been fulfilled, and in addition, may impose other appropriate conditions and safeguards where necessary to secure the general objectives of this Ordinance.

3. Authorize Variances. The Zoning Hearing Board may vary the strict application of any of the requirements of this Ordinance provided that such variance is granted only in accordance with Section 1206.

4. Interpretation of Zone District Boundaries. The Zoning Hearing Board shall decide on the exact location of Zone District boundary lines as specified in Section 404.
5. Other Duties and Powers. The Zoning Hearing Board shall perform such other duties as may be provided or made necessary by this Ordinance including the following:
  - a. To authorize the Zoning Officer to issue Zoning Permits for Special Exceptions, Variances, and Certificates of Nonconformance.
  - b. To hold hearings in accordance with Section 908 of the Pennsylvania Municipalities Planning Code, as amended.
  - c. To authorize the termination of a nonconforming use pursuant to Article XI.
  - d. To refer any pertinent matter to the Planning Commission for review and recommendation, and defer any decision thereon for a period of not more than thirty (30) days from the date of referral to the Planning Commission, pending a report from the Commission.
  - e. To maintain a record of all decisions and the findings upon which said decisions shall be based.

**D. Referral to Planning Commission**

The Zoning Hearing Board shall refer all applications for Special Exceptions to the Planning Commission and any other applications or appeals that in the opinion of the Zoning Hearing Board, require review by the Commission. Upon receipt of such an application from the Zoning Hearing Board, the Planning Commission shall:

1. Determine compliance of proposed Special Exceptions with the standards set forth in Articles V, VI, VII, and VIII.
2. Recommend approval, disapproval, or approve subject to conditions or modifications all matters referred to the Planning Commission and shall submit a written report to the Zoning Hearing Board stating all recommended conditions and modifications and the reasons for such approval or disapproval.

**E. Removal of Members**

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council taken after the Zoning Hearing Board 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 Zoning Hearing Board member shall request it in writing.

**1204 PERMITS AND CERTIFICATES**

**A. Zoning Permits**

The purpose of the Zoning Permit is to determine compliance with the provision of this Ordinance, and no person shall erect, structurally alter in a major way, or convert any structure, building or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a Zoning Permit has been issued by the Zoning Officer.

1. Application for Permits. All applications for Zoning Permits shall be in writing and on forms furnished by the Zoning Officer. Applications shall be accompanied by plans, drawn to scale, showing the following information:
  - a. The actual shape and dimensions of the lot to be built upon.
  - b. The exact size and location of existing or proposed buildings, signs, parking or loading areas.
  - c. The existing and proposed use of each building or parts thereof, including number of families, dwelling units, employees, offices or other units of occupancy.
  - d. Landscaping plans as may be required under the provisions of this Ordinance.
  - e. Such other information as may be necessary to determine compliance with this ordinance.
2. Permits to be Shown. Zoning Permits shall be issued in duplicate and one (1) copy shall be kept conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform building operations of any kind unless a Zoning Permit covering such operation has been previously issued, and is being displayed as required by this Ordinance, nor shall building or construction operations of any kind be conducted on the subject premises after notification of the revocation of said Zoning Permit.
3. Revocation of Permits. The Zoning Officer may revoke a Zoning Permit at any time if it appears that the application or accompanying plan is false or misleading, or that work being done upon the premises differs materially from that called for in the application. In such a case, the person holding the permit shall immediately surrender it and all copies thereof to the Zoning Officer. Before issuing a new Zoning Permit, the Zoning Officer may require the applicant to file an indemnity bond in favor of the municipality with sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

**B. Occupancy Permits**

An Occupancy Permit, issued in duplicate, certifying that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the permit, shall be received from the Zoning Officer after inspection and prior to the use of occupancy of any building or structure, or part thereof, for which a Zoning Permit is required, or for any change of use of any existing building or structure or part thereof, or for any change of land use. In all cases, a copy of the Occupancy Permit shall be kept on the premises at all times, and shall be displayed upon request made by any officer of the municipality. A record shall be kept of all Occupancy Permits, and the original applications shall be kept on file in the office of the Zoning Officer.

