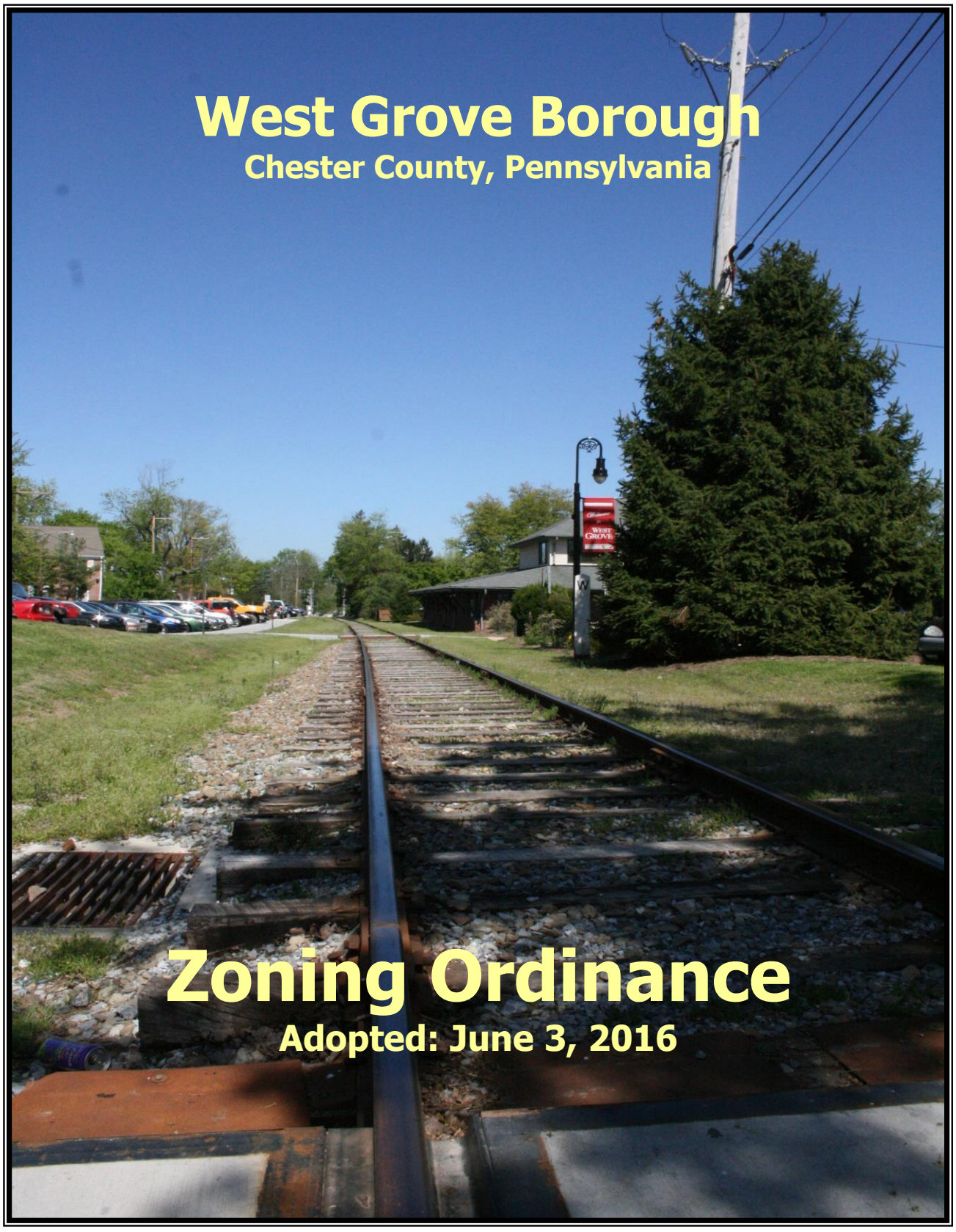

West Grove Borough
Chester County, Pennsylvania
Zoning Ordinance
Adopted: June 3, 2016

West Grove Borough Zoning Ordinance
Adopted June 3, 2026
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Zoning Map

ARTICLE I
General Provisions

§ 400-1. Title.

This chapter shall be known and may be cited as the "West Grove Borough Zoning Ordinance of 2026."

§ 400-2. Purpose.

A. This chapter is enacted to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provisions of adequate light and air, access to alternative solar energy, police protection, vehicle parking and loading space, multimodal transportation opportunities, pedestrian safety, provision of a safe, reliable and adequate water supply, sewerage, schools, recreational facilities, public grounds and other public requirements, as well as to prevent overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers; as well as preservation of natural, scenic and historic resources and protection of forests, wetlands, and aquifers.

B. This chapter is enacted 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.

C. This chapter is enacted in accordance with the Municipalities Planning Code and an overall planning program, and with consideration for the character of the Borough, its various parts and the suitability of the various parts for particular uses and structures.

§ 400-3. Community development objectives.

The provisions of this chapter have been enacted according to various Borough policy guidelines and other applicable plans, codes, and ordinances. The following community development objectives reflect those planning guidelines in addition to the purposes of this chapter found in §400-2:

A. Guiding and encouraging the future development of the Borough in accordance with planning of land use for the residential, commercial, industrial, mixed use, natural resource, and recreational areas within the Borough, having regard to their suitability for the various uses appropriate to each of them and their potential for such uses.

B. Protecting the character and the social and economic stability of each of such areas and encouraging their orderly and beneficial growth.

C. Protecting and conserving the value of land and buildings throughout the Borough appropriate to the various zoning districts established herein.

D. Ensuring the conformity of land use with Borough policy and minimizing conflicts

among users of land and buildings.

E. Aiding a beneficial relationship between land use and the circulation of traffic throughout the Borough, having particular regard to pedestrian and bicycle mobility, access, and safety in addition to vehicular traffic and parking, and to the avoidance of congestion in the streets and the provision of safe and convenient access appropriate to the various land uses.

F. Aiding in providing the efficient provision of public facilities and services, effective sanitary sewage disposal, and building development, investment, redevelopment, and other economic activity relating to land use consistent with Borough policy.

G. Protecting, enhancing, and sustaining natural features that are less suitable for building; providing parks, recreation, and natural areas to meet the needs of Borough residents; promoting surface and groundwater quality; and reducing stormwater and impacts of flooding.

H. Maintain, preserve, and revitalize the Borough's existing neighborhoods while providing for a diverse range of housing that complements the existing community, including quality affordable housing, housing for older residents, innovative housing options, and a mixed-use town center.

I. Maintain a vibrant and walkable downtown as a center of the Borough's civic life, identity, and economic core that incorporates pedestrian safety and is context appropriate in terms of uses, design, and scale.

J. Promote mixed use corridors along Evergreen and Prospect Streets in addition to other small commercial and industrial areas to accommodate a variety of commercial establishments providing goods, services, jobs, and rateables.

§ 400-4. Authority.

This chapter has been drafted and adopted in accordance with the provisions of Article VI, Zoning, of the Municipalities Planning Code.

§ 400-5. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the aforementioned purposes and objectives. From and after the effective date of this chapter, the use, construction, and development of all land, buildings, structures, signs or portions thereof, shall be subject to and in conformance with the regulations herein. Any lawfully existing buildings, structures, land, lawful uses, or signs not in conformity with the regulations herein, upon enactment of this Zoning Ordinance, may be continued, extended or changed in accordance with the regulations herein contained relating to Article XXII, Nonconformities.

§ 400-6. Conflict.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing ordinance or enactment or with any rule, regulation or permit adopted or issued

thereunder except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall prevail. Where the provisions of any statute, other ordinance or regulation shall impose greater restrictions than the provisions of this chapter, the greater restrictions shall prevail.

§ 400-7. Effective date.

This chapter shall be known and may be cited as the "Borough of West Grove Zoning Ordinance of 2026." This chapter shall take effect and be in force from and after its adoption this 3rd day of June, 2026.

ARTICLE II
Terminology

§ 400-8. Word usage.

Unless otherwise expressly stated, the following words shall be construed throughout this chapter to have the meaning set forth in this article:

A. Words used in the present tense include the future.

B. The singular includes the plural and the plural the singular.

C. The masculine gender includes the feminine and the neuter.

D. The words "shall" and "must" are mandatory.

E. The word "may" is optional.

F. The words "district" and "zone" shall be synonymous.

G. The word "used" shall include the words "arranged," "designed," or "intended to be used."

H. The word "person" includes an individual, corporation, partnership, public or private association or corporation, firm, trust, estate, governmental unit, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

I. Where terms, phrases, or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.

§ 400-9. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings given to them in this article:

ABANDONMENT - An intentional and absolute relinquishment and cessation of a structure or use for any period of time without intention to resume said use or the voluntary discontinuance of a structure or use for a continuous period of one year without reference to intent. Abandonment shall be measured from the last date of regular and permanent occupancy."

ADULT — An individual considered in the law to be an adult, that is, a person of at least 18 years of age.

ADULT USES - An establishment where the principal use is devoted to the display and selling of pornographic materials which are pictures, drawings, photographs, films or other depictions or printed matter and paraphernalia which, if sold knowingly to an individual under the age of 18, would violate the criminal laws of the Commonwealth of Pennsylvania; and/or an establishment which offers live or non-live entertainment characterized by an emphasis on activities or matters depicting describing, relating to, or displaying sexual or erotic activities, including but not limited to the following:

A. ADULT BOOK STORE — An establishment having as a substantial or significant portion of its stock-in-trade magazines, books, periodicals, photographs, films and other paraphernalia or an establishment with a segment or section devoted to the sale or display of such material, which if sold to a person under 18 years of age, would violate the criminal laws of the Commonwealth of Pennsylvania in effect at the same time thereof.

B. ADULT MOTION PICTURE AND/OR ENTERTAINMENT CENTER — An enclosed building used for any other business, club, cabaret, nightclub, movie theater, bar or similar establishment, either live or through various media, which offers its patrons services, entertainment, or retail goods or commercial services characterized by an emphasis on activities or matter depicting, describing, relating to, or displaying sexual or erotic activities.

ALLEY — A minor right-of-way which is publicly owned and used primarily for secondary vehicular access to the rear or side of properties otherwise abutting a public street.

ALTERATION, STRUCTURAL — Any change or modification in construction, change in type of occupancy (i.e., single-family to multifamily), or any change in structural members of a building, such as bearing walls, or interior partitions, columns, beams, joists, girders or rafters, not including normal repairs or replacement of elements of a building or an addition thereto.

AMENDMENT — Any change which includes revisions to the zoning text and/or the Official Zoning Map. The authority for any amendment lies solely with the Borough Council.

ANIMAL, AGRICULTURAL (FARM) — Animals raised as a part of an agricultural operation for sale, production of other products, work animals, or for recreation, including but not limited to horses, mules, cattle, oxen, sheep, goats, pigs, and poultry (e.g.: chickens, turkeys, ducks, or geese).

ANIMAL, DOMESTICATED — Any of various nonfarm (agricultural) animals, typically kept for personal enjoyment or companionship, that have been tamed and made fit for a human environment, and are generally kept inside the primary residence. Domestic animals are generally considered "pets," and are generally smaller animals, including but not limited to dogs, cats, hamsters, rabbits, turtles, birds (e.g.: parakeets), and fish.

ANIMAL SHELTER — A small accessory structure on a residential lot used for a temporary outdoor shelter for privately owned domesticated animals, including but not limited to structures commonly referred to as "dog houses."

ANTENNA — Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves, which is external to or attached to the exterior of any building or structure.

APPLICANT — A landowner(s) or developer(s), their heirs, administrators, successors or assigns, who has submitted an application for development.

APPLICATION FOR DEVELOPMENT — Any application, whether preliminary, tentative, or final, required to be filed and approved before the start of an activity,

including but not limited an application for a zoning permit, building permit, demolition permit, use and occupancy permit, sign permit, plot or site plan, subdivision, or land development. The term includes the application form and such plans, documents, and information as required by and in association with such form, as well as related fees and financial securities. All applications shall be endorsed by the legal owner and equitable owner of the site, property, or activity in question.

AREA AND BULK REGULATIONS - Provisions which regulate individual lot sizes and the spatial arrangement of structures within individual lot boundaries, including but not limited to required minimum yards and building height restrictions.

AREA — See "lot area," "floor area" or "building area."

AREA, BUILDING — See "building area."

AWNING — A semi-permanent or permanent roof-like structure, extending perpendicularly from the facade of a structure, typically above an entrance or window, but having no relationship to the structure's roof, which is generally designed and constructed for protection against weather.

BANK OR FINANCIAL INSTITUTION — Any building wherein the primary occupation or use is concerned with such businesses as banking, savings-and-loan associations, credit unions, loan companies, mortgage companies, or investment companies.

BASEMENT — Any area of the building having its floor, completely or partly, below grade or a story that is not a story above grade plane. A basement is considered a building floor if the height of at least two of its perimeter walls is five feet or more above grade.

BED-AND-BREAKFAST ESTABLISHMENT — An accessory use to a dwelling unit in which temporary lodging accommodations are provided to transient persons for compensation, including the on-site preparation and service of food to patrons.

BELT COURSE — A decorative horizontal band projecting from exterior building walls usually composed of projecting and/or contrasting stone or brick typically defining interior floor levels. See Figure 2-1.

Figure 2-1: Belt Course





BEST MANAGEMENT PRACTICES (BMPs) — Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to provide water quality treatment, infiltration, volume reduction, and/or peak rate control, to promote groundwater recharge, and to otherwise meet the purposes of this chapter and Chapter 342, Stormwater Management, of the Code of the Borough of West Grove. BMPs shall otherwise be in accordance with Chapter 342, Stormwater Management.

BLOCK — An area of land bounded by streets.

BOROUGH — The Borough of West Grove, Chester County, Pennsylvania.

BOROUGH COUNCIL — The Borough Council of West Grove Borough, Chester County, Pennsylvania.

BREWERY – Establishments which brew beer onsite and in which the only alcoholic beverages served or sold are beer and wine which must be licensed by the Pennsylvania Liquor Control Board or any successor agency of the commonwealth. Breweries are further subcategorized as follows:

A. BREWPUB. A combined brewery and restaurant that sells 25% or more of its brewed beer onsite. The beer is brewed primarily for sale in the restaurant. The beer is often dispensed directly from the brewers' storage tanks. Brewpubs have a restaurant as a significant part of their operation and may or may not also bottle or can beer for on-site, sold to go where permitted, or have off-site sales/distribution.

B. MICROBREWERY. A brewery that produces less than fifteen thousand barrels of beer per year with 75% or more of its beer sold off-site. Microbreweries typically do not have a restaurant component but may have a tasting room as an accessory use.

C. NANOBREWERY. A very small brewery, defined by a less than four U.S. beer barrels (470 L) brew system.

D. REGIONAL BREWERY. A brewery with an annual production between fifteen thousand and 6 million U.S. beer barrels. The regional brewery must have either an all-malt flagship or have at least 50% of its volume in either all-malt beer or in beer which uses adjuncts to enhance rather than to lighten flavor. Regional breweries typically do not have a restaurant component but may have a tasting room or other use as an accessory use.

E. BEER GARDEN. An outdoor area, whether or not enclosed by a roof or awning and/or partially by walls, and which is open to the elements, for the purpose of conducting outdoor sales and consumption of food and alcohol beverages on the premises, said outdoor area being directly attached to the licensed building, and may be used daily or on a seasonal basis as part of the normal operations of the licensed premises. A beer garden may be a principal use but is typically an accessory use that

may or may not be associated with a brewery.

F. TAP ROOM. A principal use operated primarily for the sale by the glass for consumption on the premises of alcoholic liquors with the sale of food as a secondary object (distinguished from a Brewpub where the sale of food is a primary object). A Tap room may or may not have on-site brewing involved and are typically associated with a local brewery, that may or may not be located on the same property. Tap rooms may associate with a Food Truck to provide food service to patrons instead of having a kitchen, may offer prepared foods, and might also have an outdoor beer garden area as an accessory use.

G. TASTING ROOM. An accessory use to a brewery as a place for the consumption of beer produced onsite for the purpose of sampling for prospective purchase only. The quantity of any individual sample provided to patrons is not to exceed a limited number of ounces (typically not more than four ounce servings and a limited number of servings).

BUFFER (BUFFER YARD) — An area to be used and maintained as a horizontal physical barrier between uses and/or where otherwise specified, consisting of a strip of land maintained to separate parcels or uses of land in conjunction with associated landscaping and screening, where required, that may include, but not be limited to, a berm, fence, wall, or vegetative plantings.

BUILDING — A combination of materials to form a permanent structure having walls and a roof intended for housing, sheltering, or enclosing people, animals, or property. Included shall be all manufactured homes and mobile homes to be used for human habitation.

