

WEST PITTSTON
BOROUGH
ZONING
ORDINANCE

<u>SECTION</u>		<u>PAGE</u>
312	VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS	3-4
313	FENCES AND WALLS	3-5
314	PUBLIC UTILITIES	3-5
315	VALIDITY/INVALIDITY PRIOR APPROVALS AND/OR PERMITS	3-6
316	SEWAGE DISPOSAL	3-6
317	PERFORMANCE STANDARDS	3-6
318	HIGHWAY OCCUPANCY PERMIT	3-7
319	MOBILE HOMES	3-7
320	USES NOT ADDRESSED WITHIN ORDINANCE	3-8
322	CONFLICTING REGULATIONS	3-8

ARTICLE 4 - ZONING MAP AND ZONING DISTRICTS

<u>SECTION</u>		<u>PAGE</u>
401	OFFICIAL ZONING MAP	4-1
402	CHANGES TO OFFICIAL ZONING MAP	4-1
403	INTERPRETATION OF BOUNDARIES	4-1
404	CLASSES OF ZONING DISTRICTS	4-2

ARTICLE 5 - ZONING DISTRICT REGULATIONS

<u>SECTION</u>		<u>PAGE</u>
501	R-1 SINGLE FAMILY RESIDENCE DISTRICT	5-1
502	R-2 TWO FAMILY RESIDENCE DISTRICT	5-3
503	R-3 MULTIFAMILY RESIDENCE DISTRICT	5-5
504	B-1 NEIGHBORHOOD COMMERCIAL DISTRICT	5-7
505	B-2 GENERAL COMMERCIAL DISTRICT	5-10
506	C-1 CONSERVATION DISTRICT	5-13
507	S-1 SPECIAL PURPOSE RECREATIONAL DISTRICT	5-15
508	I-1 GENERAL INDUSTRIAL DISTRICT	5-17

ARTICLE 6 - SPECIAL EXCEPTIONS

<u>SECTION</u>		<u>PAGE</u>
601	PURPOSE	6-1
602	GENERAL PROVISIONS	6-1

<u>SECTION</u>		<u>PAGE</u>
603	SITE PLAN	6-1
604	GENERAL STANDARDS	6-2
605	IMPACT ANALYSIS	6-3

ARTICLE 7 - CONDITIONAL USES

<u>SECTION</u>		<u>PAGE</u>
701	PURPOSE	7-1
702	GENERAL PROVISIONS	7-1
703	APPLICATION AND SITE PLAN	7-1
704	PROCEDURAL REQUIREMENTS IN RENDERING A DECISION	7-2
705	GENERAL STANDARDS	7-3
706	CLASSIFIED CONDITIONAL USES	7-4
707	ENVIRONMENTAL IMPACT STATEMENT	7-5
708	SOLID WASTE FACILITY - SUPPLEMENTARY REGULATIONS	7-9
709	EXTRACTION/EXCAVATION OF NATURAL RESOURCES - SUPPLEMENTARY REGULATIONS	7-13
710	ADULT USES - SUPPLEMENTARY REGULATIONS	7-14

ARTICLE 8 - SUPPLEMENTAL REGULATIONS

<u>SECTION</u>		<u>PAGE</u>
801	PURPOSE AND INTENT	8-1
802	USE REGULATIONS	8-1 TO 8-10

ARTICLE 9 - NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

<u>SECTION</u>		<u>PAGE</u>
901	INTENT	9-1
902	NONCONFORMING LOTS OF RECORD	9-1
903	CONTINUATION OF NONCONFORMITY	9-1
904	REGISTRATION OF NONCONFORMING USES AND STRUCTURES	9-1
905	CHANGES OF NONCONFORMING USES	9-2
906	ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES	9-2
907	RESTORATION OF USE	9-3

<u>SECTION</u>		<u>PAGE</u>
908	TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE	9-3
909	CERTIFICATE OF INTENTION FOR A NONCONFORMING USE	9-4

ARTICLE 10 - SIGN REGULATION

<u>SECTION</u>		<u>PAGE</u>
1001	SIGNS	10-1
1002	CONSTRUCTION TYPE	10-2
1003	PERMITTED SIGNS BY ZONING DISTRICT	10-2
1004	AREA, HEIGHT AND SETBACK REQUIREMENTS	10-2
1005	NUMBER OF SIGNS	10-4
1006	SETBACK FOR FREESTANDING SIGNS	10-4
1007	SIGNS RELATED TO NONCONFORMING USES	10-4
1008	AREA COMPUTATION OF SIGNS	10-5
1009	VERTICAL CLEARANCE	10-5
1010	PROHIBITED SIGNS	10-5
1011	PERMITS REQUIRED	10-6

ARTICLE 11 - OFF-STREET PARKING AND LOADING

<u>SECTION</u>		<u>PAGE</u>
1101	PURPOSE	11-1
1102	SIZE OF OFF-STREET PARKING SPACES	11-1
1103	SIZE OF OFF-STREET LOADING SPACES	11-1
1104	DIMENSIONS AND DESIGN	11-1
1105	WIDTH OF ACCESS DRIVEWAYS	11-2
1106	NUMBER AND LOCATION OF ACCESS DRIVEWAYS	11-2
1107	LOCATION OF OFF-STREET PARKING AREAS	11-2
1108	EXPANSION OF EXISTING USE	11-3
1109	CHANGE OF USE	11-3
1110	GRADING, PAVEMENT AND DRAINAGE OF OFF-STREET PARKING AREAS	11-3
1111	SCREENING	11-3
1112	LIGHTING	11-3
1113	PARKING IN YARD SETBACK AREA	11-3
1114	EXISTING STRUCTURES AND USES	11-4
1115	FRACTIONAL SPACE	11-4
1116	MULTIPLE ACTIVITIES OR USES	11-4
1117	OFF-STREET PARKING REQUIREMENTS	11-4
1118	PARKING FOR OTHER COMMERCIAL USES	11-7

<u>SECTION</u>		<u>PAGE</u>
1119	OFF-STREET LOADING REQUIREMENTS	11-7
1120	PROVISION OF HANDICAPPED PARKING SPACES	11-7
1121	DESIGN FEATURES FOR HANDICAPPED PARKING SPACES	11-8
1122	SIGNAGE FOR HANDICAPPED PARKING	11-8
1123	MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES	11-9

ARTICLE 12 - FLOOD PLAIN MANAGEMENT

<u>SECTION</u>		<u>PAGE</u>
1201	INTENT	12-1
1202	SPECIAL DEFINITIONS	12-1
1203	ABROGATION AND GREATER RESTRICTIONS	12-5
1204	SEVERABILITY	12-5
1205	WARNING AND DISCLAIMER OF LIABILITY	12-5
1206	OVERLAY OF FLOODPLAIN DISTRICTS	12-6
1207	IDENTIFICATION OF ONE HUNDRED (100)YEAR FLOOD PLAIN DISTRICTS	12-5
1208	CHANGES TO DELINEATED BOUNDARIES	12-6
1209	INITIAL DETERMINATION OF BOUNDARIES	12-7
1210	ALTERATIONS TO WATERCOURSES	12-7
1211	FLOODWAY RESTRICTIONS	12-7
1212	ON-SITE REPLACEMENT - FLOODWAY	12-8
1213	STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS	12-8
1214	ISSUANCE OF BUILDING PERMIT	12-9
1215	FLOODPROOFING	12-9
1216	UTILITIES	12-12
1217	CERTIFICATION OF FLOODPROOFING	12-12
1218	FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR	12-13
1219	PROHIBITED USES	12-13
1220	REGULATIONS FOR HAZARDOUS MATERIALS	12-13
1221	SUBSTANTIAL IMPROVEMENTS	12-14
1222	VARIANCES	12-15
1223	MODIFICATION OF FREEBOARD REQUIREMENT AND ADMINISTRATIVE PROCEDURES	12-15

<u>SECTION</u>		<u>PAGE</u>
1119	OFF-STREET LOADING REQUIREMENTS	11-7
1120	PROVISION OF HANDICAPPED PARKING SPACES	11-7
1121	DESIGN FEATURES FOR HANDICAPPED PARKING SPACES	11-8
1122	SIGNAGE FOR HANDICAPPED PARKING	11-8
1123	MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES	11-9