1. Application for Permit. Application for an Occupancy Permit shall be made in writing on a form furnished by the Zoning Officer setting forth such facts as the Zoning Officer may require.

2. Permit Shall Continue. Any Occupancy Permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

## **1205 APPEALS**

### **A. Appeal from Decision of Zoning Officer**

1. Any person, officer of the municipality, or firm or corporation which deems itself aggrieved by any order of the Zoning Officer shall have the right to file a written appeal to the Zoning Hearing Board within thirty (30) days of the issuance of said order. Such appeal shall contain the information required in Subsection 1205 E. and a duplicate copy shall be sent to the Zoning Officer. The Zoning Officer shall transmit to the Zoning Hearing Board all papers constituting the record upon which the action appealed from was taken.
2. It shall be competent for the Zoning Officer to recommend to the Zoning Hearing Board a modification or reversal of this action in cases where he believes substantial justice requires the same but where the Zoning Officer does not have the authority to grant the relief sought. The Zoning Hearing Board shall fix a reasonable time for the hearing of appeals and give public notice thereof by advertising at least one week before the hearing, and shall give due notice to the parties in interest and shall decide all appeals within a reasonable time. Any party may appear in person or be represented by an agent or attorney.
3. The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board. The Zoning Hearing Board's decision shall be immediately filed in its office to be a public record and notice thereof shall be given to all parties in interest. In the exercise of its functions upon such appeals, the Zoning Hearing Board may in conformity with the provision of this Ordinance, reserve or affirm, wholly or partly, or modify the order, requirement, decision, or determination in accordance with the provisions hereof.

### **B. Expiration of Appeal Decision**

Unless otherwise specified by the Zoning Hearing Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary Zoning Permit, or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

### **C. Appeal from Decision of Zoning Hearing Board**

In case of an appeal from the Zoning Hearing Board, the Zoning Hearing Board shall make the return required by law, and shall promptly notify the municipal solicitor of such appeal and furnish him with a copy of the return including transcript of testimony. Any order of the Zoning Hearing Board not appealed within thirty (30) days shall be final.

### **D. Stay of Proceedings**

Upon filing of any proceeding during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any 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 Zoning Hearing

Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous and is for the purpose of delay. At the hearing evidence may be presented on the merits of the case. After consideration of all evidence presented, if the court determines that the appeal is frivolous and is for the purpose of delay it shall grant the petition. The right to petition the court to order the appellants to post bond maybe waived by the appellee but such waiver may be revoked by him if an appeal is taken from a final decision of the court. 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.

**E. Information Required on Appeals to the Zoning Hearing Board**

All appeals from a decision of the Zoning Officer and applications to the Zoning Hearing Board shall be in writing on forms prescribed by the Zoning Hearing Board. Every appeal or application shall include the following:

1. The name and address of the applicant, or appellant.
2. The name and address of the owner of the zone lot to be affected by such proposed change, or appeal.
3. A brief description and location of the zone lot to be affected by such proposed change, or appeal.
4. A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.
5. A statement of the section of this Ordinance under which the appeal is made, and reasons why it should be granted or a statement of the section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed, and the reasons for this appeal.
6. A reasonable 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, material, and general construction thereof. In addition, these 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 existing thereon and proposed to be erected thereof.

**1206 VARIANCES**

**A. Zoning Hearing Board May Authorize Variance**

Upon appeal, and after public notice and personal notice as hereinafter prescribed in Section 1207 and after hearing, and subject to appropriate safeguards and conditions for the protection of public and of neighboring properties, the Zoning Hearing Board may for a use

permitted in the zone district only, vary the strict application of any of the requirements of this Ordinance, provided that said variance shall be in conformity with Section 1206 C.

**B. Purpose of Variance**

The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.