BUILDING, ACCESSORY — A building subordinate to the principal structure on a lot and used for purpose customarily incidental to those of the principal structure. See also "use, accessory."

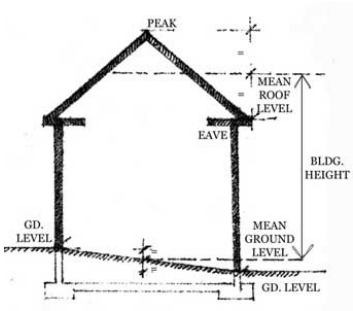
BUILDING AREA/FOOTPRINT — The square footage that a building occupies on a lot. Building area shall be measured from outside wall to outside wall and shall not include the dimensions of cornices, eaves and gutters. Building area shall include covered porches and all roofed portions of a building.

BUILDING COVERAGE — The building area of all principal and accessory structures on a lot, expressed as a percent of the total area of a lot or tract. See Figure 2-19.

BUILDING ENVELOPE — The remaining area within a lot, outside of the minimum required yards, where a principal structure may be built, in compliance with maximum building coverage and building height requirements in the zoning districts of this chapter. See Figure 2-19.

BUILDING HEIGHT — The vertical distance measured from the mean level of the average finished grade surrounding the building foundation to the highest flat surface of a flat roof or the mean level of a sloped roof, excluding chimneys, spires, antennas, or roof mounted solar panels mounted parallel to the roof surface. See Figure 2-2.

Figure 2-2: Building Height



BUILDING LENGTH — The horizontal measurement of any continuous building wall.

BUILDING LINE — A line that extends the full width of a lot and parallel to the front lot line, located at the closest point of the principal structure to the front lot line. The building line shall be no closer to the front lot line than the minimum required front yard in the applicable zoning district, but may be a greater distance depending on the particulars of the lot and building size. See Figure 2-19.

BUILDING PERMIT — A statement issued and signed by the Zoning Officer/Building Inspector, or other duly authorized agent of the Borough of West Grove, which authorizes the erection, construction, alteration, conversion, replacement, diminution or enlargement of a building or structure. The statement should indicate that the proposed activity complies with the applicable Borough codes and ordinances.

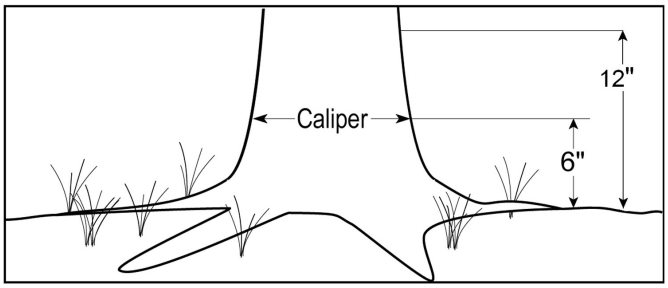
BUILDING, PRINCIPAL — A building or, where the context so indicates, a group of buildings, in or on which is conducted the principal use of the lot on which such building is located.

BUILDING SETBACK LINE — A line parallel to and set back from the front lot line at a distance equal to the depth of the minimum required front yard for the district in which the lot is located. See Figure 2-19.

BULK — A term used to describe the size of buildings or other structures and their relationship to each other, to open areas such as yards and lot lines, and includes the height and floor area of buildings.

CALIPER — The diameter of a tree trunk measured six inches above the ground for trees up to and including four-inch caliper and measured 12 inches above the ground for trees larger than four-inch caliper. See Figure 2-3.

Figure 2-3: Caliper



CARTWAY — The paved surface of a street or alley available for vehicular traffic or use including on-street parking spaces but excluding shoulders, berms, medians,

drainage swales and other portions of the road right-of-way.

CASINO - Casino (Wagering and Gambling Facility). A commercial use which provides facilities or at which persons assemble for the purpose of any activity which involves lawful gambling or wagering, including, without limitation, those facilities and activities for pari-mutuel wagering on thoroughbred and/or harness horse races remote from any race track and governed by and licensed pursuant to the Race Horse Industry Reform Act, the Act of December 17, 1981, P.L. 435, as it may be from time to time amended, 4 P.S. § 325.101 et seq.[6] Gambling and wagering shall include any activity, game or device at which money or other valuable things may be played for, or staked or bet upon, and in which, by the rules of the activity, game, or device, a consideration is paid by the player or participant and a reward is paid to players or participants as a consequence of some element of chance. A commercial use otherwise permitted shall not constitute a gambling or wagering facility solely on account of the installation of facilities and devices pursuant to the State Lottery, the Act of August 26, 1971, P.L. 351, as amended, 72 P.S. § 3761-1 et seq. For the purposes of this chapter a casino shall constitute a principal use where more than 5 skill games are present.

CEMETERY — Land used or intended to be used for the burial of one or more dead human bodies or cremated remains thereof, including columbariums and mausoleums when operated in conjunction with and within the boundary of such cemetery.

CENTER LINE — The center of a surveyed street, road, lane, alley, or alley right-of-way, or where not surveyed, the center of the cartway.

CERTIFICATE OF USE AND OCCUPANCY — A statement signed, issued, and administered by the Zoning Officer/Building Inspector, or other duly authorized agent of the Borough of West Grove, upon completion of construction of a new building or upon change or conversion of a structure or use of a building, which establishes that a building or use complies with all requirements and regulations as provided in this chapter and other applicable codes, and that the same may be occupied or used for the intended use.

CHANGE OF USE — An alteration of a building, structure, or land by changing a use theretofore existing to a new use which imposes different provisions of law governing building construction, equipment, exits, or zoning regulations.

CIVIC SPACE(S) — Civic spaces are primarily informal public open spaces spatially defined in part by landscaping and by buildings, either public or privately owned but open to the public. Civic spaces typically provide a means of seating, whether through tables and chairs, benches, or low seating walls typically serving as enclosures for landscaping or water features. A majority of the surface of civic spaces shall be paved using concrete, in some cases decorative via color, texture, or pattern, or by brick pavers, flagstone, or some other material. Civic spaces may include grassed areas, particularity for larger plazas, in addition to water features and informational kiosks. Landscaping and trees should be distributed throughout civic spaces in addition to landscaped planters or beds containing flowers, shrubs, or other vegetation, particularly along the periphery of the space. Civic spaces may take the following forms:

A. COURTYARD — Smaller open spaces typically providing seating and landscaping for use by the public for waiting areas, informal gatherings, or enjoying the outdoors. See Figure 2-4.

Figure 2-4: Courtyard





B. PLAZA — Larger open spaces serving the same function as a courtyard but may include larger grassed areas, more substantial landscaping, and areas for community gatherings, concerts, or performances. See Figure 2-5.

Figure 2-5: Plaza







CLEAR SIGHT TRIANGLE — An area of unobstructed vision at a street intersection defined by lines of sight between points a given distance from the intersection of street center lines.

COFFEE SHOP — A retail business primarily selling beverages but may also prepare and sell freshly made or preprepared food where customers are served from an ordering counter for either on- or off-premises consumption ("counter service"). In addition to permitted indoor seating, coffee shops may also provide limited outdoor seating or dining where otherwise permitted. This use does not include a mobile food vendor otherwise known as a "food truck".

COMMERCIAL USE — A use of land or improvements thereto for the purpose of engaging in retail, wholesale, or service activities for profit (i.e., not a public or nonprofit use).

COMMUNICATIONS ANTENNA — An antenna for receiving or transmitting wireless signals.

COMMUNICATIONS ANTENNA SUPPORT STRUCTURE — Any pole, telescoping mast, tower tripod or other structure which supports a communications antenna.

COMMUNITY CENTER — A building used for recreational, social, educational, and cultural activity, open to the public, typically owned and operated by a municipality, other governmental agency, or a nonprofit group.

COMMON OPEN SPACE — An area of land to be maintained for the use and enjoyment of residents of an associated development and/or for the general public. It shall consist of landscaped or natural terrain including lakes, streams, woodlands, and open areas, and may include such buildings as are necessary to fulfill its permitted functions, but the area of common open space shall not include street right-of-way, stormwater management facilities, or yard or off-street parking areas required for residential or other uses permitted by this chapter.

COMPLETELY DRY SPACE — A space which will remain totally dry during flooding, the structure is designed and constructed to prevent the passage of water and water vapor.

COMPREHENSIVE PLAN — The Comprehensive Plan of the Borough of West Grove, Chester County, Pennsylvania, as adopted and amended from time to time.

CONNECTIVITY (CONNECTIONS) — The measurement of the ability of a system of streets or pedestrian amenities (sidewalks, bike lanes or paths, trails) to provide multiple routes and connections serving the same origins and destinations. Simply stated, a high degree of connectivity means there are a variety of ways to get from point A to point B. (Based on PennDOT 2012 PUB 731)

CONTINUING-CARE RETIREMENT CENTER — A facility designed and operated for mature adults, which meets the definition of "housing for older persons" as set forth in the Fair Housing Amendments Act of 1988, as amended, that may offer one or more levels of assistance, including but not limited to independent living, assisted living, and skilled nursing, and may offer a continuum of housing, services and health care systems, all in one building, campus, or site. These facilities require state and federal licenses in order for them to provide care by registered nurses, licensed practical nurses, and

certified nurse aids. Such facilities are operated for adults, generally 55 years old or older, that may include one or any combination of the following:

A. INDEPENDENT LIVING — This type of facility provides attentiveness for seniors who can essentially take care of themselves but need someone to sporadically check on them or be on call for certain needs. Independent living may take place in a congregate care center (communal setting), apartments, or facility where there are independent living units which may be rental-assisted or market-rate housing.

B. ASSISTED LIVING — Assisted-living facilities typically involve a congregate care (communal) or apartment-style facility designed to focus on providing assistance with daily living activities. Assisted living provides a higher level of service which may include preparing meals, housekeeping, dressing, bathing, medication assistance, laundry, and regular check-ins on the residents. Assisted living is designed to bridge the gap between independent living and skilled nursing home facilities.

C. SKILLED NURSING (NURSING HOME) — Skilled nursing homes are traditional nursing facilities. They provide medical nursing service for residents with serious illnesses or disabilities 24 hours a day where patients generally rely on assistance for most or all daily living activities.

CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

CONTRACTOR'S ESTABLISHMENT — Offices and storage facilities for uses, including but not limited to plumbers, heating and air-conditioning contractors, excavators, carpenters, painting contractors, wastewater treatment system contractors, electricians, well drillers, and similar uses, in which primary work takes place off-premises.

CONVENIENCE STORE — A small (less than 3,500 square feet in size) retail store or shop intended to serve local residents and visitors that sells limited items such as candy, ice cream, beverages, lottery tickets, cigarettes and other tobacco products, newspapers and magazines, hygiene products, a limited selection of food items or groceries (fresh foods) or auto-related products such as motor oil, windshield washer fluid, radiator fluid, and maps; which may include but not limited to delicatessens, newsstands, and small food markets with a building design similar to surrounding structures consistent with traditional neighborhood development design. A convenience store which maintains 20% or more of its total display area for the sale of tobacco and/or tobacco products and vaping products shall be considered a tobacco store/smoke shop for the purposes of this chapter.

CONVERSION — An alteration of a building, structure, or land, or change of an existing use, to a new use.

CREMATORY — A use involved in the incineration of deceased where ashes are collected for permanent burial or storage in urns, utilizing a certified apparatus for the cremation process.

CURBLINE — The outer edge of a cartway.

CURB CUT — A gap in a curb to enable vehicular access to a driveway or alley or for a sidewalk or pedestrian facility.

DAY CARE — A facility which, on a daily basis, exclusively provides supplemental care and supervision and/or instruction to children or adults who are not all related to the caregiver or operator, where tuition, fees or other forms of compensation are charged, whether governmentally subsidized or not, and which is licensed or approved to dispense such care by the Commonwealth of Pennsylvania, and whether operated for profit or not-for-profit. The following definitions are included but are subject to change in accordance with other applicable regulations not specified herein or by the Pennsylvania Department of Human Services, which shall prevail in case there is a conflict:

A. Home-based operations:

   (1) FAMILY CHILD DAY-CARE HOME — A location other than the child's own home, operated for profit or not-for-profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator. A family child day-care home shall have a certificate of registration from the Pennsylvania Department of Human Services in order to legally operate. This use is typically a home-based business.

   (2) GROUP CHILD DAY-CARE HOME — The premises in which care is provided at one time for more than six but fewer than 16 older school-age level children or more than six but fewer than 13 children of another age level who are unrelated to the operator. The term includes a facility located in a residence or another premises. A group child day-care home shall have a certificate of compliance ("license") from the Pennsylvania Department of Human Services in order to legally operate. This use is typically a home-based business.

   (3) HOME CHILD DAY CARE — This is nonintensive home occupation serving less than four children unrelated to the homeowner, falling below the number of children requiring a license or registration required by the Pennsylvania Department of Human Services.

B. CHILD DAY-CARE CENTER (COMMERCIAL DAY CARE) — The premises in which care is provided at any one time for seven or more children unrelated to the operator. A child day-care center shall have a certificate of compliance ("license") from the Pennsylvania Department of Human Services in order to legally operate. This use is typically a nonresidential use.

DECK — An unroofed structure that is a platform supported by pillars or posts, either freestanding or attached to the principal structure, that shall meet all applicable setbacks for the zoning district in which the structure is located and may be considered a permeable surface (not impervious) so long as the deck surface is open (allowing for water to pass between gaps in the deck surface) and the ground surface below the deck allows for the infiltration of water (i.e., uncompacted crushed stone, grass/bare earth, etc.). A deck is different than a porch in that decks are not necessarily attached to the dwelling unit and typically have neither a roof or are enclosed.

DEMOLITION — Any act of pulling down, removing, dismantling, or razing a portion of a building, structure, or piece of equipment.

DENSITY — A measure of the number of units per unit of area. It shall be expressed in dwelling units per gross acreage for the parcel or tract on which the development is located.

DESIGN REVIEW COMMITTEE (DRC) – A committee of persons with specific specializations appointed by the Borough to assist with the assessment of an application for development in the C-1 District for consistency with the General Design Guide and applicable zoning requirements to provide advisory recommendations on the same to the Borough. The DRC is not a standing committee and only convenes upon direction of the Borough Council or Planning Commission for review of development in the C-1 District.

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

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving utilities, filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; or the subdivision and/or development of land.

A. DEVELOPMENT, INFILL – New development that occurs on a vacant lot, a newly subdivided lot, or on the same lot as an existing structure that does not include the removal or demolition of an existing structure (redevelopment).

B. REDEVELOPMENT – Development that requires the demolition/removal of an existing structure; an addition to an existing structure such as an additional floor or side/rear expansion (also requiring a zoning and/or building permit); or significant change to an existing structure including but not limited to the removal of an exterior wall or roof, “gutting” a building without removing exterior walls, or full demolition of an existing structure.

DEVELOPMENT PLAN — The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan," when used in this chapter, shall mean the written and graphic materials referred to in this definition.

DIAMETER AT BREAST HEIGHT (DBH) — The outside bark diameter of a tree at breast height which is defined as 4.5 feet (1.37 meter) above the forest floor on the uphill side of the tree.

DISREPAIR — A state of missing parts or pieces that would be obvious to a casual observer; however, disrepair does not indicate an implied state of aesthetics. For example, an automobile missing a fender, hood, wheels, a door, or having major damage that would imply the automobile is nonfunctional or in disrepair would fit this definition; however, an automobile with faded paint, scuffs, scratches, or other minor, superficial, or otherwise aesthetic imperfections would not be considered in a state of disrepair.

DISTILLERY. Any premises or plant wherein alcohol or liquor is manufactured, made

and distilled from raw materials, blended or rectified, or any place wherein alcohol or liquor is produced by any method suitable for the production of alcohol, in compliance and consistency with the PA Liquor Control Board and Pennsylvania Statutes Title 47 P.S. Liquor § 1-102. The term shall not include a "winery" or "brewery."

DISTRICT, BASE — A zoning district designated by this chapter and whose boundaries are depicted on the Zoning Map for the Borough of West Grove.

DISTRICT, OVERLAY — A zoning district designated by this chapter and whose boundaries are depicted on the Zoning Map for the Borough of West Grove, apply only to specific designated areas, or for certain features as determined by the text of this chapter and delineated in Article III, Establishment of Districts.

DRIVEWAY— A private driveway for a residential dwelling unit, or an access providing a defined safe and orderly point of vehicular access across sidewalks, curbs, and buffer areas between a public or private street and off-street parking or loading areas within a land development and/or a drive servicing more than two units of occupancy (multifamily developments) or one or more non-residential uses.

DRIVE-THROUGH — An accessory use to an establishment which, by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

DWELL TIME – The time that text, images and graphics on an Electronic Message sign remains static before changing to a different text, images or graphics on a subsequent sign face.