ARTICLE 12 - FLOOD PLAIN MANAGEMENT

<u>SECTION</u>		<u>PAGE</u>
1201	INTENT	12-1
1202	SPECIAL DEFINITIONS	12-1
1203	ABROGATION AND GREATER RESTRICTIONS	12-5
1204	SEVERABILITY	12-5
1205	WARNING AND DISCLAIMER OF LIABILITY	12-5
1206	OVERLAY OF FLOODPLAIN DISTRICTS	12-6
1207	IDENTIFICATION OF ONE HUNDRED (100)YEAR FLOOD PLAIN DISTRICTS	12-5
1208	CHANGES TO DELINEATED BOUNDARIES	12-6
1209	INITIAL DETERMINATION OF BOUNDARIES	12-7
1210	ALTERATIONS TO WATERCOURSES	12-7
1211	FLOODWAY RESTRICTIONS	12-7
1212	ON-SITE REPLACEMENT - FLOODWAY	12-8
1213	STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS	12-8
1214	ISSUANCE OF BUILDING PERMIT	12-9
1215	FLOODPROOFING	12-9
1216	UTILITIES	12-12
1217	CERTIFICATION OF FLOODPROOFING	12-12
1218	FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR	12-13
1219	PROHIBITED USES	12-13
1220	REGULATIONS FOR HAZARDOUS MATERIALS	12-13
1221	SUBSTANTIAL IMPROVEMENTS	12-14
1222	VARIANCES	12-15
1223	MODIFICATION OF FREEBOARD REQUIREMENT AND ADMINISTRATIVE PROCEDURES	12-15

<u>SECTION</u>		<u>PAGE</u>
908	TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE	9-3
909	CERTIFICATE OF INTENTION FOR A NONCONFORMING USE	9-4

ARTICLE 10 - SIGN REGULATION

<u>SECTION</u>		<u>PAGE</u>
1001	SIGNS	10-1
1002	CONSTRUCTION TYPE	10-2
1003	PERMITTED SIGNS BY ZONING DISTRICT	10-2
1004	AREA, HEIGHT AND SETBACK REQUIREMENTS	10-2
1005	NUMBER OF SIGNS	10-4
1006	SETBACK FOR FREESTANDING SIGNS	10-4
1007	SIGNS RELATED TO NONCONFORMING USES	10-4
1008	AREA COMPUTATION OF SIGNS	10-5
1009	VERTICAL CLEARANCE	10-5
1010	PROHIBITED SIGNS	10-5
1011	PERMITS REQUIRED	10-6

ARTICLE 11 - OFF-STREET PARKING AND LOADING

<u>SECTION</u>		<u>PAGE</u>
1101	PURPOSE	11-1
1102	SIZE OF OFF-STREET PARKING SPACES	11-1
1103	SIZE OF OFF-STREET LOADING SPACES	11-1
1104	DIMENSIONS AND DESIGN	11-1
1105	WIDTH OF ACCESS DRIVEWAYS	11-2
1106	NUMBER AND LOCATION OF ACCESS DRIVEWAYS	11-2
1107	LOCATION OF OFF-STREET PARKING AREAS	11-2
1108	EXPANSION OF EXISTING USE	11-3
1109	CHANGE OF USE	11-3
1110	GRADING, PAVEMENT AND DRAINAGE OF OFF-STREET PARKING AREAS	11-3
1111	SCREENING	11-3
1112	LIGHTING	11-3
1113	PARKING IN YARD SETBACK AREA	11-3
1114	EXISTING STRUCTURES AND USES	11-4
1115	FRACTIONAL SPACE	11-4
1116	MULTIPLE ACTIVITIES OR USES	11-4
1117	OFF-STREET PARKING REQUIREMENTS	11-4
1118	PARKING FOR OTHER COMMERCIAL USES	11-7

ARTICLE 13 - ENFORCEMENT AND ADMINISTRATION

<u>SECTION</u>		<u>PAGE</u>
1301	ZONING OFFICER	13-1
1302	ZONING PERMIT	13-2
1303	CERTIFICATE OF ZONING COMPLIANCE	13-3
1304	ENFORCEMENT PROCEDURES	13-4
1305	SCHEDULE OF FEES, CHARGES AND EXPENSES	13-6

ARTICLE 14 - AMENDMENTS

<u>SECTION</u>		<u>PAGE</u>
1401	AMENDMENT PROCEDURE	14-1
1402	APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP	14-2
1403	CURATIVE AMENDMENTS	14-2
1404	ENACTMENT OF AMENDMENTS	14-5
1405	NOTIFICATION TO COUNTY	14-5

ARTICLE 15 - ZONING HEARING BOARD

<u>SECTION</u>		<u>PAGE</u>
1501	MEMBERSHIP OF BOARD	15-1
1502	ALTERNATES TO ZONING HEARING BOARD	15-1
1503	REMOVAL OF MEMBERS	15-1
1504	ORGANIZATION OF BOARD	15-1
1505	EXPENDITURES FOR SERVICES	15-2
1506	HEARINGS	15-2
1507	MEDIATION OPTION	15-5
1508	JURISDICTION OF ZONING HEARING BOARD	15-6
1509	VARIANCES	15-6
1510	SPECIAL EXCEPTIONS	15-8
1511	PARTIES APPELLANT BEFORE THE BOARD	15-9
1512	TIME LIMITATIONS	15-9
1513	STAY OF PROCEEDINGS	15-10

ARTICLE 16 - APPEALS

<u>SECTION</u>		<u>PAGE</u>
1601	APPEALS TO COURT	16-1

ARTICLE 1
GENERAL PROVISIONS

SECTION 101 TITLE

The official title of this Ordinance is: West Pittston Borough Zoning Ordinance.

SECTION 102 INTERPRETATION AND CONFLICT

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

A. PUBLIC PROVISIONS

The regulations of this Ordinance, are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the Borough which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of the Borough, the provisions of this Ordinance shall apply.

B. PRIVATE PROVISIONS

The regulations of this Ordinance, are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. The Borough shall not however be held responsible for knowledge and/or enforcement of any private deed restriction, private covenant or other form of private agreement which may be inconsistent with the provisions of this Ordinance and/or beyond the scope of regulations contained within this Ordinance.

SECTION 103 COMPLIANCE WITH ORDINANCE REQUIRED

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

SECTION 104 PURPOSE:

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

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as reservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 105 COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving the following goals and objectives:

- A. Economic Goals and Objectives: To provide sufficient land for all appropriate types of industrial and commercial growth in the foreseeable future, served with roads and utilities located so that it does not conflict with residential or public development.
- B. Educational Goals: To promote the better education of people of all ages, races, income, mental capacities and physical handicaps.
- C. Transportation Goals and Objectives: To assist all forms of public transportation in integrating itself with private transportation in the Borough and reaching its maximum effectiveness and to provide an adequate transportation system for the safe movement of people and goods within all sectors of the Borough and areas beyond the Borough,

with through traffic separated to the greatest extent possible from local neighborhood traffic..

- D. Recreation and Tourism Goals: To provide sufficient recreational facilities.
- E. Utilities Goals and Objectives: To insure the necessary public and private utilities are provided, particularly sewage systems.
- F. Housing Goals and Objectives: To improve the health of the residents of the Borough by controlling pollution and by separating residences for adequate light, sun and air and to provide for a variety of housing types to satisfy diverse housing markets, including those for the elderly, single persons, handicapped individuals and couples without children.
- G. Pollution Goals and Objectives: To eliminate or reduce major sources of pollution, especially those connected with water and air.
- H. Crime Prevention and Goals: To reduce the incidence of crime to the extent possible.
- I. Appearance Goals and Objectives: To improve the appearance of land and structures in the Borough and to improve the utility of land.
- J. Flooding Goals and Objectives: To provide additional flood protection in critical areas.
- K. Population Density Goals and Objectives: To limit the density to reasonable standards, depending on the location, and to provide attractive surroundings having sufficient parking.

SECTION 106 REPEALING PROVISION

All ordinances, or any parts thereof, which are inconsistent or in conflict with this Ordinance, including the "1976 Zoning Ordinance of Borough of West Pittston," as amended are hereby repealed in their entirety.