**C. Required Showing for Variances**

A variance in the strict application of any provision of this Ordinance shall be granted by the Zoning Hearing Board 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 topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
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 the zoning 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 appellant.
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. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Ordinance.

**1207 HEARINGS**

Upon filing with the Zoning Hearing Board, of an appeal, or of a request for a variance as required by the terms of this Ordinance, or for such other purposes as provided herein, the Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 908 of the Pennsylvania Municipalities Planning Code, as amended:

**A. Public Notice**

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

B. Notice of Appellant

By mailing a notice of the hearing by registered mail to the appellant.

C. Notice to Local Officials

By mailing a notice to each member of the Planning Commission, to the Municipal Secretary, to each member of the Borough Council and to the Zoning Officer.

D. Notice to Interested Parties

By mailing a notice thereof to every association of residents of the municipality and any other interested party who shall have registered their names and addresses for this purpose with the Zoning Hearing Board.

E. Notice to Owner and Neighbors

When the Zoning Hearing Board shall order, by mailing a notice to the owner, if the residence is known, and to the occupant of every lot on the same street within three hundred feet (300') of the lot or building in question, and of every lot not on the same street within one hundred feet (100') of said lot or building; provided that failure to give such notice as specified in this paragraph shall not invalidate any action by the Zoning Hearing Board.

F. Hearings

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

1. Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance 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 ordinance or, in the absence of ordinance provision, 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 week prior to the hearing.
2. The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.
3. The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their

opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

4. The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
5. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
6. The chairman or acting chairman of the board or the hearing officer presiding shall have 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.
7. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
8. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
9. The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
10. The board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.



11. The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 of the Pennsylvania Municipalities Planning Code where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection 3. of this section, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection 1. of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

## **1208 AMENDMENTS**

The Borough Council may, on its own motion or by petition, amend, supplement, change, modify or repeal this Ordinance, including the Zoning Map, by proceedings in accordance with Section 609 of the Pennsylvania Municipalities Code, as amended.

## **1209 ENFORCEMENT AND VIOLATIONS**

### **A. Enforcement**

This Ordinance shall be enforced by the Zoning Officer. Any and all permits required under this Ordinance shall be granted in accordance with the rules and regulations of this Ordinance only, and/or by written decisions from the appeal agencies established by this Ordinance.

### **B. Initiation of Appropriate Action**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, or of any ordinance or regulation made under authority conferred hereby, the

Zoning Officer, or other proper enforcement official, or any citizen of the municipality in addition to other remedies, may institute any appropriate action of proceedings to prevent such lawful erection, conversion, maintenance or use, to restrain, correct, or abate such violation within 10 days and to prevent the occupancy of said building, structure to land, or to prevent any illegal act, conduct, business or use in or about such premises.

C. Enforcement Remedies

Any person, firm or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Municipality, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Municipality as a result thereof.

No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the municipality 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 magisterial district judge 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 until the fifth day following the date of the determination of a violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Municipality.

The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

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

D. Actions Initiated Prior to Passage of Ordinance

The passage of this Ordinance shall not automatically suspend any pending actions instituted one year or less prior to said passage against any person, firm, or corporation accused to be in violation of Municipal zoning laws existing prior to said passage. Before any proceedings may be suspended, an appropriated legal determination must be made as to whether or not the person, firm or corporation is also in violation of this Ordinance. If it is ruled that the person, firm, or corporation is not in violation of this Ordinance then the action may be suspended; if the ruling is otherwise, then the proceedings shall continue as instituted.

E. Fees

As authorized by Section 617.2(e) and Section 908(1.1) of the Pennsylvania Municipalities Planning Code, the Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance.

Permits, special exceptions and variances shall be issued only after fees have been paid in full, and the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board or shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or shall be paid by the person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting the copy or copies. In other cases the party requesting the original transcript shall bear the cost.

The above fees, in addition to those fees required by the Building Code, shall be paid at the office of the Zoning Officer upon the filing of an application for a Zoning Permit.