DWELLING, PRINCIPAL — The primary use of a parcel in a residential zoning district. Except as otherwise permitted by this chapter, there shall be only one principal dwelling (building) on each lot.

DWELLING UNIT — A single unit providing complete independent living facilities for one or more persons (a Family), including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT TYPES — Dwelling units may be arranged in the following manner. See Figure 2-6.

A. DETACHED DWELLING — A building providing one dwelling unit with the building having independent access and yards on all four sides of the dwelling: two side yards, one front yard, and one rear yard.

B. SEMIDETACHED DWELLING — A building designed for and containing two independent dwelling units, each with separate access and separated by a party wall. Semidetached dwellings may be referred to in one of the following two configurations or some other similar arrangement:

   (1) TWIN — A building consisting of two attached buildings (semidetached), each containing one independent dwelling unit separated by a vertical party wall and each dwelling unit existing on a separate lot. Each dwelling unit has one side yard opposite the side with the party wall, one front yard, and one rear yard. Dwelling units could be considered "side by side."

   (2) DUPLEX — One building with two side yards consisting of two dwelling units separated by a horizontal party wall on the same lot. Dwelling units could be

considered "over-under."

C. MULTI-FAMILY — A building containing three or more dwelling units. Multifamily units may be arranged in the following configurations: townhouses, apartment building, mixed use.

(1) TOWNHOUSE — A single-family attached dwelling unit in a row of a minimum of three such units in which each dwelling unit has independent access to the outside, there is only one dwelling unit from ground to roof, and each dwelling unit is separated from any other dwelling unit by one or two vertical fire-resistant party wall(s). Dwelling units with two party walls have no side yards, and end units have one side yard opposite the side with the party wall. Townhouses may or may not exist on independent lots.

(2) APARTMENT BUILDING (Multi-family residential) — A building or part of a building containing three or more independent dwelling units for rent, separated by party walls, regardless of configuration. Each dwelling unit has independent access; however, in some cases, access to the outside may be accomplished by a common hallway in accordance with building codes and fire regulations.

(3) MIXED-USE. See D, below.

D. MIXED USE — Dwelling unit(s) above or behind a nonresidential use within the same building, physically separated from any other dwelling unit or nonresidential use. Mixed use may qualify as multifamily where there are three or more dwelling units.

E. RESIDENTIAL CONVERSION — A change in residential use from one single-family dwelling unit to multiple dwelling units in the same building.

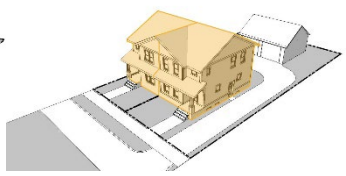
F. APARTMENT — A dwelling unit for a single family that may occur in one of several variations, including but not limited to apartments above or behind nonresidential uses (mixed use), conversion of a detached dwelling to apartments (residential conversion), or an apartment building.

G. ACCESORY DWELLING UNIT (ADU). A smaller self-contained secondary dwelling unit within a principal residential dwelling or an accessory structure on the same lot as the principal dwelling that provides complete independent living facilities including food preparation and bathroom facilities and having direct access to the outdoors. A mobile home, camper, tent, or other similar recreational vehicle (RV), temporary structure, or movable structure shall not be used as an accessory dwelling unit.

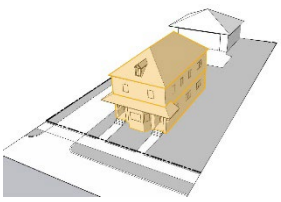
Figure 2-6: Dwelling Unit Types



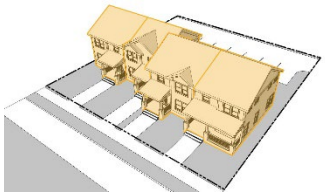
A. Detached Dwelling



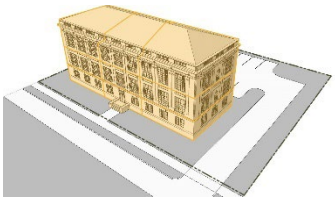
B.1. Semi-Detached Dwelling (twin)



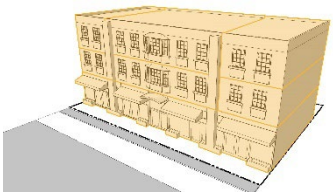
B.2. Semi-Detached Dwelling (Duplex)



C.1. Multi-family (Townhouse)



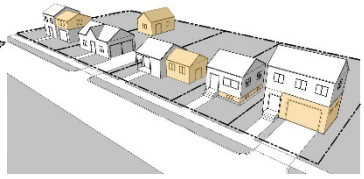
C.2. Multi-family (Apartment building)



C.3/D. Mixed Use (apartments above or behind non-residential)



E. Residential Conversion



G. Accessory dwelling unit (ADU)

EASEMENT — An interest in land owned by or granted to another that entitles the holder to specific limited use or enjoyment.

EDUCATIONAL USE — Use of land or building(s) for the establishment and maintenance of a college, secondary, or elementary school, or other educational institution for the primary purpose of instruction and learning, including but not limited to instruction directed toward moral, intellectual, or physical instruction, and may be either public or private in nature. A use requiring certification, licensing, or review by the Pennsylvania Department of Education. Day-care facilities and studios are not included in this definition.

ELECTRONIC NOTICE — Notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing, pursuant to 53 P.S. § 10109.

EMERGENCY SERVICE FACILITY — Facilities housing public emergency service providers, including but not limited to police, fire, and ambulance/emergency management technician.

ENLARGEMENT — An enlargement is an addition to the floor area of an existing building, an increase of size of another structure, or an increase in that portion of a lot occupied by an existing use.

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

FACADE — The face of a building, typically the face containing the main entrance to the building, or any face fronting upon a public street.

FAMILY —For this chapter, the term is defined to include:

A. A single person occupying a dwelling unit.

B. Any number of persons related by blood, marriage or adoption, including foster children and including not more than two other persons, for example, boarders, lodgers or domestic help.

C. Not more than five unrelated persons living together as a single cooperative household unit.

D. A group of individuals with disabilities living together as the functional equivalent of a family and entitled to a reasonable accommodation to allow them adequate housing choices pursuant to the Federal Fair Housing Amendments Act of 1988 (42U.S.C. § 3601 et seq.) and the Pennsylvania Human Relations Act (43 P.S. §§ 951 to 963).

FENCE — A structure consisting of natural and/or man-made materials designed to enclose an outdoor activity or serve as a screen or barrier between uses or lots.

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

FLOOD — A temporary inundation of normally dry land areas.

FLOOD ELEVATION, REGULATORY — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

FLOOD, ONE-HUNDRED-YEAR — A flood that, on the average, is likely to occur once every 100 years (i.e., that has one-percent chance of occurring each year, although the flood may occur in any year).

FLOODPLAIN — Land areas which are subject to partial or complete flooding from an adjoining or nearby stream, river, or watercourse. For the purpose of this chapter, the floodplain shall include but may not be limited to the area included in the Flood Hazard Overlay.

FLOODPLAIN AREA — 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 waters from any source.

FLOODPLAIN AREA, IDENTIFIED — The floodplain area specifically identified in this chapter as being inundated by the one-hundred-year flood.

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

FLOODWAY — The designated area of a floodplain required to carry and discharge floodwater of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of the one-hundred-year magnitude.

FLOOR AREA — The sum of the area of the several floors of a building or buildings measured from the face of the exterior walls or from center lines of walls separating two buildings. In particular, floor area includes but is not limited to the following:

A. Basement space if it meets the requirement of a building story.

B. Elevator shafts, stairwells, and attic space (whether or not a floor has been laid)

providing structural headroom of eight feet or more.

C. Roofed terraces, exterior balconies, breezeways or porches, provided that over 50% of the perimeter of these is enclosed.

D. Any other floor space used for dwelling purposes (including but not limited to hallway, kitchen, and bathrooms), no matter where located within the building.

E. The area of accessory buildings.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

FOOTCANDLE - A unit of incident light quantity defined as one lumen per square foot, measurable with an illuminance meter, aka, footcandle meter or light meter.

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

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

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

C. LITTER — Discarded items not naturally occurring on the site, such as tires, oil cans, equipment parts, and other rubbish.

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

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

F. SKIDDING — Dragging trees on the ground from the stump to the landing by any means.

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

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

I. STREAM — Any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and bank.

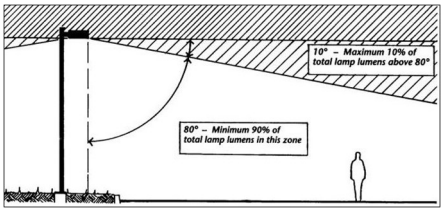
J. TIMBER HARVESTING, TREE HARVESTING or LOGGING — The part of

forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

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

FULL CUTOFF — Attribute of a lighting fixture from which no light is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp's intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the fixture. See Figure 2-7.

Figure 2-7: Full Cut-Off



FUNERAL PARLOR or UNDERTAKER'S ESTABLISHMENT — A building or part thereof used for human funeral services. Such building may contain space and facilities for the embalming and performance of other services in preparation of deceased for burial; the storage of caskets, urns and other related supplies; the display of deceased and rituals connected thereto; and the storage of funeral vehicles.

GARAGE, PRIVATE — An accessory building or a part of a principal building comprised of enclosed space for the storage of one or more vehicles or belongings of the owner, provided that no business, occupation or service, as defined herein, is conducted for profit, nor space for more than one vehicle or belongings is leased to a nonresident of the premises.

GARBAGE — All table refuse, animal and vegetable matter, offal from meat, fish and fowl, vegetables and fruits and parts thereof, and all other articles and materials ordinarily used for food, for humans or domestic animals, and which have become unfit for such use or which are discarded for any reason.

GLARE — Excessive brightness in the field of view that causes loss in visual performance or annoyance, so as to jeopardize health, safety or welfare. Light caused by either the direct visibility of an exposed light source or by the reflection of a light source that is sufficient to cause annoyance, discomfort, or loss in visual performance or visibility.

GLARE, DIRECT — Illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent, or arc lighting, or from such high-temperature processes as welding, petroleum or metallurgical refining.

GOVERNING BODY — The West Grove Borough Council, Chester County, Pennsylvania.

GRADE, FINISHED — The completed surfaces of lawns, walks, parking lots, and roads brought to grades as shown on official plans or designs relating thereto.

GRADE PLANE - A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away

from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

GROCERY STORE — A retail store having a majority of sales in food products intended for off-premises preparation and consumption, that sells a general line of food products, such as canned and frozen foods; boxed dry goods; fresh fruits and vegetables; meats; fresh and prepared meats, fish, and poultry; and a limited amount of nonfood grocery products such as pharmacy; nonprescription medicines; household items (toiletries, paper goods, cleaning supplies, batteries); and personal care products in a larger variety than found in and within a building generally greater in size than a Convenience Store. This use does not include a convenience store, a smoke shop/tobacco store, a regulated cannabinoid substance retailer, an unregulated cannabinoid substance retailer, or permit the sales of cannanidiol products, known as "CBD".

GROUND FLOOR — The floor of a building nearest the mean grade of the front of the building.

HISTORIC STRUCTURE — Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a local inventory of historic places, at either the county or Borough level, that has been certified either:

   (1) By an approved state program as determined by the Secretary of the Interior;

   (2) By an approved state program as determined by the Secretary of the Interior; or Directly by the Secretary of the Interior.

D. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

HOME-BASED BUSINESS. An accessory use constituting a business or commercial activity conducted by persons residing on the premises, which is clearly secondary to the existing primary residential use of the property. Home-based businesses are further classified as follows: (A person employed by an off-site business that is "working from home" does not constitute a home-based business nor does a tradesperson who parks a work vehicle at their home or on occasion does paperwork or other administrative functions at their residence.)

A. No-Impact Home-Based Business: A type of accessory use that does not involve customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises in excess of those normally associated with a residential use. Uses shall be in accordance with §400-91 for said use in

order to qualify as a no-impact home-based business.

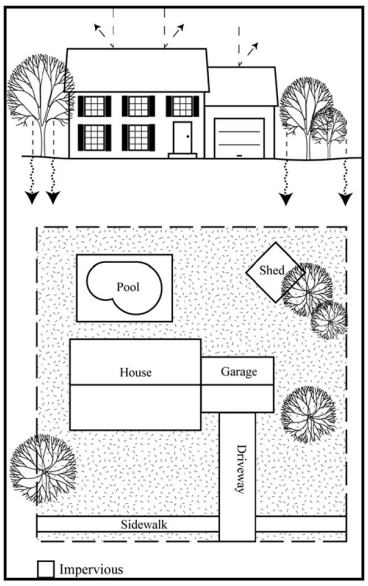
B. Intensive Home-Based Business: A type of accessory use that requires additional review and regulation beyond that of an accessory no-impact home-based business because of its potential impact on the area in which it is located, and which is in accordance with §400-91 for said use.

HORTICULTURE — The use of land for the growing or production for income of fruits, vegetables, flowers, nursery stock, including ornamental plants and trees, and cultured sod.

ILLUMINANCE — Quantity of light, measured in footcandles.

IMPERVIOUS COVERAGE (SURFACE) — A surface that has been compacted or covered with a layer of material so that it prevents or is resistant to infiltration of water, including but not limited to structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, swimming pools, tennis or other paved courts; or athletic playfields comprised of synthetic turf materials. Compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Surfaces that were designed to allow infiltration (i.e., areas of porous pavement or noncompacted stone surfaces) will be considered on a case-by-case basis by the Municipal Engineer, based on appropriate documentation and condition of the material, etc. See Figure 2-8.

Figure 2-8: Impervious Coverage



IMPROVEMENTS — Grading, paving, roads and streets, walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains, stormwater retention, detention basins, and other related drainage facilities, recreational facilities, open space, and public facilities as may be required by Chapter 350, Subdivision and Land Development, as amended.

INSTITUTIONAL USE — A building or grounds, typically open to or available to the public by a public, nonprofit, or governmental agency, including but not limited to libraries, hospitals, place of worship, educational uses, nursing homes, municipal uses, and similar organizations.

INVASIVE SPECIES (PLANT) — Predominantly nonnative, nonindigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous/native plant species. (See Chapter 350 Attachment 4 for a list of invasive species.)

JUNK — Used and discarded materials, including but not limited to wastepaper, rags, glass, metal, machinery, equipment, building materials, house furnishings, machinery, vehicles or parts thereof. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNKYARD — An area of land (with or without buildings) used for outside storage or a completely enclosed building housing used and/or discarded materials (junk) with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more unlicensed, uninspected, wrecked or disabled vehicles, excluding usual farm equipment, or the major part thereof, shall be considered a junkyard. The storage of toxic wastes, radioactive materials, poisons, and other substances which are potentially harmful to man are excluded from this definition.

KENNEL — An establishment in/on which the principal use is to keep, board, raise, breed, treat, sell or train for a fee, domesticated animals, including but not limited to dogs or cats (excluding agricultural (farm) animals such as livestock, horses and poultry). This use shall include but is not limited to Kennels, Commercial Kennels and Boarding Kennels pursuant to Pennsylvania Dog Law, Act of Dec. 7, 1982, P.L. 784, No. 225, Section 101, et seq.

LAND DEVELOPMENT — Any of the following activities:

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

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

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

B. A subdivision of land.

C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code (as amended).

LANDOWNER — The legal or beneficial owner 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 the land.

LANDSCAPE SCREEN — A planted visual barrier composed of a variety of deciduous and evergreen plants, bushes, and trees arranged to form both a low-level and high- level screen in accordance with this chapter and Chapter 350, Subdivision and Land

Development, where applicable.

LANDSCAPING — Landscaping includes, but is not limited to, grass and other plantings, such as ground covers, trees and shrubs.

LAUNDROMAT — A business premises equipped with individual clothes-washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use.

LIBRARY — An institutional use in which literary and artistic materials, such as books, periodicals, newspapers, pamphlets, prints, records, and tapes, are kept for reading, reference, or lending.

LICENSED PROFESSIONAL — A Pennsylvania registered professional engineer, registered landscape architect, registered professional land surveyor, or registered professional geologist, or any person licensed by the Pennsylvania Department of State or qualified by law to perform the work required by the chapter within the Commonwealth of Pennsylvania.

LIGHTING — Any method or equipment used to provide artificial illumination.

A. DIFFUSED — That form of lighting wherein the light passes from the source through a translucent cover or shade or provides backlighting for recessed faces.

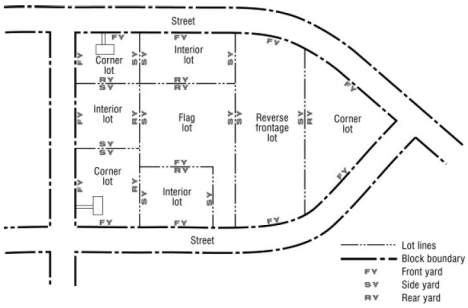
B. DIRECT or FLOOD — That form of lighting wherein the source is visible or the light is distributed directly from it to the object to be illuminated.