SECTION 107 EFFECTIVE DATE

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

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF WEST PITTSTON ON THIS _____ DAY OF
_____, 1998.**

PRESIDENT OF COUNCIL

ATTEST:

BOROUGH SECRETARY

*ZONING ORDINANCE
ADOPTED JAN. 26, 1999*

LB

ARTICLE 2 DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

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

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

SECTION 202 DEFINITION OF TERMS

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

ABANDONMENT:

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

ABUTTING:

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

ACCESS:

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

ACCESSORY STRUCTURE:

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE:

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

ADULT USES:

Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Entertainment: A nightclub, bar, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use".

ALLEY:

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

ALTERATION:

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

ALTERATION, STRUCTURAL:

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

ALTERNATIVE TOWER STRUCTURE:

Shall mean man-made structures such as clock towers, bell towers, church steeples, water towers, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennae and towers.

AMENDMENT:

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

ANTENNAE:

Means any exterior apparatus designed for telephone, radio, or television communications through sending and/or receiving electromagnetic waves.

AUTOMOBILE WRECKING YARD: (SEE ALSO JUNKYARDS)

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

AUTOMOTIVE SALES

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

BAKERY, RETAIL:

A retail limited bakery primarily serving individual public consumers.

BAKERY, WHOLESALE:

A business processing and producing bakery products primarily for retail bakeries as opposed to individual consumers.

BASEMENT:

That portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is five (5) feet or greater.

BOARDING HOUSE OR ROOMING HOUSE:

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

Dwelling
Motel and/or Hotel

Dwelling Unit
Group Residence

BOROUGH:

Borough of West Pittston, Luzerne County, Pennsylvania.

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance when a buffer area is required it shall be deemed represent a fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting.

BUILDING:

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

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Height: The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

CARPORT:

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may be constructed as a separate accessory structure or part of the principal structure.

CAR WASH:

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

CELLAR:

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

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CERTIFICATE OF ZONING COMPLIANCE:

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

CHANGE OF USE:

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

CHURCH: (SEE PLACE OF WORSHIP)

CLEAR SIGHT TRIANGLE

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

CLINIC:

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service.

CHILD CARE FACILITY:

"Child Care Services" means the provision of out-of-home care for children for part of a 24 hour day, excluding the care provided by relatives.

"Group Child Care Home" means a structure in which child care services are provided for seven (7) or more children at any one time, where the child care areas within the structure are not jointly used as a portion of a family residence.

"Family Child Care Center" means a residential structure in which child care services are provided for more than six (6) but less than twelve (12) children, at any one time, where the child care areas are also used as a portion of a family residence.

CLUB:

Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

COMMON OPEN SPACE:

A parcel or parcels of land, which may include an area of water, within a development site and designated and intended for the use or enjoyment of residents of a planned residential development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

COMMERCIAL USE:

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

COMMUNITY CENTER:

A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDITIONAL USE:

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Borough Council and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

CONTRACTOR'S STORAGE:

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

CONVENIENCE STORE:

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

CONVENIENCE STORE WITH GAS SALES:

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

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

SECTION 312 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

312.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2.5') feet and ^{5 1/4 (6)} ~~eight (8)~~ feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained within the triangle formed by the intersection of centerlines of intersecting street right-of-way lines adjacent to the corner lot and a line projected between points on each of those adjacent centerlines for a minimum distance of twenty (20') feet from their intersection.

312.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10') feet along the centerline of the street right-of-way and a depth of ten (10') feet along the centerline of a private driveway.

SECTION 313 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

313.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A. FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4') feet in height above the adjacent ground level.

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed eight (8') feet in height.

C. MATERIALS

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

CRITICAL AREAS

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

DAY CARE SERVICES:

The provision of out-of-home care for children for part of a 24-hour day, excluding the care provided by relatives.

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children for part of a 24-hour day, excluding the care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

Means a structure in which child care services are provided for seven (7) or more children at any one time, where the child care areas within the structure are not jointly used as a portion of a family residence.

DAY CARE HOME:

Means a residential structure in which child care services are provided for more than six (6) but not less than twelve (12) children, at any one time, where the child care areas are also used as a portion of a family residence.

DENSITY:

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

DECISION:

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

DEVELOPMENT:

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

DETERMINATION:

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

1. the governing body;
2. the zoning hearing board; or

3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

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

DISTRICT:(See Zoning District)

DRY CLEANER, RETAIL:

A retail limited-processing dry cleaner primarily

DWELLING:

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

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family.
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

DWELLING UNIT:

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

EASEMENT:

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

ENTERTAINMENT FACILITIES:

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

ENVIRONMENTAL IMPACT STATEMENT:

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

ESSENTIAL SERVICES: (SEE PUBLIC UTILITIES FACILITIES, ESSENTIAL)

EXTRACTION/EXCAVATION:

Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

FAA:

Means the Federal Aviation Administration.

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

FCC:

Means the Federal Communications Commission.

FLOOD:

The temporary inundation of normally dry land.

FLOOD, ONE-HUNDRED YEAR:

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

FLOODPLAIN:

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

FLOODPROOFING:

Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to property, structures, and contents of buildings.

FLOODWAY:

The channel of a river, stream, or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood within cumulatively increasing the water surface elevation more than one foot at any point.

FLOOR AREA, GROSS:

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FLOOR AREA RATIO:

Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

FRONTAGE:

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

FUNERAL HOME:

A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation.

GARAGE, PRIVATE:

A noncommercial building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, REPAIR: (SEE ALSO SERVICE STATION)

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

GARDEN APARTMENTS:

Two (2) or more multi-family residential structures, each containing more than two (2) but not more than eight (8) dwelling units per structure, having a common hallway for entrance into such dwelling units.

GARAGE, REPAIR (ALSO SEE SERVICE STATION):

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

GASOLINE SERVICE STATION:

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

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four (4) persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting.

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

A boarding home and/or a personal care boarding home.

A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.

A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

GUY TOWER:

Means a communication tower that is supported, in whole or in part, by guy wires and grounded anchors.

HAZARDOUS SUBSTANCES:

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

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

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

HEIGHT (TOWER):

HEIGHT (BUILDING):

The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or West Pittston Borough which authorizes access from a parcel of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

HOME OCCUPATION:

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

HOSPITAL:

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

HOTEL/MOTEL:

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

IMPACT ANALYSIS:

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

IMPERVIOUS MATERIAL:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian right-of-ways.

IMPROVEMENTS:

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

INDUSTRY, HEAVY:

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

INDUSTRY, LIGHT:

A use engaged in the manufacture, 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.

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitative services to more than eight (8) persons on a continuous and/or regular basis, excluding a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

JUNK:

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

JUNKYARD (See also Automobile Wrecking Yard):

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

LANDOWNER:

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

LATTICE OR SELF-SUPPORTING TOWER:

Means a communications tower that has open-framed supports on three or four sides and is constructed without guy wires or ground anchors.

LAUNDROMAT, SELF SERVICE:

A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises .

LOT:

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

LOT AREA:

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

LOT, CORNER:

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

LOT COVERAGE:

Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings and structures including covered porches, accessory buildings and structures, and impervious surfaces by the gross area of that lot.

LOT DEPTH:

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

LOT LINE:

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

LOT LINE, REAR:

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

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

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

LOT, THROUGH:

A lot having its front and rear yards each abutting on a street.

LOT WIDTH:

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

MANUFACTURED HOME:

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational and other similar vehicles placed upon a site for more than 180 consecutive days.

MANUFACTURED HOME PARK:

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

MEDIATION:

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

MOBILE HOME:

A transportable, single family dwelling intended for permanent occupancy, 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 foundations.

MOBILE HOME LOT:

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

MOBILE HOME PARK:

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

MONOPOLE TOWER:

Means a communications tower consisting of a single pole, constructed without guy wires or ground anchors.

MOTEL/HOTEL:

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

MUNICIPALITY:

The Borough of West Pittston, Luzerne County, Pennsylvania.

NATURAL RESOURCES:

For the purpose of this Ordinance, the term "Natural Resources" shall include coal, coal by products, including culm, ash and cinders, sand, gravel, rock, topsoil, peat moss and forested areas.

NIGHTCLUB:

A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which live entertainment is provided.

NONCONFORMING LOT:

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

NONCONFORMING STRUCTURE:

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

NONCONFORMING USE:

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

OFFICES:

PROFESSIONAL OFFICE:

An office (other than a service office) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, veterinarians, engineers, artists, musicians, teachers, and others who, through training, are qualified to perform services of a professional nature.