C. INDIRECT — That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

LOADING BERTH/SPACE — An off-street area on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street or other appropriate means of access.

LOT — A parcel of land held in single or separate ownership and which is separately described by metes and bounds, the description of which is recorded in the office of the Recorder of Deeds of Chester County by deed description, or which is described by a duly approved and recorded subdivision plan on file in the office of the Recorder of Deeds of Chester County. The term "lot" shall include a designated parcel, plot, site, tract, area of land, or any other similar term established by a plat or otherwise as permitted by law to be used, developed, or built upon as a unit. See Figure 2-9 depicting different lot configurations.

Figure 2-9: Lot Diagram



LOT, CORNER — A lot bounded on a minimum of two sides by streets whenever the lines of such streets extend from an interior angle of 135° or less. Both yards adjacent to streets shall be considered front yards. The remaining two yards shall be side yards. See § 400-68B(7).

LOT, FLAG — A lot which is connected to a public street by a strip of land a minimum of 50 feet in width that is part of the lot, but that is not used in determining the applicable minimum lot area requirement. Flag lots shall meet the lot width requirements specified in the applicable zoning district at the front yard building setback line.

LOT, INTERIOR — A lot other than a corner lot.

LOT, MINIMUM WIDTH — The minimum lot width at the minimum required front yard.

LOT, NONCONFORMING — See "nonconforming lot."

LOT, THROUGH [REVERSE (DOUBLE) FRONTAGE] — A lot that fronts upon two parallel streets or upon two streets that do not intersect at the boundaries of the lot.

LOT AREA (SIZE) — The area of land contained within the limits of the property lines bounding a lot, as shown on a deed, survey, plot, subdivision or land development plan, excluding any portion of a lot included in street and railroad rights-of-way, utility easements, access strip for a flag lot, and stormwater management areas.

LOT COVERAGE — The percentage of the lot area comprised of impervious coverage (surface).

LOT LINE — The property lines of a lot from which building setbacks and yard areas are measured. See Figures 2-9 and 2-19.

A. FRONT LOT LINE — The property line separating the lot from the street right-of-way.

B. REAR LOT LINE — The property line in the rear yard except in the case of a double frontage lot where it shall be the right-of-way line of a street.

C. SIDE LOT LINE — The property line in the side yard, except in the case of a corner lot right-of-way line of the street.

LOT WIDTH — The horizontal distance measured at the minimum required front yard between the side lot lines and perpendicular thereto. See Figures 2-9 and 2-19.

LOWEST FLOOR — The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant partially enclosed area, used solely for parking

of vehicles, building access, and incidental storage, in an area other than a basement area, is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this chapter.

MAILED NOTICE — Notice given by a municipality by first-class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing, pursuant to 53 P.S. § 10109.[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

MANUAL OF WRITTEN AND GRAPHIC DESIGN GUIDELINES, GENERAL (General Design Guide) – A document provided by the Borough within the Subdivision and Land Development Ordinance, Chapter 350 Attachment 3, that provides written and graphic design standards for new development in the C-1 Zoning District.

MANUAL OF WRITTEN AND GRAPHIC DESIGN GUIDELINES, PROJECT (Project Design Guide) – A document prepared by the applicant for proposed development in the C-1 District, that provides written and graphic design standards, illustrations, renderings, or figures or other materials as evidence that the proposed development is consistent with the General Manual of Written and Graphic Design Guidelines and zoning requirements of the C-1 District.

MANUFACTURING — The processing and/or converting of raw unfinished or finished materials or products, or of any combination, into an article or substance of a different character, or for use for a different purpose. Manufacturing may include but is not limited to the production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, and foodstuffs, but shall not include a junkyard or the slaughtering of animals.

MANUFACTURED HOME — A home built off site from the location on which the home is to be located and lived within. A manufactured home, typically referred to as factory built, industrialized housing, modular, or prefabricated, may be in one of the following types:

A. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes mobile home, park trailer, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

B. A structure, transportable in one or more sections, designed for placement upon a permanent foundation when attached to the required utilities, including but not limited to modular homes or double-wide homes that may be attached side-by-side, stacked, or any variety of configuration. This type of manufactured home does not have axles and may or may not have a frame or permanent chassis.

MEDICAL CLINIC — A building and lot for the examination and treatment of persons as outpatients by licensed physicians or medical specialists practicing medicine as a group during office hours. Uses providing overnight lodging of patients or prolonged surgical procedures (inpatient) shall not be considered medical clinics. Medical clinics may include limited secondary facilities such as lab facilities and pharmacies to service patients. Medical clinics may include but not be limited to urgent medical care centers

and facilities offering minor medical treatment for illnesses or minor outpatient surgeries.

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

MINOR REPAIR — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements; nor shall minor repairs include addition to, alteration of, replacement, or relocation of any standpipe, water supply, sewer drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MIXED USE — Development or occupancy of a building (mixed-use building) or development of a single parcel or adjoining parcels or tracts that includes more than one principal use [residential and nonresidential (retail/office/etc.)] providing for a variety of activities throughout the day.

MIXED-USE BUILDING — Buildings that include more than one category of principal use. Typical configurations include but are not limited to retail stores or personal service shops on the first floor with offices/studios or residential dwelling units above.

MOBILE (MANUFACTURED) 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 on its own axles. A mobile home is built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. A mobile home may be referred to as a manufactured home. Such designation shall in no way alter the intent of this chapter.

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

MOBILE (MANUFACTURED) HOME PARK — Any lot, parcel, contiguous parcels, or tract of land designated, maintained, improved, or intended for the purpose of supplying a location for or accommodation of two or more mobile home lots or upon which more than one mobile home is provided or located, whether or not a charge is made for the use of the mobile home park and its facilities, and shall include all buildings and structures used or intended for use as part of the park. A mobile home park shall not include a mobile home sales lot upon which unoccupied mobile homes are parked for the purpose of inspection or sale.

MONOPOLE TOWER — A telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

MOTOR VEHICLE — Any automobile, van, recreational vehicle, racing car, bus,

motorcycle, or any motorized means of human transport or any part thereof, regardless of functional condition or state of repair.

MUNICIPAL FACILITY — Any building, structure or use of land or a municipal authority/commission created by the West Grove Borough Council, a municipal authority/commission, or other county, state, or federal government use.

MUNICIPALITIES PLANNING CODE — The Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, P.L. 805, as amended, 53 P.S. § 10101 et seq.

NATIVE SPECIES — A species of plant or other organism that has traditionally inhabited or grown in, or is naturally occurring in a specified location, region or ecosystem, and which was not introduced to that location as a result of human activity, either intentionally or accidentally as identified in the recommended plant lists as provided by Chapter 350 Attachment 4.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter and includes any subsequent improvements thereto.

NONCOMMERCIAL USE — A public or nonprofit (not for profit) use and/or a residential use.

NONCONFORMING LOT — A lot of which the area or dimension does not conform to the applicable provisions of the district in which it is located where such lot lawfully existed prior to enactment of this chapter or amendment thereto.

NONCONFORMING STRUCTURE — A building, structure, sign or any part thereof which does not conform to one or more of the applicable use provisions of this chapter and district in which it is located, where such building lawfully existed prior to the enactment of this chapter or amendment thereto.

NONCONFORMING USE — A use whether of a structure or land, or improvements thereto, which does not comply with the applicable use provisions of this chapter or the district in which it is located, where such use lawfully existed prior to the enactment of this chapter or amendment thereto.

NONRESIDENTIAL USE — Any use which does not include a residential dwelling unit, including but not limited to commercial, industrial, governmental, and institutional uses.

OBSTRUCTION — Any wall, dam, wharf, embankment, levee, dike, projection, excavation, channel, rectification culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

OFFICE USE — A use involving the carrying on of a profession including, but not limited to physicians, dentists, architects, engineers, accountants, attorneys, planners, real estate brokers, and insurance agents entitled to practice under the laws of the Commonwealth of Pennsylvania.

OPEN SPACE — An area of land and/or water open to the sky and typically including

lawn, grassed, or landscaped areas substantially free of structures and paved areas, primarily for common enjoyment and recreational use of a development or the general public, but not including individually owned private yards.

OUTDOOR DINING — An outdoor area of an associated restaurant, used for the express purpose of providing outdoor seating for patrons, where food and/or beverages from the associated use are consumed on the premises at tables, chairs, or other furnishings at the front or to the side of a use. Outdoor dining is typically located on a sidewalk adjacent to a public street or a parking area and is operated on the same property and adjacent to and in conjunction with the associated use. Outdoor dining does not refer to outdoor dining to the rear of a property or enclosed dining facilities within a building where windows or doors (French door, etc.) open to provide ventilation or an "open air" experience. "Outdoor Dining" does not include a mobile food vendor otherwise known as a "food truck".

OUTDOOR DISPLAY — An outdoor area of a tract utilized for purposes of displaying articles for sale as part of a retail establishment, typically on a sidewalk, front walkway, or otherwise in front of the associated business. Display areas shall not include outdoor storage as defined herein.

OUTDOOR STORAGE — The keeping of goods or materials for present or future use, in an unenclosed outdoor area, including but not limited to building products, raw materials, parts, machinery, and storage containers kept in the same place for more than 24 hours, excluding outdoor display areas as defined herein. Outdoor storage shall include that which is contained within trailers or similar vehicles.

PARK — A tract of land designated and used for public active or passive recreation, typically owned and operated by a municipality or nonprofit organization.

PARKING —

A. PARKING LOT — An off-street, all-weather paved area at ground level, designed and used for the parking of vehicles that shall include but not be limited to parking spaces, aisles, maneuvering space, interior islands, buffers, and access driveways but not include loading and unloading areas.

B. PARKING, ON-STREET — Parking for motor vehicles within the road right-of-way, typically parallel to the curbline.

C. PARKING, OFF-STREET — Parking for motor vehicles outside of a road right-of-way as an accessory use required for each use to serve the parking requirements and needs of the associated use(s).

D. PARKING, OFF-SITE — Off-street parking for a use that is not located on the same lot as the building for which the parking is required, where permitted.

E. PARKING, PRIVATE — A parking lot for the exclusive use of the owners, occupants, or visitors of the lot on which the parking area is located.

F. PARKING, PUBLIC — Parking spaces made available to the public by the municipality or a private organization or business for free or for a fee, including, but not limited to parking lots, structures, or on-street parking that is not required parking associated with a specific use.

G. PARKING, SHARED — Required off-street parking that is shared between more than one use in accordance with the applicable regulations of this chapter.

H. PARKING SPACE — A space designed for the parking of one motor vehicle.

I. PARKING STRUCTURE (PARKING GARAGE) — A covered structure or portion of a structure, other than a private garage, which is used for temporary parking of private vehicles. Parking structures may be permitted as an accessory use on the same lot or off site to fulfill off-street parking requirements for an associated use, as the principal use on a lot where permitted to serve the public, or a combination thereof. See Figure 2-10.

Figure 2-10: Parking Structure





PARTY WALL — A common shared wall between two separate structures, buildings, or dwelling units such as between two-family dwellings (twins) or townhouses on the same lot or on separate lots.

PATIO — An improved or hardened (paved or permeable) outdoor surface with no structural support, located at ground level, typically adjacent to a primary structure for outdoor enjoyment.

PAVED AREA — When required herein, that amount of land required for the location of adequate sidewalks, parking spaces, driveways, or other access roads. In the computation of a paved area, the actual building area shall be excluded. Paved area includes areas consisting of brick, stone, concrete or asphalt.

PEDESTRIAN-ORIENTED DESIGN — The design of communities, neighborhoods, streetscapes, buildings and other uses that promotes pedestrian comfort, safety, access and visual interest.

PERMEABLE (PERVIOUS) SURFACE — A surface that presents an opportunity for precipitation to infiltrate into the ground, including but not limited to cobblestones, spaced pavers, tiling, and other surfaces approved by the Borough Engineer.

PERSON — Includes an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

PERSONAL SERVICE SHOP — Establishments primarily engaged in providing services involving the care of a person or his or her apparel and offers only limited, if any, products for sale, including but not limited to barbershops, salons, tanning salons, tailors, optometrists, and beauticians.

PLACE OF WORSHIP — A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses.

PORCH — An impervious extension from a dwelling unit for access to a front, side or rear door of a structure. A porch is typically elevated and may consist of poured concrete, supported wood framing, or other similar construction that abuts the dwelling unit. A porch is different than a deck in that decks are not necessarily impervious surface, not necessarily attached to the dwelling unit, and typically neither enclosed or roofed. A porch may be unenclosed, partially enclosed (screened), covered (roofed), or enclosed, and are typically at the front of a building for access to an entrance. See Figure 2-11.

A. Uncovered porch. A porch with no roof, open to the sky.

B. Covered porch. A porch that has a roof and may have railings.

C. Enclosed porch. A porch that has a roof and is enclosed by a combination of railings, walls, and permanent or detachable glass or wire screening.

Figure 2-11: Porch

Uncovered Porch **Unenclosed Covered Porch** **Enclosed Porch**







POST OFFICE — A local office where mail is received, sorted, and delivered, and where stamps and other postal materials are sold.

PRIVATE — Not publicly owned, operated, controlled or available for use to the

general public.

PRIVATE CLUB and/or FRATERNAL INSTITUTION — This use may include buildings and/or structures for meetings, social quarters, restaurants, recreation facilities, and other similar uses, provided that all services shall be provided solely for members and their guests and that a particular activity shall not be one which is customarily carried on as a for-profit business or commercial use. Applicable groups include associations of persons for some common nonprofit activity, but not including groups organized primarily to render a service which is customarily carried on as a business

PUBLIC — Owned, operated or controlled by a government agency (federal, state, or local), including a corporation and/or board created by law for the performance of certain specialized governmental functions or a use available for use by and to the general public (i.e., not a private club, use, or organization or a commercial for-profit use).

PUBLIC FACILITIES — Water and wastewater services provided by connection to the public water system and wastewater system owned and operated by West Grove Borough and the West Grove Borough Authority.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the Borough Council, or Zoning Hearing Board, intended to inform and obtain public comment prior to taking action in accordance with this chapter.

PUBLIC MEETING — A forum held pursuant to notice under 65 Pa.C.S.A. Ch. 7 (relating to open meetings). (MPC)

PUBLIC NOTICE — A notice published once each week for two 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 30 days and the second publication shall not be less than seven days from the date of the hearing.

PUBLIC USE — Public and semipublic uses generally of a welfare and educational nature that are open and available to the general public, including but not limited to hospitals, schools, parks, places of worship, cemeteries, municipal buildings, and recreational facilities.

PUBLIC UTILITY CORPORATION (PUC) — A corporation registered and regulated by the Pennsylvania Public Utility Commission which is engaged in regularly supplying the public with a commodity or service which is of public consequence and need, such as electricity, gas, water, transportation, or communications.

PUBLIC UTILITIES SERVICE OPERATING FACILITY — A facility or office related to the administration or function of a public utility, including but not limited to administrative offices, facilities for storage of maintenance supplies and vehicles, telephone central office, or similar use.

PUBLIC UTILITIES SERVICE STRUCTURE OR FACILITY — Structures or facilities, including but not limited to transformer stations, pumping stations, relay stations, towers, switching centers, water and wastewater treatment plants, and other similar structures or uses, exclusive of administrative and office activities necessary to the operation of a public utility corporation.

RAIL FREIGHT TERMINAL — A building or area in which freight brought by train/ railroad is transferred and/or temporarily stored for routing in intrastate or interstate shipment by motor truck and vice versa. This use includes dock facilities, either partially enclosed or unenclosed, for the purposes of transferring goods.

RECREATIONAL EQUIPMENT, PRIVATE — Equipment on a private residential property for the use and enjoyment of the owner and/or their guests, including but not limited to swing sets, playground equipment, soccer goals, volleyball nets, basketball courts and/or hoops, and tennis courts.

RECREATIONAL USE —

A. INDOOR RECREATION — An entirely enclosed, indoor facility within a building or structure providing a source of amusement, entertainment, or recreation. Indoor recreation may include but is not limited to bowling alleys, skating rinks, tennis courts, athletic courts (basketball, volleyball), indoor swimming pool, gyms for weight training and similar athletic training, indoor golf centers, indoor batting cages or any other similar use. This use shall not be construed to permit Skill Games or construed to be a Casino and/or related uses as defined herein.

B. OUTDOOR RECREATION — An unenclosed or outdoor facility providing recreational opportunities. Outdoor recreation may include but is not limited to parks, open space, playing fields (football, soccer), miniature or pitch and putt golf courses, batting cages, swimming pools, athletic courts, or any other similar use.

RECREATIONAL VEHICLE — A vehicle which is:

A. Built on a single chassis.

B. Not more than 400 square feet, measured at the largest horizontal projections.

C. Designed to be self-propelled or permanently towable by a light-duty truck.

D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RECYCLABLE — Reusable material, including but not limited to clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, plastics and other materials designated as recyclable under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act.

REFUSE — All combustible refuse and incombustible refuse, referred to collectively.

A. COMBUSTIBLE REFUSE — All paper, straw, excelsior, packaging materials, rags, rubber, shoes and such other refuse as may result from ordinary housekeeping and commercial pursuits and which may be burned by fire.

B. INCOMBUSTIBLE REFUSE — All discarded articles or materials other than sewage, liquid waste, garbage and combustible refuse.

REPETITIVE LOSS — Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damage occurred.

RESTAURANT — A commercial establishment where food and/or beverages are prepared and served to the public for sale and consumption on and/or off the premises.

RESEARCH, ENGINEERING OR TESTING LABORATORY — A completely indoor facility for the testing, research, or development of materials, products, chemicals, but not for production or sale.

RETAIL STORE — An establishment wherein the primary use is the retail sale of merchandise to the general public in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser, including but not limited to the sale of dry goods, business or office supplies, electronics, clothing, flowers, drugs (pain relievers, cough medicine, first aid supplies, etc.), household products (dishware, silverware, cooking items, paper products, candles, etc.) or furnishings, personal care supplies (toothpaste, toothbrushes, soap, etc.), building supplies, auto supplies, sporting equipment, or watches and jewelry. This use does not include a convenience store, grocery store, tobacco store/smoke shop, a regulated cannabinoid substance retailer, an unregulated cannabinoid substance retailer, or permit the sales of cannanidiol products, known as "CBD".

RIGHT-OF-WAY — Area of land reserved or dedicated as a street, alley, railroad, trail, utility, or for any other public or private purpose.

RIGHT-OF-WAY, STREET — A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, or however designated.

RIPARIAN BUFFER — An area of land adjacent to a body of water and managed to maintain vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover and thermal protection to fish and other aquatic species and wildlife.

ROADWAY FUNCTIONAL CLASSIFICATION — All streets within the Borough are designated in terms of their function from a traffic volume, design speed, and design criteria as specified within Chapter 350, Subdivision and Land Development Attachment 2.

SCREEN — The use of plant materials, fencing, walls, or berms to aid in the concealment of such features as parking areas and the vehicles within them, and to provide a vertical barrier between land uses which abut one another.

SCREEN, ARCHITECTURAL — A structure, the design and construction of which is compatible with that of the principal dwelling or structure on the lot, including but not limited to a fence or wall constructed to screen a use from an adjacent use or to create privacy for a designated space on a lot

SEASONAL BUSINESS — A business which is either only open during certain times of the year, or largely dependent on income earned during certain times of the year, including but not limited to ice cream parlors, produce vendors, and landscaping materials outlets.

SETBACK — The required distance an object shall be placed from another referenced point as specified by individual requirements within this chapter. Certain setbacks are

different from and independent of required minimum yards.

SIDEWALK — A pedestrian route, typically constructed of concrete and parallel to a street that provides a means for pedestrians to travel within the public right-of-way while physically separated from vehicular traffic. Sidewalks are designed for pedestrian use.

SIGN — Any object, device, display, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an institution, organization, business, product, service, event, or location by any means, including but not limited to words, letters, figures, design, symbols, fixtures, colors, or illumination. See Article XIX for definitions of individual sign types and other sign-related terms.

SINGLE AND SEPARATE OWNERSHIP — The ownership of a lot and/or dwelling by one or more persons, which ownership is separate and distinct from that of any adjoining property.

SILVICULTURE — The development and/or maintenance of a forest or wooded preserve.

SKILL GAME – A use involving an electronic, computerized, or mechanical machine, or other similar device that requires payment and/or the insertion of a coin, ticket, token, or similar object, or a fee paid to access such device, to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player, rather than chance determining the outcome, and that, in some or all circumstances, delivers or entitles the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, tickets, tokens, or electronic credits to be exchanged for cash, or cash equivalents, whether the payoff is made automatically from the device or other service or manually. A skill game use shall not be considered an amusement device or game and more specifically shall not be any of the following:

A. A lottery game, as defined under the act of August 26, 1971 (P.L. 351, No. 91), known as the State Lottery Law.

B. A coin-operated amusement game.

C. A device used to play multi-player video gaming competitions where the element of chance does not have a material effect on the play or outcome of the game.

D. A device operated pursuant to and in accordance with the act of July 10, 1981(P.L. 214, No. 67), known as the Pennsylvania Bingo Law, and/or pursuant to and in accordance with a license or permit issued under the Pennsylvania Bingo Law.

E. A device operated pursuant to and in accordance with the act of December 19,1988 (P.L.1262, No. 156), known as the Pennsylvania Local Option Small Games of Chance Act, and/or pursuant to and in accordance with a license or permit issued under the Pennsylvania Local Option Small Games of Chance Act.

SLOPE — The degree of vertical deviation of a land surface from the horizontal which is expressed as a percentage.

SLOPE, STEEP — Anywhere on a site or property where naturally occurring slopes meet or exceed percentages as delineated by this chapter.

SMOKE SHOP/TOBACCO STORE – A retail establishment or wholesale

establishment primarily engaged in selling tobacco and/or tobacco products and/or vaping products which maintains 20% or more of its total display area for the sale of tobacco and/or tobacco products and vaping products shall be considered a tobacco store/smoke shop for the purposes of this chapter. A retail or wholesale establishment which holds itself out as a "tobacco store", "smoke shop", "vape shop", cigar shop, cigar lounge, or similar establishment, shall also be considered a "tobacco store/smoke shop" for the purposes of this chapter. This use does not include a regulated cannabinoid substance retailer or an unregulated cannabinoid substance retailer, or permit the sales of cannanidiol products, known as “CBD.”

SOLAR ENERGY SYSTEM (SES) - An energy system that consists of one or more solar photovoltaic systems, solar energy related “balance of system” equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy (i.e.: thermal, mechanical, chemical, or electrical energy) to meet all or a significant part of a structure’s energy requirements. Solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with applicable laws.

F. SOLAR PHOTOVOLTAIC SYSTEM - A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.

G. GRID-CONNECTED SOLAR ENERGY SYSTEM - A solar photovoltaic system that is connected to an electric circuit served by an electric utility company, for the purpose of conveying some or all of the production of the Grid-Connected Solar Energy System to the utility company for a fee, reduced rate, or other agreement.

H. ROOF-MOUNTED SOLAR ENERGY SYSTEM (Accessory Use) – An SES mounted on a rack that is ballasted on, or is attached to, the roof of a principal or accessory building or structure. Roof-mount systems are accessory to the primary use to supply electrical or thermal power predominantly for on-site use to reduce on-site consumption of utility power or fuels.

I. GROUND-MOUNTED SOLAR ENERGY SYSTEM (Accessory Use) – An SES mounted on a rack or pole that is ballasted on, or is attached to, the ground and the system is accessory to the primary structure and use to supply electrical or thermal power predominantly for on-site use to reduce on-site consumption of utility power or fuels.

SPECIAL EXCEPTION — Permission, approval or authorization granted by the Zoning Hearing Board for particular uses in accordance with the provisions of Article XXI.

SPECIAL PERMIT — A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks when such development is located in all or a designated portion of a floodplain.

STORMWATER — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

STORMWATER MANAGEMENT FACILITY — Any feature, natural or man-made,

that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration facilities.

STORY — A story is that portion of a building located between the surface of any floor and the ceiling or roof next above it.

STREET — Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways or easements used or intended to be used by vehicular traffic or pedestrians, whether public or private, but not including pedestrian trails or paths.

STREET CENTER LINE — The center of the surveyed street right-of-way, or where not surveyed, the line which is an equal distance from the edge of the cartway on either side of the street.

STREET, CUL-DE-SAC — A minor street intersecting another street at one end and terminating at the other in a vehicular turnaround.

STREET FURNITURE/FURNISHINGS/AMENITIES — Items within the street right-of-way, including but not limited to benches, lighting, bicycle racks, drinking fountains, kiosks, and similar pedestrian amenities located within a street right-of-way.

STREET LIGHTING — Lighting within the street right-of-way to provide illumination for motorists and pedestrians.

STREET LINE (RIGHT-OF-WAY) — The legal right-of-way line of a street dividing the legal limit of a public street from a lot. When a future right-of-way line has been established, the street line shall be the line of such future right-of-way.

STREET TREE — A tree within a street or public right-of-way.

STREET WALL — The continuous or semi-continuous wall of buildings adjoining a sidewalk or pathway at the edge of the street right-of-way, created by setback and yard requirements.

STREET WIDTH — The shortest distance between street lines measured at right angles to the center line of the street.

STREETSCAPE — The space formed by buildings located close to the street, embellished with sidewalks, street trees, streetlights, hanging baskets, decorative awnings, window boxes, planters, raised plantings, benches, decorative lighting, decorative paving, curbs, street furniture, and/or on-street parking. The streetscape is framed by generally two-story buildings which create the "street walls" of an "outdoor room" that is characteristic of a traditional town center. The following associated definitions coincide with items that assist in the formation of a streetscape:

A. BENCH — Outdoor seating provided as part of a streetscape to the public. See Figure 2-12.

Figure 2-12: Bench



B. BRICKS OR TEXTURED PAVING — Paving in the form of colored and/or stamped concrete, colored or patterns of brick pavers, and the like to provide visual interest as opposed to standard concrete paving for example. See Figure 2-13.

Figure 2-13: Decorative Paving



C. DECORATIVE LIGHTING — Lighting in addition to necessary streetlighting, required lighting for safety, or otherwise required that provides aesthetics to a streetscape at night. See Figure 2-14.

Figure 2-14: Decorative Lighting



D. HANGING BASKET — A planter hung from a streetlight or cantilevered from a structure. See Figure 2-15.

Figure 2-15: Hanging Basket



E. RAISED PLANTING — A raised planting bed built either as part of a structure, a wall, or freestanding to provide green space and aesthetics as part of a streetscape. See Figure 2-16.

Figure 2-16: Raised Planting



F. STREET PLANTER — A planter placed at ground level to provide green space and decoration. See Figure 2-17.

Figure 2-17: Street Planter



G. WINDOW BOX — A planter attached at the base of a window. See Figure 2-18.

Figure 2-18: Window Box



H. COURTYARD — A public space smaller than a plaza. See "civic space."

I. PLAZA — A public space larger than a courtyard. See "civic space."

STRUCTURE — Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable

stationary location on or in land or water, whether or not affixed to land.

STRUCTURE, ACCESSORY — A structure subordinate to the principal structure on a lot and used for a purpose customarily incidental to those of the principal structure. See also "use, accessory."

STRUCTURE, PRINCIPAL — A structure or, where the context so indicates, a group of structures, in or on which is conducted the principal use of the lot on which such building is located.

STRUCTURE, TEMPORARY — A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

STRUCTURE, NONCONFORMING — See definition of "nonconforming structure."

STUDIO — A building or portion of a building used as a place of instruction where students are taught for a fee, including but not limited to instruction for art, photography, dance, musical instruments, linguistics, athletics, martial arts, specific educational tutoring, or other similar specialized subjects. A studio is not a public or private educational use such as an elementary or high school pursuant to the review of the State Board of Education.

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

SUBDIVISION ORDINANCE — The Subdivision and Land Development Ordinance (SLDO) of the Borough of West Grove, Chester County, Pennsylvania: Chapter 350, Subdivision and Land Development, of the Code.

SUBSTANTIAL DAMAGE — Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

SWIMMING POOL — A man-made water-filled enclosure, excluding ponds or natural

water features, permanently constructed or portable, having a depth of water of 24 inches or greater, in the ground, at ground level, or above ground, used and maintained for swimming and bathing.

TELEPHONE CENTRAL OFFICE — A building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone messages between subscribers, and other business of the telephone company, including but not limited to public business facilities, storage of materials, trucks or repair facilities, or housing of repair crews.

THEATER — A building or part of a building primarily devoted to the showing of motion pictures or theatrical productions (plays, live music, comedians, etc.) on a paid admission basis. Theaters may also be used for public events, meetings, and public or private events (art shows, speaking engagements, fundraisers, etc.).

TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) — A development designed and developed in accordance with and consistent with § 400-2 and Article VII of the Pennsylvania Municipalities Planning Code.

TRAIL — An improved facility generally constructed outside of a road right-of-way to facilitate pedestrian and/or bicycle transportation. Trails may include but are not limited to:

A. SHARED-USE/MULTIUSE TRAILS — A facility that is physically separated from the roadway and typically accommodates bidirectional travel by both bicyclists and pedestrians. The trail can be located within a publicly owned right-of-way, an exclusive right-of-way, or an easement. Shared use trails typically have an improved surface and recommended width (per AASHTO) of 10 feet, although a minimum width of eight feet may be used where space is constrained or in environmentally sensitive areas.

B. USE-RESTRICTED/SINGLE-USE TRAILS — Trails that are primarily used for one form of travel or by one type of user such as cyclists or pedestrians. These trails are typically paved or have an improved surface.

TRAIL SURFACE, IMPROVED — A man-made or placed material on the traveled part of the trail, such as asphalt, concrete, stone dust, or similar surface, but not a naturally occurring surface such as dirt, grass, or wood chips.

TRASH RECEPTACLE — A verminproof, airtight container utilized for temporary storage of rubbish which is disposed of on a regular basis.

TRUCK FREIGHT TERMINAL — A building or area in which freight brought by motor truck is assembled, temporarily stored, and/or transferred for routing in intrastate or interstate shipment by motor truck. This use includes dock facilities, either partially enclosed or unenclosed, for the purposes of transferring goods or breaking down and reassembling tractor-trailer loads for transport. Not included in this definition are warehouse facilities or similar facilities used primarily for freight forwarding and the deposit, storage or safekeeping of goods.

TOWER — A structure, such as a lattice tower, guy tower or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment. The term includes radio towers, microwave towers, common

carrier towers and cellular telephone towers on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication.

TRACT — An area of land, parcel(s), lot(s), or property which is under single and separate ownership.

UNDEVELOPED LAND — Any lot, tract or parcel of land which has not been graded or in any other manner prepared for the construction of a building.

UNIFORM CONSTRUCTION CODE (UCC) — The currently adopted construction code mandated by the State of Pennsylvania as administered by the Borough.

USE — The specific purpose for which land or a structure is designed, arranged, intended, or for which it is or may be occupied or maintained, or any activity, occupation, business, or operation conducted in a building or other structure. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, ACCESSORY — A building, structure, or land or use thereof that is not a principal permitted use, but which is clearly incidental and subordinate to the associated principal permitted building, structure, or use on the same lot.

USE, BY-RIGHT — A use permitted without special considerations, conditions, or hearings, so long as it is a named use permitted by right in the district in which it is located and meets all of the applicable area and bulk requirements in addition to other applicable requirements of this chapter.

USE, CONDITIONAL — A use which is not wholly appropriate to a zoning district, but may be suitable to a particular area within a zoning district. Conditional uses are allowed or denied by the Borough Council after considering standards and criteria set forth in this chapter and the Municipalities Planning Code.

USE, NONCONFORMING — See "nonconforming use."

USE, PERMITTED — All uses allowed in accordance with the provisions of this chapter.

USE, PRINCIPAL — The primary use of a lot. Except as specifically permitted by this chapter, there shall be only one principal use on each lot.

USE, SPECIAL EXCEPTION — A use which is not wholly appropriate to a zoning district, but may be suitable to a particular area within a zoning district. Special exceptions are allowed or denied by the Zoning Hearing Board after considering standards and criteria set forth in this chapter and the Municipalities Planning Code.

USE, TEMPORARY — A use established and permitted for a fixed period of time and discontinued upon the expiration of the time period specified.

VARIANCE — Permission, approval or authorization granted by the Zoning Hearing Board, constituting a modification or deviation from the exact provisions of this chapter as applied to a specific property in accordance with the provisions of Article XXI of this chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

VEHICLE, COMMERCIAL — Any motor vehicle typically used for business, industrial, office or institutional purposes having painted thereon or affixed thereto a

sign identifying a business, industry, office or institution or a principal product or service of such, any motor vehicles that are Class V vehicle or above, and vehicles primarily used for business purposes, including but not limited to transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material).

VEHICLE FUELING STATION (GAS STATION) — A building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles, directly from pumps and storage tanks and which may include accessory facilities for rendering services, such as lubrication, washing, and minor repairs, or may be an accessory use itself where permitted by this chapter.