SERVICE OFFICE:

An office in which are offered services by real estate agents, travel agents, insurance agents, accountants, public stenographers, brokers, or others who, through training, are duly qualified to perform services of an executive nature as distinguished from a professional office.

OPEN SPACE:

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

OUTDOOR STORAGE:

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

PARCEL:

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

PARKING LOT

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

PARKING, SHARED:

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

PARKING SPACE:

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

PERMITTED USE:

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

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, barber shops, beauty parlors, and related activities.

PLACE OF WORSHIP:

A building or structure that by design and construction is primarily intended for conducting organized religious services, including churches, synagogues, mosques and similar facilities.

PLANNING COMMISSION:

The Planning Commission of West Pittston Borough.

PLANNED RESIDENTIAL DEVELOPMENT:

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or type of dwelling density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this Ordinance.

PRINT SHOP:

A retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

PRINCIPAL USE:

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

PRIVATE:

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

PUBLIC:

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

PUBLIC HEARING:

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

PUBLIC MEETING:

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

PUBLIC NOTICE:

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

PUBLIC USES:

Public parks and administrative, cultural and service buildings excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

PUBLIC UTILITIES FACILITIES (ESSENTIAL):

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

RECREATIONAL FACILITIES, COMMERCIAL:

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

RECREATIONAL FACILITIES, PRIVATE:

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

REPORT:

Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed to be a recommendation and advisory only and

shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceedings upon request, with copies thereof provided at the cost of reproduction.

RESTAURANT:

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

RESTAURANT, FAST-FOOD:

An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared or prepared, fried, or grilled quickly, such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RIGHT-OF-WAY:

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or other special use.

SATELLITE DISH ANTENNA (NONCOMMERCIAL):

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

SCHOOL:

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

SEATING CAPACITY:

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

SELF-SERVICE STORAGE FACILITY:

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to individuals for the storage of the individual's property, possessions or wares.

SERVICE STATION:

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted.

SETBACK:

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

SHOPPING CENTER:

A grouping of retail business and service uses on a single site with common parking facilities.

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form.

SIGN AREA:

The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart.

SIGN, BILLBOARD OR OFF-PREMISES ADVERTISING SIGN:

A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

SIGN, FREE STANDING:

A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

SIGN, ILLUMINATED:

A sign illuminated in any manner by an artificial light source.

SIGN, PROJECTING:

Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade/marquee sign.

SIGN, ROOF:

Any sign erected upon, against, or directly above a roof or roof eaves, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eaves.

SIGN, WALL:

A sign painted on the outside of a building or attached to, and erected parallel to the face of a building and supported throughout its length by such building.

SIGN, WINDOW:

A sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

SITE PLAN:

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

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

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

SPECIAL EXCEPTION:

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

SOCIAL HALL:

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

SOLID WASTE OR WASTE:

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

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste or waste, as so defined by this Ordinance.

STORY:

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

STREET:

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

STRUCTURE:

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

SWIMMING POOL:

A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing.

TOWER (COMMUNICATIONS):

A structure, such as a self-supporting lattice tower, guy tower, or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. The term includes radio and television transmission towers, microwave towers, common carrier towers and cellular telephone towers. The term excludes any tower and antennae under seventy (70) feet in total height which owned and operated by an amateur radio operator licensed by the Federal Communications Commission, and satellite earth station antennae one meter in diameter or less, any receive-only home television antennae, and any satellite earth station antennae two meters or less in diameter which is located in a commercial or industrial zoning district.

TOWNHOUSE:

A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than seven (7) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.

TRUCKING FACILITY:

A structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

VARIANCE:

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

WAREHOUSE:

A building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of material that are inflammable, explosive, hazardous or commonly recognized as offensive

WATERCOURSE:

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

WETLANDS:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in The State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

YARD:

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

YARD, FRONT:

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

YARD, REAR:

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

YARD, SIDE:

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

ZONING DISTRICT:

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

ZONING HEARING BOARD:

The Zoning Hearing Board of West Pittston Borough, Luzerne County, Pennsylvania.

ZONING MAP:

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of West Pittston Borough, Luzerne County, Pennsylvania.

ZONING OFFICER:

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

<p style="text-align: center;">ARTICLE 3 GENERAL REGULATIONS</p>
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SECTION 301 ATTACHED ACCESSORY STRUCTURES

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

SECTION 302 UNATTACHED ACCESSORY STRUCTURES

302.1 NONRESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than ten (10') feet from any side yard lot line or rear yard lot line. An accessory structure to a principal use and/or structure which is classified as a special exception use, shall not be subject to the standards and regulations under Article 6 (Special Exceptions) of this Ordinance, excluding the proposed construction, establishment or use of a structure which equals or exceeds seven hundred fifty (750) square feet of gross floor area.

302.2 RESIDENTIAL

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

- (A) The maximum height shall not exceed one and one-half (1.5) stories or fifteen (15') feet, whichever is the lesser.
- (B) An accessory residential structure shall not exceed 1,000 square feet of floor area. An accessory structure which has a floor area which equals or exceeds seven hundred and fifty (750) square feet shall not be located less than ten (10') feet from a side lot line or the rear lot line. An accessory structure which has an floor area which is less than seven hundred and fifty (750) square feet shall not be located less than five (5') feet from a side lot line or the rear lot line. In cases where said accessory structure abuts a street or alley a setback of ten (10) feet shall be required.

SECTION 303 CORNER LOT RESTRICTION

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

SECTION 304

TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

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

SECTION 305

NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, in all R shall not exceed thirty-five (35) feet. A noncommercial satellite dish antennas in all other zones shall be exempt from meeting height requirements.

SECTION 306

RESIDENTIAL ACCESSORY STRUCTURES IN A
NONRESIDENTIAL ZONE

In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section 302.2 of this Ordinance.

SECTION 307

PRIVATE NONCOMMERCIAL SWIMMING POOLS

Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of ten (10') feet from any rear or side yard lot line. All swimming pools having a surface area of thirty (30) square feet or greater and capable of containing water to a depth, at any point, of eighteen (18) inches or greater, shall be enclosed in accordance with the following subsections: *10' FROM WATER.*

307.1

IN-GROUND POOLS

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than six (6') feet in height, which includes a gate secured with a lock. Shrubs, hedges or other vegetative cover shall not be considered to be a fence.

307.2

ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4') feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 307.1 or in lieu of a fence, a barrier not less than four (4') feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4') feet. Access into a pool which includes a deck shall be

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

SECTION 308 LOTS DIVIDED BY ZONING BOUNDARIES

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

SECTION 309 PROJECTIONS INTO REQUIRED YARDS

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

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or side yard, are not under roof, without walls or other form of enclosure and are not closer than five (5') feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are located in the rear yard or side yard, and that such does not exceed four and one-half (4.5) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

SECTION 310 EXCEPTIONS TO HEIGHT LIMITATIONS

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

SECTION 311 REQUIRED ACCESS

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

SECTION 312

VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

312.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2.5') feet and ^{SIX (6)} ~~eight (8)~~ feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained within the triangle formed by the intersection of centerlines of intersecting street right-of-way lines adjacent to the corner lot and a line projected between points on each of those adjacent centerlines for a minimum distance of twenty (20') feet from their intersection.

312.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10') feet along the centerline of the street right-of-way and a depth of ten (10') feet along the centerline of a private driveway.

SECTION 313

FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

313.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A. FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4') feet in height above the adjacent ground level.

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed eight ~~(8)~~ feet in height.

C. MATERIALS

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

313.2 NONRESIDENTIAL

Fences to be constructed within any commercial zoning district shall not exceed eight (8') feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed ten (10') feet in height above the adjacent ground level.

313.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10') feet in height, designed as an enclosure to a public park, a public playground or similar outdoor recreational facility.

SECTION 314 PUBLIC UTILITIES

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

SECTION 315 VALIDITY/INVALIDITY PRIOR APPROVALS AND/OR PERMITS

315.1 VALID APPROVALS AND/OR PERMITS

Any use of land, structure and/or building approved prior to the enactment of this Ordinance shall be governed by the provisions and terms of approval under the West Pittston Borough 1976 Zoning Ordinance, as amended, when all of the following conditions are met:

A. WORK IN PROGRESS

1. The approved use of land, structure and/or building displays conclusive visible evidence that the physical installation, development and/or construction of the use in question had commenced prior to the date of adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction shall be completed in not less than twelve (12) months from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void including those issued by the Zoning Officer, Zoning

Hearing Board and/or the Borough Council. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.