VEHICLE REPAIR SHOP — Any land, structure, or any building or part thereof, that is primarily used for the mechanical repair or servicing of vehicles (including, but not limited to, changing oil and/or other liquids) or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles and other vehicles of conveyance.

VEHICLE SALES AND SERVICE — The use of any building, land area or the premises for the display, sale and leasing of new or used automobiles, trucks or vans, trailers, or recreational vehicles, including boats and motorcycles, and which may include a vehicular repair shop as an accessory use for warranty repair work and other repair service conducted as an accessory use.

VEHICLE (AUTO) SALVAGE (dismantler and recycler) - Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles, or motorparts, or both., except in the case of an automotive repair facility where automobiles are awaiting repair.

VEGETATION — Natural plant material, including grasses, trees, shrubs, and forest leaf litter, which is capable of preventing soil erosion, retaining precipitation and moisture, and preventing the emanation of dust during periods of dry weather. For the purposes of this chapter, dead, dying, diseased, or decaying plant growth, except for existing forest leaf litter, shall not be considered as vegetation and shall not be adequate for landscaping purposes.

WALKWAY – A dedicated single-use facility with an improved surface, primarily for use by pedestrians, typically located outside of the road right-of-way and/or not directly adjacent to a street. Walkways, also known as internal walkways or pedestrian paths, are designed to ensure safe and clear travel for pedestrians between building entrances and parking areas or sidewalks, within parking lots, or between buildings or uses on a lot or within a development. Walkways may be constructed in accordance with sidewalk construction requirements or be provided flexibility in terms of surface or construction approved by the Borough Engineer, such as allowing permeable surfaces.

WALL TREATMENT — A mural, belt course, medallion, or other similar architectural treatment that provides visual interest to otherwise blank expanses of a wall.

WETLANDS — Those areas that are inundated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. More specifically, any area meeting the official wetland definition of the United States Army Corps of Engineers and the

Pennsylvania Department of Environmental Protection (PADEP). Where a discrepancy exists between the wetland definitions of the United States Army Corps of Engineers and the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WETLAND MARGIN — A transitional area measuring 35 feet from the outer boundary of an identified wetland.

WIRELESS COMMUNICATIONS EQUIPMENT BUILDING — A building constructed for the purpose of housing wireless communications components, devises, cables, transmitters, hardware and software.

WIRELESS COMMUNICATION FACILITY — An equipment enclosure, antenna, antenna support structure, and any associated facility used for the reception or transmittal of a radio frequency, microwave, or other signal. "Wireless communication facility" does not include structures used exclusively for the Borough's fire or police or exclusively for private, noncommercial radio and television reception, private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this chapter.

WIRELESS COMMUNICATIONS SERVICE — The providing of fixed, mobile, radio location and/or satellite communication services to individuals and/or business within a defined area.

WIRELESS TELECOMMUNICATIONS FACILITY — A structure, facility or location designed, or intended to be used as, or used to support antennas or other devices for transmitting or receiving wireless signals. A wireless telecommunications facility includes a communications antenna, a communications support structure and a wireless communications equipment building. A wireless telecommunications facility also includes, without limit, antennas and towers of all types and kinds and structures, whether installed on or in existing structures such as a multistory building, steeple, silo, water tower, sign or other structure, or constructed free standing, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC.

WOODLAND — Any land area of a minimum of 0.25 acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two or more viable trees with a DBH of six inches or greater per 1,500 square feet. The land area to be considered woodlands shall be measured from the outer drip lines of the outer trees.

YARD — An unoccupied space on the same lot with a building or structure. See Figure 2-19.

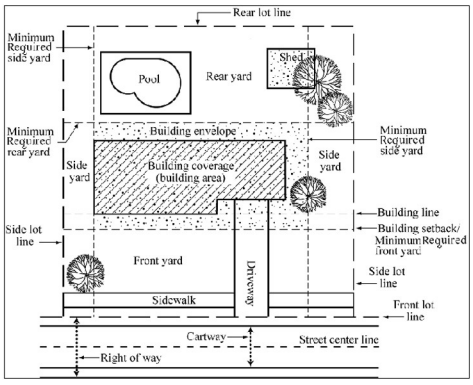
A. FRONT YARD — A yard extending the full width of the lot and located between the front lot line and the nearest wall of the principal building or structure on the lot.

B. SIDE YARD — A yard located between the side lot line and the nearest wall of the principal building or structure on the lot and extending from the front yard to the

rear yard.

C. REAR YARD — A yard located between a rear lot line and the nearest wall of the principal building or structure on the lot, and extending the full width of the lot.

Figure 2-19: Yard Requirements



YARD, REQUIRED MINIMUM — The minimum required distance of a yard as specified in the zoning districts in this chapter. Depending on the size of a lot and the size of a desired structure, yards may be larger than the minimum required yard, but shall not be smaller. The remaining portion of the lot (interior) of the required minimum yards is referred to as the building envelope where a principal building or buildings may be placed.

YOUTH ACTIVITY CENTER — A building designed and used exclusively for supervised youth activities and programs during day-time, night-time and weekend hours, including but not limited to social activities, tutoring and mentoring, after-school activities such as homework and school lesson assistance, discussion groups, music and art lessons, concerts and dances, religious activities and other youth oriented recreational activities.

ZONING — The designation of specified districts within a community reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING HEARING BOARD — The Zoning Hearing Board of the Borough of West Grove, Chester County, Pennsylvania.

ZONING MAP — The Official Zoning Map of the Borough of West Grove, Chester County, Pennsylvania.

ZONING OFFICER — The officer or other agent appointed by Borough Council and charged with the enforcement of the Borough Zoning Ordinance.

ZONING OFFICER/BUILDING INSPECTOR — An official appointed and authorized by the West Grove Borough Council to undertake official Borough actions, including but not limited to the receipt, approval and serving of Borough permits, enforcing the UCC, and other business, which shall include, but not be limited to, the Borough Zoning Officer, Building Inspector, Code Officer, and other officials as appointed by Borough Council.

ZONING ORDINANCE — The Zoning Ordinance of the Borough of West Grove.

ZONING ORDINANCE AMENDMENT — An addition, revision, or deletion to the West Grove Borough Zoning Ordinance text and/or West Grove Borough Zoning Ordinance Map. The authority for any amendment lies solely with the Borough Council.

ZONING PERMIT — A document signed by a Zoning Officer as required and defined in this chapter.

ARTICLE III
Establishment of Districts

§ 400-10. Classes of zoning districts.

A. Base Districts. For the purposes of this chapter, West Grove Borough is hereby divided into zoning districts, which shall be designated as follows:

Article IV	R-1 Low-Density Residential District
Article V	R-2 Residential District
Article VI	R-3 Residential Cluster District
Article VII	R-4 Neighborhood Residential District
Article VIII	R-5 Townhouse Residential District
Article IX	R-5A Recreation District
Article X	C-1 Town Center Commercial District
Article XI	C-2 Neighborhood Commercial District
Article XIII	C-4 Commercial Service District
Article XIV	LI Limited Industrial District

B. Overlay district. For the purposes of this chapter Article XII Evergreen and Prospect (E&P) Overlay District shall be an overlay to the underlying districts as shown on the West Grove Borough Zoning Map. The overlay district shall be superimposed over all underlying base zoning districts and apply to all land uses, which shall be subject to both the standards in the underlying base zoning district and the overlay district. In the event that a conflict exists between the requirements of the overlay and the underlying district(s), the more restrictive provision shall apply. The location and provisions applicable to overlay districts are described in Article XII Evergreen and Prospect Overlay District and on the zoning map.

C. All land areas of the Borough shall be deemed by this chapter to be within a zoning district, and all buildings, structures, lots, and land in the Borough, except as provided herein or in other applicable law, shall be subject to the provisions of the district in which they are located. Buildings or structures may be constructed or used, and lots, tracts, or land may be developed, used, or occupied only for land uses, as primary or accessory uses-by-right, conditional uses when approved by the Borough Council, or uses by special exception or variances when approved by the Zoning Hearing Board, which adhere to standards and which are permitted in the zoning district where the same are located.

§ 400-11. Zoning Map.

A. The location and boundaries of such districts shall be as shown upon the map ("Zoning Map"), which is attached hereto and made a part of this chapter. The Zoning Map and all the notations, references and other data shown thereon shall be as much a part of this chapter as if fully described herein.

B. If and whenever the Borough makes amendments to the Zoning Map or other matters included on said Zoning Map, such changes shall be reflected on the Zoning

Map promptly following enactment of such amendment, in accordance with the Municipalities Planning Code.

§ 400-12. District boundaries.

A. The boundaries between districts, unless otherwise specifically indicated, shall be the center lines of streets, watercourses, rights-of-way of power lines, railroads, and other public utilities; or platted lot lines or municipal boundaries; or such lines extended or lines parallel thereto.

B. Where the boundaries of a single district are indicated as including directly opposite sides of a street, watercourse, or right-of-way of a power line or other public utility or any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, watercourse or right-of-way of such power line, railroad or other public utility lying within such portion of its length. Where uncertainty exists as to the location of any boundaries as shown on the Zoning Map, the following rules shall apply:

(1) Where a district boundary is indicated as approximately following the center line of a street, watercourse or right-of-way of a power line or other public utility, such center line shall be construed to be such boundary.

(2) Where a district boundary is indicated as approximately following a lot or other property line, such lot or property line shall be construed to be such boundary.

(3) Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on the said Map or as otherwise interpreted by the Zoning Officer.

(4) Where figures are shown on the Zoning Map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such figures, the figures shall control.

C. In the event of dispute as to location of a district boundary line, the Zoning Officer shall investigate and render a decision, subject to the approval by the Borough Council. Appeals to this decision shall be taken to the Zoning Hearing Board in accordance with provisions of Article XXI.

§ 400-13. District boundary tolerances.

Where a district boundary line divides a lot held in single and separate ownership on the effective date of this chapter, the use regulations applying to the less restrictive district may extend into the portion of the lot in the more restrictive district to the nearest lot line. Full use shall be made of the area of the lot in the less restrictive district before extension into the more restrictive district. Any extension of a use into the more restrictive district shall follow the area and bulk requirement of that district.

§ 400-14. Federal- and state-owned property.

Whenever federal or state owned property is included in one or more zoning district, it shall be subject to provisions of this chapter only insofar as permitted by the Constitution and laws of the United States of America and the Commonwealth of Pennsylvania.

ARTICLE IV
R-1 Residential District

§ 400-15. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-1 Residential District are designed to accommodate, encourage, preserve and to provide for lower-density residential development in certain areas of the Borough. For this purpose, development is restricted to primarily conventional low-density, detached dwellings and related land uses.

§ 400-16. Use regulations.

A building may be erected or used or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Detached dwelling.

(2) Semidetached dwelling.

(3) Municipal facility.

(4) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by special exception. The following uses may be permitted when authorized by the Zoning Hearing Board subject to Article XXI:

(1) Educational use in accordance with § 400-89.

(2) Private club or fraternal institution.

(3) Continuing-care retirement center.

(4) Place of worship in accordance with § 400-100.

C. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-17. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Detached dwelling.

(1) Lot size: 21,780 square feet minimum.

(2) Lot width at building line: 100 feet minimum.

(3) Lot width at street line: 50 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 35 feet minimum.

(6) Side yards, each: 20 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

B. Semidetached dwelling.

(1) Lot size: 15,000 square feet minimum per dwelling unit.

(2) Lot width at building line: 100 feet minimum.

(3) Lot width at street line: 45 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 35 feet minimum.

(6) Side yard(s): 20 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

C. All other uses.

(1) Lot size: 40,000 square feet minimum.

(2) Lot width at building line: 150 feet minimum.

(3) Lot coverage: 25% maximum.

(4) Building setback line: 40 feet minimum.

(5) Side yards, each: 20 feet minimum.

(6) Rear yard: 50 feet minimum.

(7) Building height: 35 feet maximum.

§ 400-18. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE V
R-2 Residential District

§ 400-19. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-2 Residential District are designed to protect existing and already established areas in the Borough with detached residential dwellings of a medium-density character and to provide for future development in the Borough.

§ 400-20. Use regulations.

A building may be erected or used, or a lot may be used and occupied for only one of the following purposes and for no other:

A. Principal uses permitted by right:

   (1) Detached dwelling.

   (2) Forestry/timber harvesting in accordance with § 400-90.

B. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-21. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Each detached dwelling and its lot shall comply with the following:

   (1) Lot size: 16,000 square feet minimum.

   (2) Lot width at building line: 100 feet minimum.

   (3) Lot width at street line: 50 feet minimum.

   (4) Building setback line: 35 feet minimum.

   (5) Side yards, each: 20 feet minimum.

   (6) Rear yard: 40 feet minimum.

   (7) Lot coverage: 25% maximum.

   (8) Building height: 35 feet maximum.

§ 400-22. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE VI
R-3 Residential District

§ 400-23. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-3 Residential District are designed to provide for and encourage the creative development of larger parcels, and the creation of common open spaces and/or larger private lots. Other objectives include decreasing the length and cost of roads and utilities and facilitating the placement of principal uses and improvements so that they are more sensitive to the natural terrain.

§ 400-24. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Detached dwelling.

(2) Municipal facility.

(3) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by special exception. The following uses may be permitted when authorized by the Zoning Hearing Board subject to Article XXI:

(1) Educational use in accordance with § 400-89.

(2) Private club or fraternal institution.

(3) Place of worship in accordance with § 400-100.

C. Principal uses permitted by conditional use. A cluster development pursuant to provisions of § 400-85 may be permitted when authorized by Borough Council, subject to Article XX.

D. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-25. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Detached dwelling.

(1) Lot size: 16,000 square feet.

(2) Lot width at building line: 100 feet minimum.

(3) Lot width at street line: 50 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 35 feet minimum.

(6) Side yards, each: 20 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

B. All other uses.

(1) Lot size: 40,000 square feet minimum.

(2) Lot width at building line: 150 feet minimum.

(3) Lot coverage: 25% maximum.

(4) Building setback line: 40 feet minimum.

(5) Side yards, each: 20 feet minimum.

(6) Rear yard: 50 feet minimum.

(7) Building height: 35 feet maximum.

§ 400-26. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE VII
R-4 Residential District

§ 400-27. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-4 Residential District are designed to protect the higher-density neighborhood core of the Borough, providing for smaller lot sizes and a range of housing types.

§ 400-28. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Detached dwelling.

(2) Semidetached dwelling.

(3) Municipal facility.

(4) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by special exception. The following uses may be permitted when authorized by the Zoning Hearing Board, subject to Article XXI:

(1) Educational use in accordance with § 400-89.

(2) Private club or fraternal institution.

(3) Place of worship in accordance with § 400-100.

C. Principal uses permitted by conditional use. Residential Conversion in accordance with § 400-104 may be permitted when authorized by Borough Council, subject to Article XX.

D. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-29. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Detached dwelling.

(1) Lot size: 7,500 square feet minimum.

(2) Lot width at building line: 50 feet minimum.

(3) Lot width at street line: 40 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 20 feet minimum.

(6) Side yards, each: 10 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

B. Semidetached dwelling.

(1) Lot size: 3,600 square feet per dwelling unit.

(2) Lot width at building line: 25 feet minimum.

(3) Lot width street line: 25 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 20 feet minimum.

(6) Side yard(s): 10 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

C. All other uses.

(1) Lot size: 40,000 square feet minimum.

(2) Lot width at building line: 150 feet minimum.

(3) Lot coverage: 25% maximum.

(4) Building setback line: 40 feet minimum.

(5) Side yards, each: 20 feet minimum.

(6) Rear yard: 50 feet minimum.

(7) Building height: 35 feet maximum.

§ 400-30. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE VIII
R-5 Residential District

§ 400-31. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-5 Residential District are designed to provide for and encourage the creative development of tracts suitable for clusters of townhouse dwellings surrounded by substantial common green spaces. Other objectives include providing for development designs which can minimize the length and cost of roads and utilities and facilitate the placement of principal uses and improvements so that they are more sensitive to the natural terrain.

§ 400-32. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Detached dwelling.

(2) Semidetached dwelling.

(3) Townhouse development in accordance with § 400-107.

(4) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by special exception. The following uses may be permitted when authorized by the Zoning Hearing Board, subject to Article XXI:

(1) Educational use in accordance with § 400-89.

(2) Place of worship in accordance with § 400-100.

C. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council, subject to Article XX:

(1) Townhouse cluster development in accordance with § 400-108.

(2) Townhouse development option in accordance with § 400-109.

D. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-33. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. For each Detached dwelling:

(1) Lot size: 12,000 square feet minimum.

(2) Lot width at building line: 70 feet minimum.

(3) Lot width at street line: 50 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 20 feet minimum.

(6) Side yards, each: 10 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

B. For each semidetached dwelling:

(1) Lot size: 7,500 square feet per dwelling unit.