B. WORK NOT STARTED

1. The approval and/or zoning permit for the use of land, structure and/or building in question was granted not more than ninety (90) days prior to the date of the adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction of the use in question shall commence within ninety (90) days from the date of adoption and enactment of the Ordinance and shall be completed in not less than twelve (12) months from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.

SECTION 316 SEWAGE DISPOSAL

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

SECTION 317 PERFORMANCE STANDARDS

All nonresidential land uses shall comply with the following standards. In order to determine whether a proposed use will conform to the requirements of this Section, the Zoning Officer or the Zoning Hearing Board may require a detailed plan of the proposed construction or development, and a description of machinery or techniques to be used during operations of the proposed use.

Fire Protection: Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

Electrical Disturbance: No activity shall cause repetitive or continuous electrical disturbance adversely affecting the operation of other electrical equipment in the vicinity.

Noise: Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

Smoke: The maximum amount of smoke emission permissible shall be determined by use of the Standard Ringleman chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed.

Air Pollution: No pollution of air by fly ash, dust, vapors, or other substance shall be permitted which is potentially harmful to health, animals, vegetation or other property.

Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

Erosion: No erosion by wind or water shall be permitted which will carry soil or other material on to adjoining properties.

Water Discharge: Water discharge of materials and substances shall be subject to the governing standards established by the State Department of Environmental Protection.

SECTION 318 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Borough Road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable governing body and/or agency.

SECTION 319 MOBILE HOMES

319.1 PERMANENT FOUNDATION

A mobile home shall be deemed to be a single family residence. The placement and/or use of a mobile home shall be constructed and anchored to a permanent foundation.

319.2 REPLACEMENT OF MOBILE HOMES

The removal of a mobile home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

1. The property owner shall provide the Zoning Officer with written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.
2. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for the zoning district in which it is located.

3. A new mobile home shall be located upon the lot on a permanent foundation and connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

The removal of a mobile home as a conforming use upon a property with the intent to replace it with another mobile home shall be in conformance with all applicable setback requirements and area requirements for the zoning district in which it is located.

SECTION 320 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any zoning district established under this Ordinance, a use is neither specifically permitted nor denied and/or the Zoning Officer is unable to classify a subject use and an application is made by a landowner to the Zoning Officer for such use, he shall refer the application to the Zoning Hearing Board and Planning Commission to hear and decide such request as a special exception. The Board shall have the authority to permit or deny the proposed use in accordance with the standards governing special exception applications, if the Board makes an initial determination that the proposed use is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that:

1. the proposed use is similar to and compatible with permitted uses in the district.
2. the proposed use would not be detrimental to the public health, safety and welfare of the neighborhood.
3. the proposed use meets the standards and criteria for special exceptions as contained in Article 6 of this Ordinance.

SECTION 321 CONFLICTING REGULATIONS

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

<p style="text-align: center;">ARTICLE 4 ZONING MAP AND ZONING DISTRICTS</p>
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SECTION 401 OFFICIAL ZONING MAP

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

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

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

SECTION 403 INTERPRETATION OF BOUNDARIES

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

403.1 ZONING HEARING BOARD

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

403.2 GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- (C) In accordance with Section 306 of this Ordinance, if a Zoning District boundary line divides a lot held in single and separate ownership prior to the

effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular Zoning District, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided, subject to the lot of record being not greater than one (1) acre.

- (D) If the guidelines within this Section above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

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

- R-1 Low Density Residential Zone
- R-2 Medium Density Residential Zone
- R-3 High Density Residential Zone
- B-1 Neighborhood Business Zone
- B-2 General Business Zone
- M-1 Light Industrial Zone
- C-1 Conservation Zone
- S-1 Special Purpose Recreational Zone

ARTICLE 5
ZONING DISTRICT REGULATIONS

SECTION 501

R-1 SINGLE FAMILY RESIDENCE DISTRICT

The intent of the R-1 District is to provide for low-density residential development in areas where sufficient land is available.

501.1 PERMITTED USES

Single-family Detached Dwellings
Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance,
excluding storage yards.
Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

Home Occupations
Public Recreational Facilities
Day Care Home
Accessory Uses to the Above

501.3 CONDITIONAL USES

NONE

501.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and/or supplementary regulations contained in Article 8 of this Ordinance.

- A. **Minimum Lot Area**: Seven thousand two hundred (7,200) square feet.
- B. **Minimum Lot Width**: Sixty (60) feet.
- C. **Front Yard**: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.
- D. **Rear Yard**: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line.
- E. **Side Yard**: The combined side yards shall be not less than twenty-five (25') feet, with not less than twelve (12') feet on one side.

- F. Lot Coverage: Not more than forty (40%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

SECTION 502

R-2 - TWO-FAMILY RESIDENCE DISTRICT

The intent of the R-2 District is to provide for slightly higher density residential development in built-up areas.

502.1 PERMITTED USES

Single-Family Detached Dwellings
Single-Family Attached Dwellings
Two Family Dwellings
Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance, excluding storage yards.
Accessory Uses to the Above

502.2 USES PERMITTED BY SPECIAL EXCEPTION

Home Occupations
Public Recreational Facilities
Day Care Center
Day Care Homes
Group Residence
Place of Worship
Accessory Uses to the Above

502.3 CONDITIONAL USES

NONE

502.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

A. Minimum Lot Area:

1. Five Thousand (5,000) square feet for a detached single family residential dwelling.
2. Three Thousand Five Hundred (3,500) square feet per dwelling unit for structures containing two or more units.

B. Minimum Lot Width: Fifty (50) feet.

- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than sixteen (16') feet, with not less than eight (8') feet on each side.
- F. Lot Coverage: Not more than forty-five (45%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

SECTION 503

R-3 - MULTIFAMILY RESIDENCE DISTRICT

The intent of the R-3 District is to provide areas for residential development at varying densities, with a wide range of housing types.

503.1 PERMITTED USES

Single-Family Detached Dwellings
Single-Family Attached Dwellings
Two-Family Dwellings
Single Residential Structures, with multifamily dwelling units (up to 6 units)
Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance, excluding storage yards.
Accessory Uses to the Above

503.2 USES PERMITTED BY SPECIAL EXCEPTION

Townhouses and/or Garden Apartments
Single Residential Structures, with multifamily dwelling units
Mobile Homes, constructed with and anchored to a permanent foundation
Home Occupations
Group Residence
Boarding or Rooming House
Day Care Center
Day Care Homes
Public Uses
Place of Worship
Accessory Uses to the Above

503.3 CONDITIONAL USES

NONE

503.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

1. Four Thousand (4,000) square feet for a detached single family residential dwelling.

2. Two Thousand Five Hundred (2,500) square feet per dwelling unit for structures containing two or more units, excluding Townhouses and/or Garden Apartments.
 3. Townhouses and/or Garden Apartments (See Article 8, Section 802.26).
- B. Minimum Lot Width: Fifty (50) feet for all residential uses, excluding Townhouses and/or Garden Apartments (See Article 8, Section 802.26).
 - C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line for all residential uses, excluding Townhouses and/or Garden Apartments (See Article 8, Section 802.26).
 - D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line.
 - E. Side Yard: The combined side yards shall be not less than ten (10') feet, with not less than five (5') feet on each side for all residential uses, excluding Townhouses and/or Garden Apartments (See Article 8, Section 802.26).
 - F. Lot Coverage: Not more than forty-five (50%) percent of the lot area shall be covered with buildings or structures.
 - G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty-five (45') feet.

SECTION 504

B-1 - NEIGHBORHOOD BUSINESS DISTRICT

The intent of the B-1 District is to provide areas for business and service activities intended to serve the residents of various neighborhoods. Article 3, Section 320 shall apply to any commercial use which is not specifically addressed within the B-1 District and/or deemed similar to a permitted use by the Zoning Officer.