(2) Lot width at building line: 60 feet minimum.

(3) Lot width at street line: 45 feet minimum.

(4) Lot coverage: 35% maximum.

(5) Building setback line: 20 feet minimum.

(6) Side yard(s): 10 feet minimum.

(7) Rear yard: 40 feet minimum.

(8) Building height: 35 feet maximum.

C. For any other use.

(1) Lot size: 40,000 square feet minimum.

(2) Lot width at building line: 150 feet minimum.

(3) Lot coverage: 20% maximum.

(4) Building setback line: 40 feet minimum.

(5) Side yards, each: 20 feet minimum.

(6) Rear yard: 50 feet minimum.

(7) Building height: 35 feet maximum.

§ 400-34. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE IX
R-5A Recreation District

§ 400-35. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for the R-5A Recreation District are designed to accommodate, encourage, preserve, and to provide for primarily recreational facilities in certain areas of the Borough. For this purpose, development is restricted to recreational facilities and related land uses.

§ 400-36. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Public or private nonprofit outdoor recreation uses, including but not limited to:

(a) Parks and playgrounds.

(b) Playing fields or courts, including but not limited to those for baseball, football, hockey, lacrosse, soccer, tennis, or basketball.

(c) Passive open space.

(2) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by conditional use. Public or private nonprofit indoor recreation uses may be permitted when authorized by Borough Council, subject to Article XX.

C. Accessory uses.

(1) Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, §400-82.

(2) In addition to those accessory uses permitted in § 400-82, the following specific accessory uses shall be permitted by right in the R-5A District as follows:

(a) Accessory uses related solely to the recreational uses permitted by § 400-36A(1) which they are intended to serve, including but not limited to hiking and horseback trails, playgrounds, playing fields, picnic areas, woodlands, and passive open space.

(b) Accessory structures for storage of recreational equipment and materials for recreational use permitted by § 400-36A(1), including but not limited to playground equipment, courts for tennis, basketball or similar activities, backstops for ball fields, picnic shelters and tables, and structures for concessions, maintenance equipment, or rest rooms.

§ 400-37. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Lot size: one acre minimum.

B. Lot width at street line: 50 feet minimum.

C. Lot coverage, indoor recreational use: 25% maximum.

D. Lot coverage, all other: 25% maximum.

E. Building setback line: 25 feet minimum.

F. Side and rear yards: 25 feet minimum.

G. Building height: 35 feet maximum.

H. Off-street parking shall be provided according to reasonable standards applicable to the type of recreational activities proposed when approved by the Borough.

§ 400-38. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE X
C-1 Town Center District

§ 400-39. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for this district are designed to provide a mixed-use district and promote economic development in the Borough as well as the following:

A. Promote the reuse of existing structures and encourage infill development that enhances the visual character, pattern, and architectural scale of the traditional town center.

B. Encourage economic development through the establishment of standards that maintain the traditional town center environment in accordance with the authority granted by Section 702-A of the Municipalities Planning Code[1] to influence traditional neighborhood development[1] and in accordance with the General Manual of Written and Graphic Design Guidelines located in Chapter 350 Attachment 3.

1. Editor's Note: See 53 P.S. § 10702-A in Article VII-A, Traditional Neighborhood Development, in the MPC

C. Maintain a walkable community by promoting pedestrian orientation of streets and buildings and providing a safe and convenient interconnected street and sidewalk network.

D. To retain and enhance a unique and vibrant business center within walking distance of the residential districts, to serve the variable needs of the community, and create a social gathering center for civic life.

E. Accommodate parking in a convenient manner that does not interfere with the pedestrian orientation of streets and minimizes the disruption of streetscape and street wall that is encouraged through the following regulations.

F. Create an interconnected network of streets and sidewalks to effectively accommodate vehicle, pedestrian, and bicycle circulation and to create a block structure achieving connectivity to adjacent zoning districts.

§ 400-40. Use regulations.

A building may be erected or used or a lot may be used and occupied for any one of the following purposes and no other:

A. Principal uses permitted by right:

(1) Retail store.

(2) Personal service shop.

(3) Office.

(4) Bank or financial institution.

(5) Restaurant.

(6) Coffee shop.

(7) Medical clinic in accordance with § 400-94.

(8) Studio.

(9) Place of worship in accordance with § 400-100.

(10) Funeral parlor or undertaker's establishment.

(11) Laundromat.

(12) Municipal facility including a park for passive recreational use or a memorial.

(13) Theater.

(14) Library.

(15) Post office.

(16) Emergency service facility.

(17) Mixed use in accordance with § 400-95. More than one use permitted within the C-1 District is permitted in the same structure or on a lot and the use of a part of a building for residential dwelling units shall comply with the provisions of Article XVIII, Supplemental Uses, § 400-95 and §400-97 where applicable. Residential dwelling units are permitted behind or above nonresidential uses but shall not be permitted on the first floor of the building at the front of building abutting a public street.

(18) Grocery store.

(19) Convenience store.

(20) Forestry/timber harvesting in accordance with § 400-90.

(21) Brewpub.

(22) Nanobrewery.

(23) Microbrewery.

(24) Tap room.

(25) Beergarden.

(26) Distillery.

B. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council, subject to Article XX:

(1) Residential conversion. The conversion of a detached dwelling to residential apartment units in accordance with § 400-104.

(2) Youth activity center, provided that the off-street parking requirements

set forth in Article XVII shall not apply to a youth activity center where it can be demonstrated that the parking needs of such youth activity center can be satisfied by available public parking.

(3) Indoor recreational use.

(4) Child day-care center in accordance with § 400-87.

(5) Parking structure as a principal use in accordance with § 400-99.

(6) Smoke shop/tobacco store in accordance with §400-109.3.

C. Accessory uses.

(1) Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

(2) In addition to those accessory uses permitted in § 400-82, a parking structure may be permitted by right as an accessory use in the C-1 District in accordance with §400-99.

§ 400-41. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Lot size: 3,000 square feet minimum.

B. Lot width: 30 feet minimum.

C. Building coverage: 100% maximum.*

D. Lot coverage: 100% maximum.*

*Note (400-41C&D): All other requirements of this ordinance such as setbacks, landscaping, parking requirements, and all other codes and ordinances such as the Borough Stormwater Ordinance (Chapter 342) shall apply, 100% maximum building coverage or impervious surface coverage may not be achievable depending on all other appliable regulations.

E. Building setback line: zero feet minimum, 10 feet maximum. Twenty feet maximum permitted where outdoor dining or civic space is provided where permitted by §400-42J(4).

F. Side yards: 10 feet minimum to apply when a side yard is provided for both sides of nonattached structures (no party wall) or to one side for attached structures.

G. Rear yard: 30 feet minimum.

H. Building height: Minimum building height shall be required in accordance with § 400-42I; maximum height of 55 feet permitted by conditional use when in accordance with § 400-42J.

I. Building size, maximum: 15,000 square foot building footprint.

§ 400-42. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking and loading regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

F. Blocks. Block length of streets in the C-1 District shall have a minimum length of 200 feet and a maximum length of 500 feet.

G. In the C-1 District, more than one principal use and/or structure shall be permitted on a lot; however, the area and bulk standards shall be met for each structure and for each individual lot as a whole.

H. Development in the C-1 District shall include the following:

(1) Sidewalks shall be required in accordance with § 350-26 of Chapter 350, Subdivision and Land Development, except the minimum sidewalk width shall be five feet.

(2) Streetlights shall be required. A plan for streetlights, approved by the applicable utility company, the style and type of fixture of which shall be approved by the Borough Council with the development plan and otherwise shall comply with this chapter. Streetlights shall be consistent with existing streetlights within the C-1 District.

(3) Street trees. Street trees shall be required in accordance with § 350-38 of Chapter 350, Subdivision and Land Development.

(4) Streetscape requirements: Installation of streetscaping consistent with existing streetscapes in the C-1 district along Rosehill Avenue shall be required.

I. Building height. A minimum building height shall be required in the C-1 District, which may be accomplished through one of the following two ways, with the first option being preferred:

(1) Buildings may be either a minimum of 35 feet in height or two stories tall; or

(2) Buildings may be a minimum of 20 feet in height and one-story tall, so long as the 20 foot building height is accomplished for building facade for the street which the building fronts upon. See Figure 10-1.

J. Conditional use standards for buildings permitted to exceed 35 feet in height. In addition to the requirements of § 400-42L, buildings are permitted to exceed 35 feet in height when authorized by Borough Council subject to Article XX, and in accordance with the following requirements:

(1) Not more than two consecutive buildings greater than 35 feet shall be permitted immediately adjacent to a building of the same height.

(2) Not more than two consecutive buildings greater than 35 feet shall be permitted to have the same roofline as the building immediately adjacent. Roofline variations include but are not limited to flat roofs, mansard, hip, gable, gambrel, dormer, or any combination or variation thereof.

(3) Buildings with a height of greater than 35 feet shall have their vertical massing broken up with horizontal elements at the 35-foot height at a minimum. Elements to achieve this variation shall include, but are not limited to, such features as varying facade cladding, belt course, window and door fenestration, pilasters, piers, bay windows, bow windows, and other appropriate elements that project from the building facade no less than six inches. Buildings shall also comply with horizontal massing requirements in accordance with § 400-42L below.

(4) Buildings permitted exceeding 35 feet in height shall be required to achieve one of the following two options to offset the impacts of increased building height:

(a) Be set back a minimum of five feet but not greater than 20 feet from the sidewalk to create a civic space in the form of a plaza, courtyard, or outdoor dining space. The design criteria in § 400-42J(4)(c) shall be required for additional building height.

(b) Increase the sidewalk width from the minimum of five feet for each additional five feet of building height, but not to exceed 15 feet in width. The design criteria in § 400-42J(4)(c) shall be required for additional building height.

(c) The following shall be included as deemed appropriate to the design for each building approved for increased building height in accordance with Subsection J(4)(a) or (b) above as a part of the conditional use approval:

[1] Trees and landscaping maintained in perpetuity shall be provided for a minimum of 15% of the surface area in front of each building. Vegetation shall be of a variety that will be an appropriate size at maturity to not encroach upon existing on-site or otherwise required street trees or other landscaping or that of any adjacent lot. This may be accomplished through a combination of the following:

[a] Trees planted or in planters.

[b] Surface planters (minimum size 24 inches across).

[c] Hanging baskets (minimum size 12 inches across), hanging cantilevered from the building face or other appropriate approved structure (streetlights, etc.) or

other approved means.

[d] Planted window boxes at the bottom of all first floor windows and/or along the front building facade.

[e] Raised planting beds against the front building facade beneath windows or between the sidewalk and building line or entrance.

[2] Brick or textured paving, benches, trash receptacles, awnings, decorative lighting, low stone walls and similar streetscape amenities, and other elements appropriate for the size of the resulting space are encouraged in order to promote a human scale and greater attractiveness to the proposed development and shall be approved as part of the conditional use process.

(5) A written report shall be submitted that includes plans, conceptual building elevations, diagrams, photographs and other data sufficient to demonstrate the following:

(a) The intent of the architectural design of the proposed building(s) and the manner in which the proposed building(s) contextually fit into and enhance the block pattern and streetscape of the traditional downtown area.

(b) Compliance with the conditional use standards and criteria set forth in this section.

(c) General consistency with the Future Land Use Plan of the most recently adopted version of the borough Comprehensive Plan.

(d) General consistency with the General Manual of Written and Graphic Design Guidelines in §400-42M.

(6) An impact assessment report shall be prepared to address measures pertaining to such impacts as traffic, infrastructure, and parking requirements including assessment of off-street parking accomplished through on-site parking lots, parking garages (structures), off-site parking, public parking lots or structures, or on-street parking.

K. No goods shall be displayed in any open area except in accordance with § 400-72H, Outdoor display.

L. Standards for buildings and structures.

(1) No more than 30 feet of continuous street wall shall be created for any new building or structure on a side facing a public street, unless a break in depth of not less than three inches and no more than three feet is provided at intervals of not less than 20 feet accomplished through elements to achieve this street wall variation which shall include, but be not limited to, such features as varying facade cladding, vertical building extensions, window and door fenestration, recessed or

extended doorway entrances, pilasters, piers, display windows, bay windows, bow windows and other appropriate elements that project from or extend into the street wall. See Figure 10-2.

(2) No building or structure shall be a windowless box. Building openings and windows shall constitute not less than 40% nor greater than 85% of all exterior walls that face a public street or parking area. See Figure 10-3.

(3) No building or structure shall have opaque, mirrored, or dark tinted windows. See Figure 10-4.

(4) Blank walls shall not be permitted along any exterior wall that fronts on a public street, a sidewalk, or parking area. Walls or portions of walls where windows are not provided shall have architectural treatments that include one or more of the following: concrete or masonry plinth at the base of the wall, belt courses, vertical columns, projecting cornice, medallions, artwork or murals, decorative trimwork, lighting fixtures, or other similar decorative feature. See Figure 10-5.

(5) If a new building has a flat roof, then it shall have a wraparound parapet wall sufficient in height to conceal the building's mechanical and other rooftop equipment.

(6) All rooftop mechanical equipment and structures shall be concealed.

(7) For all buildings, the architectural design and detailing of the building should be varied in order to minimize the impact and scale of the building and to visually enhance the appearance of the building. Upper-story setbacks and rooflines, fenestration (windows), the use of varied compatible materials and colors and additional architectural detailing shall be employed to the greatest extent appropriate in context with the traditional town center.

(8) General consistency with the General Manual of Written and Graphic Design Guidelines in §400-42M (located in Chapter 350 as Attachment 3).

Figure 10-1: One-story building with two-story facade

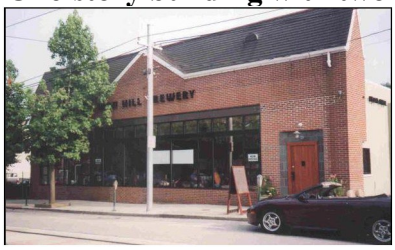


Figure 10-2: Required Street Wall Interruption

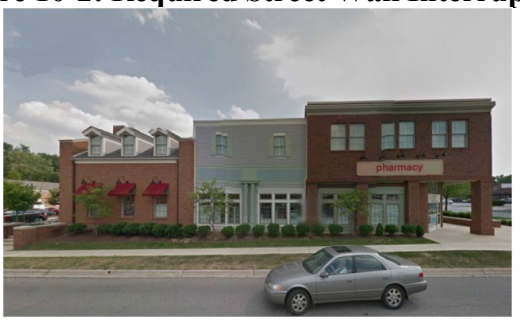
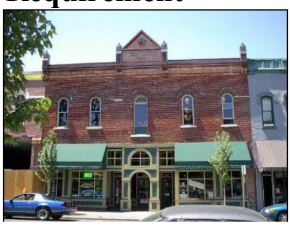


Figure 10-3: Window Ratio Requirement



Discouraged: Building with no windows

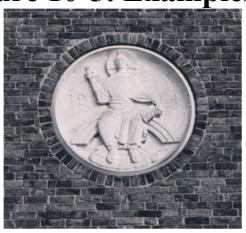


Encouraged: appropriate minimum window requirement

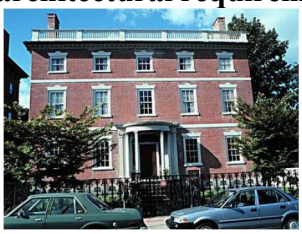
Figure 10-4: Opaque, mirrored or dark-tinted windows are not permitted



Figure 10-5: Examples of architectural requirements to treat blank walls



Medallion



Belt Course/Projecting Cornice



Painted Mural

M. Procedures for Approval of Development in the C-1 District.

(1) Sketch Plan pre-application meeting. All applicants are encouraged to submit sketch plans for all C-1 District proposals for infill or redevelopment. As per § 707-A of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10707-A and the Borough Subdivision and Land Development Ordinance (SLDO) Chapter 350 of the West Grove Borough Code, such plans may be informally reviewed as conceptual plans in order to provide an opportunity for the Borough to make suggestions and recommendations on the design of the proposed development and provide direction to the applicant to ensure awareness of application requirements and the review and approval process for

development in the C-1 District.

(2) The applicant shall comply with the sketch, preliminary, and final plan application requirements of the Borough Subdivision and Land Development Ordinance [Chapter 350] and shall also include the following information, unless where exempted as approved by the Borough in §402-42M(2)(l) below:

(a) Project Narrative. A statement with graphics and exhibits indicating how the proposed application promotes the C-1 District purpose statements and regulations and integrates with the existing downtown character.