504.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING OR SIMILAR TO THE SALE OF:

Food/Grocery (up to 1,800 square feet of floor area)
Pharmaceutical Products
Convenience Stores (up to 1,800 square feet of floor area)
Greeting Cards, Newspapers, Books, Stationery and Gift Shops
Florist Shops
Variety Goods

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

Personal Services
Professional Offices
Convenience Stores with Gas Sales
Banks
Service Stations
Restaurants (without entertainment)
Taverns (without entertainment)
Medical Offices and Clinics
Funeral Homes
Day Care Centers
Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance excluding storage yards

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING OR SIMILAR TO:

Public Recreational Facilities
Nonprofit Social Halls, Clubs and Community Centers

D. RESIDENTIAL USES

Single-family Detached Dwellings
Single-family Attached
Two-family Dwellings
Dwelling over and/or attached to Business

Accessory uses to the above

E. ACCESSORY USES TO ALL USES PERMITTED BY RIGHT:

504.2 USES PERMITTED BY SPECIAL EXCEPTION

Places of Worship
Public Uses
Home Occupations
Entertainment Facilities
Single Residential Structures, with multifamily dwelling units
Group Residences
Rooming or Boarding Homes
Accessory uses to the above

504.3 CONDITIONAL USES

NONE

504.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: None..
- B. Minimum Lot Width: None
- C. Front Yard: The minimum front yard shall be not less than twenty (20) feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line; a rear yard setback of thirty-five (35") feet shall be required when an adjoining rear lot contains a residential use or a residential zoning district.
- E. Side Yard: The side yard shall be not less than five (5') feet on each side when an adjoining lot contains a nonresidential use; a side yard setback of not less than twenty (20) feet shall be required for any side yard when an adjoining lot contains a residential use or where it abuts a residential zoning district.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.

- G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.

SECTION 505

B-2- GENERAL BUSINESS DISTRICT

The intent of a B-2 District is to provide an area for business uses which services the entire community and its immediate environs. Article 3, Section 320 shall apply to any commercial use which is not specifically addressed within the B-1 District and/or deemed similar to a permitted use by the Zoning Officer.

505.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING OR SIMILAR TO THE SALE OF:

- Food/Grocery
- Pharmaceutical Products
- Clothing and Clothing Accessories
- Convenience Stores
- Convenience Stores with Gas Sales
- Bakery
- Florist Shops
- Hardware
- Variety Goods
- Household Goods and Appliances
- Office Equipment and Supplies
- Sporting Goods
- Artist, Music and Hobby Supplies
- Automotive Supplies
- Greeting Cards, Books & Stationery

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

- Personal Services
- Professional Offices
- Service Office
- Gasoline Service Stations Convenience Stores with Gas Sales
- Automotive Sales
- Repair Garage
- Electronic Equipment and Products, both sales and repairs
- Motels and Hotels
- Banks
- Restaurants
- Taverns
- Dry Cleaners
- Self-Service Laundromat
- Day Care Centers
- Nursing Homes
- Medical Offices and Clinics

Animal Hospital/Veterinarian Clinic
Health Clubs
Pet Shops
Funeral Homes
Essential Public Utility Facilities as defined in Article 2 of this Ordinance.

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS
INCLUDING OR SIMILAR TO:

Entertainment Facilities
Public Recreational Facilities
Social Halls, Clubs and Community Centers

D. RESIDENTIAL USES

Dwelling over and/or attached to Business
Group Residences
Accessory uses to the above

E. ACCESSORY USES TO ALL USES PERMITTED BY RIGHT:

505.2 USES PERMITTED BY SPECIAL EXCEPTION

Fast Food Restaurant
Outdoor Storage (as defined in Article 2 of this Ordinance)
Car Wash
Stone or Monument Works
Public Uses
Entertainment Facilities
Private Recreational Facilities
Commercial Recreational Facilities
Boarding or Rooming Homes
Accessory uses to the above

505.3 CONDITIONAL USES (SEE ARTICLE 7):

An adult use as so defined in Article 2 of this Ordinance.

A Shopping Center

Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

Any use shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation of a nonresidential use which equals or exceeds twenty thousand 20,000 square feet of buildings, structures and/or other impervious surface area.

505.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: None
- B. Minimum Lot Width: None.
- C. Front Yard: The minimum front yard shall be not less than ten (10') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line; a rear yard setback of thirty-five (35") feet shall be required when the adjoining rear lot contains a residential use or where it abuts a residential zoning district.
- E. Side Yard: The side yard shall be not less than five (5') feet on each side when the adjoining lot contains a nonresidential use; a side yard setback of not less than fifteen (15) feet shall be required for any side yard when adjoining lot contains a residential use or where it abuts a residential zoning district.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.

SECTION 506

C-1 CONSERVATION DISTRICT

The intent of the C-1 District is to restrict development in "Critical Areas" as so defined in Article 2 of this Ordinance and to conserve the natural environment and related natural resources.

506.1 PERMITTED USES

Public Recreational Facilities
Greenhouse, Nurseries and Garden Shops
Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance, excluding storage yards.
Accessory Uses to the Above

506.2 USES PERMITTED BY SPECIAL EXCEPTION

Private Recreational Facilities
Accessory Uses to the Above

506.3 CONDITIONAL USES (SEE ARTICLE 7)

Extraction/Excavation of Natural Resources

Any use shall be deemed a conditional use if it involves the initial or cumulative disturbance which equals or exceeds 43,560 square feet of surface area.

506.4 DIMENSIONAL REGULATIONS

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use shall be located upon a lot having a minimum lot area of not less than two (2) acres.
- B. Minimum Lot Width: Each lot shall have a lot width not less than two hundred (200') feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50) feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than fifty (50) feet in depth as measured from the rear lot line.

- E. Side Yard: The side yard shall be not less than thirty (30) feet on each side.
- F. Lot Coverage: Not more than twenty (20%) percent of a lot shall be covered by buildings.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

SECTION 507

S-1 SPECIAL PURPOSE RECREATIONAL DISTRICT

The intent of the S-1 District is to provide for areas of land primarily devoted to a variety of recreational uses, both passive and active, in sizable areas which exhibit such characteristics and have the potential for long term use for the Borough residents.

507.1 PERMITTED USES

Public and/or quasi public uses:

Baseball Fields

Swimming Pools

Running Tracks

Pavilions

Tennis Courts

Basketball Courts

Accessory buildings and structures associated with the operation and/or maintenance of a recreational use.

Other uses which are similar in character to the above

507.2 USES PERMITTED BY SPECIAL EXCEPTION

Commercial Recreation

Communication Towers (See Article 8, Section 802.25)

Public Utility Facilities (Essential) as defined in Article 2 of this Ordinance excluding storage yards

507.3 CONDITIONAL USES

NONE

507.4 DIMENSIONAL REGULATIONS

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use shall be located upon a lot having a minimum lot area of not less than twenty thousand (20,000) square feet..
- B. Minimum Lot Width: Each lot shall have a lot width not less than one hundred (100) feet.

- c. Minimum Lot Depth: Each lot shall have a lot width not less than two hundred (200) feet.
- C. Front Yard: The minimum front yard shall be not less than twenty-five (25) feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25) feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than twenty -five (25) with not less than 12 feet on a side. When the use physically abuts a residential property, excluding a separation by a public street or road, a side yard setback of not less than fifty (50) feet shall be required.
- F. Lot Coverage: Not more than twenty (20%) percent of a lot shall be covered by buildings.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

SECTION 508

M-1 GENERAL INDUSTRIAL DISTRICT

508.2

PERMITTED USES

Repair Garages
Automotive Sales
Print Shops
Stone or Monument Works
Machine Shops and Sheet Metal Shops
Equipment Sales and Repairs
Light Industry (as defined in Article 2)
Contractors' Offices, Shops and Storage Yards
Outdoor Storage as defined in Article 2
Warehouse and Distribution Facilities
Warehousing, including Self-Storage Facilities
Electronic Equipment and Products, both sales and repairs
Public Uses
Gasoline Service Stations
Public Utility Facilities (Essential)
Accessory Uses to the Above

508.3

USES PERMITTED BY SPECIAL EXCEPTION

Communication Towers (See Article 8, Section 802.25)

508.4

CONDITIONAL USES (SEE ARTICLE 7)

Solid Waste Facilities
Trucking Facilities and Terminals
Transfer Stations
Automotive Wrecking Yards
Junk Yards
Heavy Industrial Uses (as defined in Article 2)
Extraction, excavation and/or removal of natural resources.

Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

Any use shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.

- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

508.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Twenty Thousand (20,000) square feet
- B. Minimum Lot Width: One Hundred (100) feet
- C. Front Yard: The minimum front yard shall be not less than twenty-five (25') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line. When abutting any R District, a buffer area as so defined within Article 2 of this Ordinance shall be required within the required rear yard setback.
- E. Side Yard: The side yard shall be not less than twenty (20') feet on each side. When abutting any R District, a buffer area as so defined within Article 2 of this Ordinance shall be required within the required side yard setback.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area.
- G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.

<p style="text-align: center;">ARTICLE 6 SPECIAL EXCEPTIONS</p>

SECTION 601 PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Article 5, Zoning District Regulations.

SECTION 602 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Article (Section 1504), the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations. All applications for special exception uses which involve new construction shall be initially referred to the West Pittston Planning Commission for its review and comment along with any recommendation it may wish to render to the Zoning Hearing Board.

SECTION 603 SITE PLAN

Uses classified as a special exception shall file, in addition to a zoning permit, a site plan at a scale of not greater than one (1") inch equal fifty (50') feet, which shall be submitted to the Zoning Officer. Such plan shall provide all applicable information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

- A. The location and size of all buildings and structures, both principal and accessory.
- B. The location of all off-street parking areas and/or loading areas.
- C. The location of all open space areas, including buffer areas and fencing, if applicable.
- D. Traffic access to the site and internal traffic circulation within the site.
- E. All streets, both public and private, within five hundred (500') feet of the site.
- F. Contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey.

- G. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site.
- H. Streams, ponds, watercourses, wetlands or any other type bodies of water, including natural or man-made drainage swales, located on the site or within five hundred (500) feet of the site.
- I. The location of any residential structure within five hundred (500') feet of any property boundary line of the subject site.
- J. The Map, Block and Lot Number of the subject parcel.
- K. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
- L. A narrative outline which fully describes the proposed use of the site and the pertinent operational aspects and features of the proposed use.

SECTION 604 GENERAL STANDARDS

The general standards contained herein, in addition to all other applicable regulations, shall be utilized in the review of applications and plans for any use which is classified as a special exception:

- A. The proposed use shall not jeopardize the objectives of the "Community Development Objectives" of this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size relative to the proposed use, and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences so that the use, development and value of adjacent property is not impaired.

- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, smoke, vapors, gases, odors, heat, glare, vibration, lighting or electrical disturbances than would be the operation of any permitted use in the district nor shall it constitute a "General Nuisance" as so defined in Article 2 of this Ordinance.
- G. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be imposed by the Zoning Hearing Board in the interest of protecting the health, safety and welfare of the public.

SECTION 605 IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "Impact Analysis" on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance. The cost of preparing and/or providing such information shall be borne by the applicant.

<p style="text-align: center;">ARTICLE 7 CONDITIONAL USES</p>

SECTION 701 PURPOSE

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

SECTION 702 GENERAL PROVISIONS

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

SECTION 703 APPLICATION AND SITE PLAN

A conditional use application, and fifteen (15) copies of said application shall be submitted to the Zoning Officer along with fifteen (15) of a site plan which includes the following information.

- A. The site plan shall be at a scale of not greater than one (1") inch equals one fifty (50') feet. Such plan shall, at minimum, indicate:
 - 1. The location and size of all buildings and structures, both principal and accessory, open space, parking areas, traffic access and circulation.
 - 2. All public or private streets within one thousand (1000') feet of the site.
 - 3. Contours of the site for each two (2) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted survey and the date of survey.
 - 4. Streams, ponds, watercourses, wetlands or any other bodies of water, including natural or man-made drainage swales located both on the site and within five hundred (500) feet of the site.
 - 5. The location, nature and terms of any existing or proposed easements on the site and any existing or proposed easements both on-site and

off-site which are used or intended to be used for access to the site.

6. The location, type and height of any required screening.
7. The location of all structures within two hundred (200) feet of any property line boundary of the subject site
8. The Map, Block and Lot Number of the subject parcel as recorded within the Luzerne County Recorder of Deeds Office.
9. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
10. A narrative outline which fully describes the proposed use of the site and the pertinent operational aspects and features of the proposed use.
11. Any other information required by the Borough Council for determining the conformance of the conditional use with the regulations for that particular use.

SECTION 704 PROCEDURAL REQUIREMENTS IN RENDERING A DECISION

- A. Prior to approving or denying an application for a conditional use, the Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council shall submit the application for the proposed conditional use to the Borough Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.
- B. The required public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under Article 15 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- C. The Borough Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Borough Council. 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 the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
- D. If the Borough Council fails to render a decision within forty-five (45)

days after the last hearing within forty-five days or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of their failure of the Borough Council to meet or render a decision as hereinabove provided, the Borough Council shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If the Borough Council fails to provide such notice, the applicant may do so.

- E. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.
- F. The Borough Council shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

SECTION 705 GENERAL STANDARDS

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

- A. The proposed use shall not jeopardize the community objectives this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of location and size relative to the proposed operation and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of structures,

buildings, walls and fences, so that the use, and development of adjacent property is not impaired.

- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration or lighting that would be the operations of any permitted use in the district.
- G. The submission of an Environmental Impact Statement for all nonresidential conditional uses in accordance with Section 707 of this Ordinance, and all subsections thereunder.
- H. The submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as set forth by the Borough Council including but not limited to the interest of protecting the health, safety and welfare of the public and environmental features and characteristics of the site and/or surrounding areas. In their review of an Impact Analysis, the Borough Council shall have the discretion to retain the services of firms or agencies which have expertise within the subject or subjects addressed therein.

SECTION 706 CLASSIFIED CONDITIONAL USES

The following uses/developments are classified as conditional uses within Article 5 of this Ordinance:

- 1. A Solid Waste Facility and/or Transfer Station
- 2. Any use permitted by right or special exception, involving the initial or cumulative disturbance of 87,120 or more square feet of surface area, including but not limited to, the excavation of land, grading and/or the backfilling of land not related to the extraction of natural resources.
- 3. Any nonresidential use permitted by right or special exception, involving the initial or cumulative construction, installation or placement of 43,560 or more square feet of buildings, structures and/or other impervious surface areas.
- 4. Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.
- 5. Extraction, excavation and/or removal of natural resources (as defined in Article 2).
- 6. Adult Uses (as defined in Article 2).
- 7. Heavy Industry, (as defined in Article 2).
- 9. Trucking Facilities

SECTION 707

ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any nonresidential use and/or development which is classified as a conditional use. Upon a written request from the applicant, the Borough Council, at its sole discretion, may exempt a nonresidential use from the submission of an Environmental Impact Statement, in whole or in part, upon a determination that certain information is not applicable to the proposed use and/or development. The burden of proof that certain information is not applicable to the proposed use and/or development shall rest with the applicant in addressing the basis for the requested exemption. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout West Pittston Borough and its environs. An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance:

707.01. SOIL TYPES

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

707.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling down stream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.

- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

707.03 GROUND COVER INCLUDING TREES

- a. Extent of existing impervious ground cover on the site.
- b. Extent of proposed impervious ground cover on the site.
- c. Extent of existing vegetative cover on the site.
- d. Extent of proposed vegetative cover on the site.

707.04 TOPOGRAPHY

- a. Maximum existing elevation of site.
- b. Minimum existing elevation of site.
- c. Maximum proposed elevation of site.
- d. Minimum proposed elevation of site.
- e. Description of the topography of the site and all proposed changes in topography.

707.05 GROUND WATER

- a. Average depth to seasonal high water table.
- b. Minimum depth to water table on site.
- c. Maximum depth to water table on site.

707.06 WATER SUPPLY

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

707.07 SEWAGE SYSTEM

- a. Sewage disposal system (description and location on the site of system).

- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plants present capacity and design capacity.

707.08 SOLID WASTE

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

707.09 AIR QUALITY

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

707.10 NOISE

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

707.11 IMPACT OF PROPOSED USE/DEVELOPMENT

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

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.
- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.
- e. Effects on ground water quality.

- f. Effects on surface water quality.
- g. Effects on air quality.
- h. Alternatives to proposed use/development, consistent with the zoning of the site.
- i. Effects on sites of historic significance.
- j. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

707.12 IMPACT UPON CRITICAL AREAS

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

707.13 OTHER GOVERNMENTAL JURISDICTION

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

707.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Borough Council shall promptly forward the Environmental Impact Statement to the Borough Planning Commission, the Borough Engineer and any other agency, firm or individual which the Borough Council may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Borough Council with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.
- C. The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement. All fees and costs incurred for such consultation shall be paid by the applicant.

- D. A determination by the Borough Council of a potential adverse impact which may result shall constitute sufficient basis for the denial of a conditional use permit.

SECTION 708 SOLID WASTE FACILITY- SUPPLEMENTARY REGULATIONS

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

- A. The applicant shall provide a comprehensive soil analysis and groundwater report which shall conclusively demonstrate that the proposed design, construction and operation of the solid waste facility shall not pollute surface or groundwater, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant, who prepares the report, attesting to the accuracy of information and the validity of said report.
- B. The applicant shall sign an agreement prepared by the Borough Solicitor, prior to final approval of the application for a Conditional Use Permit which shall specify all the terms and conditions of approval, including the Borough's authority to revoke the Permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the Conditional Use Permit, the Borough Council shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the Borough Council shall render a decision.
- C. The land area and/or parcel of land on which the solid waste facility is located shall not exceed ten (10) acres, whether developed initially or cumulatively.
- D. The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test borings and any other appropriate technical data which conclusively demonstrates that the subsurface conditions beneath any area to be utilized as a landfill is capable of sustaining the bearing load of projected and/or planned quantity of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.
- E. Any application for a Conditional Use Permit for a solid waste facility, which includes the operation of a landfill, shall include a proposed reuse of the property and/or area utilized as a landfill upon the cessation of landfill activities. The proposed reuse of the property shall not be inconsistent with Section 105 of this Ordinance.
- F. The applicant shall be required to create an escrow fund to finance the proposed and planned reuse and development of any area utilized as a landfill based upon

the projected life expectancy of any area within the solid waste facility which is utilized as a landfill. Such fund shall be funded while the property is still being used for a landfill with annual increment payments. The annual increment payment shall be based upon the estimated cost of the proposed reuse of the site divided by the number of years which the landfill is expected to operate. Such fund shall be separate and distinct from any funding and/or bonding requirement pursuant to closure activities.

- G. A solid waste facility may conduct and operate all approved functional aspects within the Facility from the hours of 7:00 A.M. to 3:00 P.M. from Monday through Friday. Said Facility shall not conduct and/or operate any approved functional aspects associated with the Facility on Saturdays, Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- H. The entire site of a solid waste facility shall be enclosed with industrial type gauge fencing which shall be ten (10') feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.
- I. No operations and/or activities permitted within a solid waste facility shall be permitted within one thousand (1,000) feet of any property line boundary and/or within two thousand-five hundred (2,500) feet of any residences and/or zoning district in which residences are a permitted use.
- J. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.
- K. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Resources.
- L. All storm water collected on the site shall be treated by the facility's waste water treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.

- M. The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Commissioners, and the results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Resources, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected.
- O. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. Such screening shall consist of a variety of evergreen trees, approved by the Borough Council, planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. Said screening shall be located not greater than three hundred (300') feet from the operations and/or activities which are subject to being screened. The applicant and/or operator of the Facility shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die or otherwise fail to grow.
- P. The applicant shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed solid waste facility, including the projected daily volume and tonnage of refuse being accepted for processing and/or disposal.
- Q. The applicant shall submit to the Borough Council, a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.
- R. Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads, constructed in accordance to the street design standards of West Pittston Borough, or in the absence of such standards, in accordance with the street design standards as so provided within the Luzerne County Subdivision and Land Development Ordinance. Such private access roads shall only have access to a state legislative route with no permitted access to or from any local streets and/or roads.
- S. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan

shall be submitted for review and comment to the local fire companies which serve West Pittston Borough.

- T. Any solid waste facility which processes sludge, prior to its final disposal, shall be designed to include a liner in accordance with the applicable standards of the Department of Environmental Protection for the liner within a proposed landfill.
- U. Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions by not less than ten (10%) percent below the applicable allowable emission standards of the Department of Environmental Protection or the Environmental Protection Agency, based upon the more restrictive regulations for reducing and/or limiting air pollution. Any emissions stack or similar structure shall not exceed one hundred-fifty (150) feet in height.
- V. The applicant shall in addition to other required information and data provide an "Impact Analysis" which address the impact of the proposed operation and activities of a solid waste facility in relationship to the following items:
 - 1. All streets and roads which shall and/or are likely to be utilized for means of access to and from the site, including projected truck traffic which shall be generated in relationship to the projected daily volume of waste being transported to the solid waste facility.
 - 2. The suitability of the site for the proposed operations and activities of the solid waste facility in relationship to the soils, slopes, woodlands, wetlands, flood West Pittston, aquifers, natural resources and other natural features which are located both on-site and off-site of the Facility.
 - 3. The impact, both on-site and off-site, of the proposed operations and activities of the solid waste facility on the soils, slopes, woodlands, wetlands, flood West Pittston, aquifers, natural resources and other natural features regarding the degree to which these are protected or destroyed, the tolerance of these resources to the proposed development and any adverse environmental impacts.
 - 4. The impact of the proposed operations and activities of the solid waste facility upon any locations and/or structures of historical and/or cultural significance within 3,000 feet to any property boundary line of the Facility.
 - 5. The impact of the proposed operations and activities of the solid waste facility upon the preservation of agriculture and other land uses which are essential to the public health and welfare.

708.1 MITIGATION OF ADVERSE IMPACTS

In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Borough Council' review of the same shall constitute sufficient basis for the denial of a conditional use permit.

708.2 LAND DEVELOPMENT APPROVAL REQUIRED

In addition to the regulations contained within this Article, a solid waste facility shall be subject to the applicable regulations and provisions as contained within the Luzerne County Subdivision and Land Development Ordinance. The application process for a Conditional Use Permit and a land development may be submitted concurrently by the applicant.

708.3 HOST MUNICIPALITY FEE

A host municipality fee shall be executed between West Pittston Borough and applicant, owner and/or operator of a solid waste facility prior to the commencement of construction of said Facility.

SECTION 709 EXTRACTION OF NATURAL RESOURCES -
SUPPLEMENTARY REGULATIONS

The extraction, excavation and/or removal of coal (strip mining) coal by products, including culm, ash and cinders, sand, gravel, rock, topsoil, peat moss shall be considered a temporary use, and new excavations shall be permitted in only an M-1 Zoning District. The following requirements shall apply:

- A. Map: Submission of a map which outlines the entire proposed area subject to be the proposed extraction, excavation, removal and/or surface mining of coal or coal by products. Said map shall contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and lot lines of public and semipublic uses within a distance of five hundred (500) feet from the perimeter of the proposed use. In addition, said map shall indicate the proposed maximum depth of any excavation.
- B. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond which guarantees the restoration and backfilling any land proposed to be excavated or otherwise disturbed has been secured.
- C. Insurance: That a Certificate of Insurance with limits of \$100,000 per person and \$300,000 per accident for personal injuries, and \$300,000 for property damage, be filed with the Borough Council both for the benefit of all persons who might

be injured or suffer property damage as a result of the operations, and to save West Pittston Borough and its Officials harmless from any and all claims, suits or demands caused by any operations of the subject use.

- D. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the excavator.
- E. Timing: Blasting, if permitted by the Borough Council, shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time and in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Protection.. The applicant shall provide the Borough with not less than a twenty-four (24) advance notice.
- F. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than one thousand (1000) feet from the right-of-way of any street, and/or one thousand (1000) feet from any residential building or the boundary of a residential zoning district.
- G. Drainage: All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the operation.
- I. Compliance With State Requirements: Final and/or unconditional approval under the provisions of this Ordinance will not be issued until all required licenses and/or permits have been properly secured from the Pennsylvania Department of Environmental Protection.

SECTION 710 ADULT USES - SUPPLEMENTARY REGULATIONS

No adult use, as so defined in Article 2 of this Ordinance, shall be located less than one thousand (1000) feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any residential zoning district.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street

parking areas shall be completely have a buffer area, as defined in Article 2, around the entire property, excluding points of vehicular access. The owner of the property shall be responsible to maintain the required vegetation within the buffer area, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.