(b) Manual of Written and Graphic Design Guidelines. At the time of land development plan submission for each phase or stage of development, a site plan and Project Manual of Written and Graphic Design Guidelines shall be submitted for approval by the Borough. The site plan and accompanying Project Design Guide shall include such proposed features as architecture, building materials, fencing, walls, landscaping, signs, streets, pedestrian circulation, parking, lighting, streetscape, open space features, civic art, civic uses, greens, and other features as applicable to the development consistent with the General Manual of Written and Graphic Design Guidelines for the C-1 District set forth in Chapter 350 as Attachment 3, which shall be submitted for review and approval by the Borough.

(c) Building Plan.

[1] A separate plan sheet shall be submitted to depict any proposed building(s) or additions. Said plan shall indicate the proposed principal and accessory structures or additions, the gross square footages of all uses, building locations, and building heights. The building plan shall also indicate the total lot area and lot coverage, existing and proposed.

[2] Such plan shall include conceptual building elevations for all proposed building(s) or additions and shall indicate building materials, windows and doors, awnings, entryways, roof pitch, dormers, pilasters, piers, green building design, and the like.

[3] Such plan shall include sketches and renderings depicting how the proposed architectural character and streetscape fits into or addresses the existing character of the C-1 District.

(d) Street and Alley Plan.

[1] A separate plan sheet shall be submitted to depict the proposed interconnected street and alley network. Such plan shall indicate all street, rights-of-way, and alley widths.

[2] Such plan shall indicate all materials, depths of pavement courses, curbing, and gradients.

(e) Streetscape Plan. Such plan shall indicate the locations for all proposed street furniture (such as benches, planters, and waste receptacles), street trees, street lights, signs, bus stops/shelters, and other applicable elements.

(f) Pedestrian and Bicycle Access Plan.

[1] A separate plan sheet shall be submitted to depict the proposed interconnected network for pedestrian access including sidewalks, crosswalks, and/or other pathways.

[2] Such plan shall indicate all sidewalk, crosswalk, and path widths, materials, and gradients.

[3] Such plan shall indicate all bicycle lanes, shared lanes (sharrows), signage, bicycle racks, and/or other elements related to accommodating cyclists.

(g) Public Area, Open Space, or Recreational Facilities Plan. A separate plan sheet shall depict all proposed outdoor dining areas, plazas, parks, pocket parks, open space, greens, recreational facilities, civic art, civic uses, and/or public areas.

(h) Landscape Plan.

[1] A separate plan sheet shall be submitted to depict all proposed landscape features and landscaped areas for open space areas, recreational areas, greens, civic art, civic uses, common areas, off-street parking lots, street trees, green infrastructure installations (bump outs, rain gardens, etc.) and the like.

[2] The landscape plan shall indicate all plant types, sizes, and quantities. It shall further identify the types, sizes, and materials for all paving, benches, walls, and other structures along streets, and within all common areas.

(i) Parking Plan.

[1] A separate plan sheet shall be submitted to depict proposed location and materials for all parking (on-street, off-street (surface or structured)). Such plan shall list the number of parking spaces proposed in relation to the proposed use(s).

[2] The parking plan shall illustrate a dispersal of parking areas to the maximum extent possible in order to minimize large expanses of parking lots.

(j) Utilities Plan.

[1] A separate plan sheet shall be submitted to depict all proposed utilities (water, sewer, electric, wireless communication facilities, cable, stormwater). Such plan shall indicate all proposed types, sizes, and materials of utilities that are proposed.

[2] All new utilities shall be underground if possible and where acceptable and approved by the appliable utility provider.

[3] All cable TV boxes, utility meters, and the like shall be located to the rear of properties and shall be screened.

(k) Staging and Phasing Plan.

[1] A separate plan sheet shall be submitted to depict proposed staging or phasing of the total land development.

[2] In the case of a development proposed to be developed over a period of years, flexibility of housing density, design and type may be addressed to:

[a] Permit a variation in each section from the density, or intensity of use, for the entire development.

[b] Allow for a greater concentration of density or intensity of land use, within some section or sections of development.

[c] Require that the approval of such greater concentration of density or intensity of land use be offset by a smaller concentration in any completed prior stage or by reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the Borough.

(l) Exemptions.

[1] More than one of the above required Plan elements may be depicted on the same Plan so long as it is clearly legible, upon approval of the Borough. For example, an independent Pedestrian Access Plan may not be necessary if those elements are clearly indicated or depicted on one of the other Plans (such as the Street and Alley or Streetscape Plans).

[2] Specific plans or plan elements may be excluded, depending on the size or scope of the proposed development (for example for a single infill lot, plans depicting new streets or phases may not be necessary), upon approval of the Borough.

(m) Declaration of Covenants, Easements and Restrictions. A

declaration shall be submitted to the Borough at the time of final plan submission, which shall be in a form deemed satisfactory to the Borough Solicitor.

(3) The Borough may require appropriate means to guarantee adherence to approved plans and/or architectural drawings, if such guarantee is an essential means by which the proposed development will comply with the purposes and standards set forth for the C-1 District. The Borough may also require, prior to the issuance of any building permit, the applicant provide professional evidence certifying the submitted plans conform to previously approved and applicable schematic architectural renderings. In the event this requirement is applied, the Borough shall not issue any building permit until said evidence is also certified by the Borough.

(4) Compliance with the provisions for the C-1 District under this Section shall be determined by Borough Council, in consultation with the Borough Planning Commission. Approval shall not be unreasonably denied provided the plans comply with the applicable zoning regulations, zoning purpose statements, and are determined generally consistent with the General Manual of Written and Graphic Design Guidelines. Where an application is denied in whole or in part, the reasons for denial shall be specified in writing.

(a) An application may be denied on the basis of its failure to demonstrate consistency with any of the following:

[1] Development that does not exhibit consistency with the General Manual of Written and Graphic Design Standards, zoning district requirements, and/or the purpose statements for the C-1 District.

[2] Development that does not submit a completed application package as described in this Section.

[3] A lack of an integrated street and alley grid network, and/or a street pattern. The use of curvilinear streets is discouraged, and cul-de-sacs shall not be permitted.

[4] A lack of streetscape elements, including but not limited to sidewalks and pedestrian facilities or amenities (crosswalks, lighting, benches, street trees) as required by the zoning district requirements.

[5] Off-street parking and/or on-street parking that:

[a] Does not meet the needs of the development being proposed.

[b] Greatly exceeds the needs of the development being proposed.

[c] Are not integrated to minimize access points or

provide interconnected parking facilities to the greatest extent possible.

[d] Are not located to the rear or side of the development or prioritizes access from the primary street instead of rear access, access from an alley or side street, or from an adjacent parking area where possible.

[e] Does not incorporate safe pedestrian and bicycle facilities and amenities (crosswalks, sidewalks, walkways, signage, lighting, traffic calming).

(b) Borough Council may convene a design review committee (DRC) for any portion of the review process (sketch plan, preliminary, or final review) to assist in the review and approval process for the Borough Planning Commission and/or Borough Council. Members may be invited or appointed by Borough Council to fulfill a specific review purpose or professional opinion, but shall not render a decision or prolong the review process, including but not limited to:

[1] Historical Commission, Committee or persons designated as such by Borough Council.

[2] Professional Planning Consultant.

[3] Professional Architect.

[4] Professional Engineer.

[5] Fire Chief or Fire Marshal.

[6] Police Chief.

[7] Any other person designed by Borough Council to fulfill a specific review purpose or professional opinion not noted above (attorney, landscape architect, botanist, etc.).

ARTICLE XI

C-2 Neighborhood Commercial/Office District

§ 400-43. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for this district provide for commercial areas and promote economic development in the Borough.

§ 400-44. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Office.

(2) Retail store.

(3) Personal service shop.

(4) Grocery store.

(5) Convenience Store

(6) Mixed use in accordance with § 400-95; more than one use permitted within the C-2 District is permitted in the same structure or on a lot and residential dwelling units are permitted on the same lot or within the same building when located above or to the rear of a nonresidential use, including apartments in accordance with §400-95 and §400-97 where applicable.

(7) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council subject to Article XX:

(1) Detached dwelling.

(2) Semidetached dwelling.

(3) Funeral parlor or undertakers establishment.

(4) Vehicle fueling station (Gas Station).

(5) Smoke shop/Tobacco store in accordance with §400-109.3.

C. Accessory uses.

(1) Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

(2) Accessory uses permitted by Conditional Use. A Vehicle Fueling Station

(Gas Station) may be permitted as an accessory use to a Convenience Store with the C-2 District when authorized by the Borough Council, subject to Article XX.

§ 400-45. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Lot size: 8,500 square feet minimum.

B. Lot width at building line: 50 feet minimum.

C. Lot width at street line: 50 feet minimum.

D. Lot coverage: 50% maximum.

E. Building setback line: 30 feet minimum.

F. Side yards:

(1) Detached dwelling: 7 foot minimum side yards

(2) Semidetached dwelling: 15 foot minimum side yard(s)

(3) Non-residential uses, all other uses: 15 foot minimum side yards

G. Rear yards: 40 feet minimum.

H. Building height: 35 feet maximum.

§ 400-46. Design standards.

The following design standards shall apply to all uses permitted in this district.

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE XII
Evergreen and Prospect (E&P) Overlay District

§ 400-47. Purpose.

A. In addition to the general purposes listed in Article I, General Provisions, § 400-2, the Evergreen and Prospect Overlay (E&P) District is designed to accommodate, encourage, preserve and provide for residential development in certain areas of the Borough while additionally providing the opportunity for a greater mix of uses along the primary road corridors within the Borough to supplement the town center (C-1 District) by allowing opportunities for home-based business and smaller businesses that are consistent with the density, design, and character of existing homes.

B. Promote mixed-uses avenues or corridors along Evergreen Street and Prospect Avenue as indicated on the Zoning Map to create gateways into the Borough and showcase its historic identity by providing additional uses in the larger existing homes that line these roadways.

§ 400-48. Use regulations.

In addition to those uses permitted in the underlying base zoning district, a building may be erected or used or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council subject to Article XX:

   (1) Mixed Use. The following uses as part of a mixed use development or mixed use building shall be permitted in accordance with §400-95:

      (a) Retail store.

      (b) Personal service shop.

      (c) Office.

      (d) Studio.

      (e) Child day-care center in accordance with §400-87.

      (f) Mixed use containing residential dwelling units/Apartments in accordance with §400-95 and §400-97 as applicable.

   (2) Multi-family apartment building in accordance with §400-97.

   (3) Residential conversion. The conversion of a detached dwelling to apartment units in accordance with §400-104 and §400-97 as applicable.

B. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, 400-82.

§ 400-49. Area and bulk regulations.

The area and bulk requirements of the underlying base zoning district shall apply.

§ 400-50. Design standards.

The following design standards shall apply in addition to those of the underlying base zoning district:

A. Off-street parking shall not permitted in front of the principal structure and shall be located to the side or rear.

B. Shared or connected parking lots between adjacent uses on the same parcel or separate parcels is permitted and encouraged in accordance with Article XVII.

C. Landscaping, buffering and screening shall be in accordance with §400-73 and §350-37 of Chapter 350, Subdivision and Land Development.

ARTICLE XIII
C-4 Commercial Service District

§ 400-51. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for this district provide for commercial areas and promote economic development in the Borough.

§ 400-52. Use regulations.

A building may be erected or used, or a lot may be used and occupied for any one of the following purposes and for no other:

A. Principal uses permitted by right:

   (1) Detached dwelling.

   (2) Semidetached dwelling.

   (3) Retail store.

   (4) Office.

   (5) Grocery Store.

   (6) Forestry/timber harvesting in accordance with § 400-90.

B. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council subject to Article XX:

   (1) Mixed use in accordance with § 400-95; more than one use permitted within the C-4 District is permitted in the same structure or on a lot and residential dwelling units are permitted on the same lot or within the same building when located above or to the rear of a nonresidential use, including apartments in accordance with §400-95 and §400-97 where applicable.

   (2) Vehicle sales, service, or repair in accordance with § 400-106.

C. Accessory uses. Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, § 400-82.

§ 400-53. Area and bulk regulations.

The following requirements shall apply to each principal use and its accessories:

A. Lot size: 12,000 square feet minimum.

B. Lot width at building line: 50 feet minimum.

C. Lot width at street line: 50 feet minimum.

D. Lot coverage: 50% maximum.

E. Building setback line: 30 feet minimum.

F. Side yards:

(1) Non-residential uses/Mixed-Use: 15 foot minimum side yards

(2) Detached dwelling: 7 foot minimum side yards

(3) Semidetached dwelling: 15 foot minimum side yard(s)

(4) Apartment building not within or a part of a mixed-use building: 15 foot minimum side yards

G. Rear yards: 40 feet minimum.

H. Building height: 35 feet maximum.

§ 400-54. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE XIV
LI Limited Industrial District

§ 400-55. Purpose.

In addition to the general purposes listed in Article I, General Provisions, § 400-2, the regulations for this district provide for industrial areas and promote economic development in the Borough.

§ 400-56. Use regulations.

A building may be erected, altered, or used, and a lot may be used for any of the following purposes and for no other:

A. Principal uses permitted by right:

(1) Research, engineering, or testing laboratory.

(2) Manufacturing.

(3) Public utility operating facility.

(4) Truck freight terminal.

(5) Contractor's establishment.

(6) Office.

(7) Rail freight terminal or switching yard in accordance with § 400-102.

(8) Wireless communications facility in accordance with § 400-105.

(9) Forestry/timber harvesting in accordance with § 400-90.

(10) Kennel in accordance with § 400-93.

(11) Place of worship in accordance with § 400-100.

(12) Cemetery.

(13) Crematorium.

B. Principal uses permitted by conditional use. The following uses may be permitted when authorized by Borough Council subject to Article XX:

(1) Brewery, all types as defined by §400-9.

(2) Restaurant.

(3) Mixed use; More than one use permitted within the LI District is permitted in the same structure or on a lot and residential dwelling units are permitted on the same lot or within the same building when located above or to the rear of a nonresidential use, including apartments, in accordance with §400-95 and §400-97 where applicable.

(4) Commercial Mushroom Manure Operation in accordance with §400-86.

(5) Junkyard in accordance with § 400-92.

(6) Vehicle (Auto) Salvage.

(7) Adult use in accordance with §400-83.

(8) Mobile home park in accordance with § 400-96.

(9) Casino.

(10) Any other use of a similar nature not specifically permitted by this chapter may be permitted when authorized by Borough Council pursuant to Article XX.

C. Accessory uses.

(1) Accessory uses customarily incidental to any of the uses permitted in this district shall be permitted on the same lot as the principal use when in accordance with the applicable provisions of Article XVIII, Supplemental Uses, §400-82.

(2) Accessory uses permitted by Conditional Use. Drive-through service may be permitted as an accessory use in the LI District when authorized by the Borough Council, in accordance with §400-88 and subject to Article XX.

§ 400-57. Area and bulk regulations.

The following area and bulk regulations shall apply to each principal use and its accessories:

A. Lot size: 30,000 square feet minimum.

B. Lot width at building line: 100 feet minimum.

C. Lot coverage: 80% maximum.

D. Building setback line: 20 feet minimum.

E. Side yards and rear yard: 10 feet minimum.

F. Building height: 35 feet maximum. An additional 15 feet or one story may be permitted to allow residential dwelling units within the same building when located above or to the rear of a nonresidential use (Mixed Use) by conditional use when authorized by Borough Council subject to Article XX and in accordance with §400-95 and §400-97 as applicable.

§ 400-58. Design standards.

The following design standards shall apply to all uses permitted in this district:

A. Natural resource protection standards in accordance with Article XV.

B. General regulations in accordance with Article XVI.

C. Off-street parking regulations in accordance with Article XVII.

D. Supplemental use regulations in accordance with Article XVIII.

E. Sign regulations in accordance with Article XIX.

ARTICLE XV

(NR) Natural Resource Protection

§ 400-59. Purpose.

The following natural resource protection standards are established to protect the public health, safety and welfare by minimizing adverse environmental impacts and are specifically authorized by Section 604 of the Municipalities Planning Code. These standards are intended to meet the following purposes:

A. Promote and implement Sections 603(b)(1), 603(b)(5), 603(c)(7), 603(g)(2), and 604(1) of Act 247, the Pennsylvania Municipalities Planning Code (MPC), as amended, providing for the protection and preservation of environmentally sensitive areas and natural resources through zoning ordinances.

B. Delineate and define selected natural resources within the Borough and establish resource protection standards to assist the Borough in reducing the impact proposed uses will have on the environment.

C. To reduce erosion and sedimentation of surface water bodies through the protection of natural resources, including but not limited to floodplains, wetlands, steep slopes, riparian buffers, and woodlands.

§ 400-60. Applicability and liability.

A. In those areas of the Borough where a section of this article applies, the provisions of the section shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between a section of this article and the underlying district(s), the more restrictive provision shall apply.

B. In the event that two or more natural resources identified in this article overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building, etc.) shall apply to the area of overlap.

C. It shall be a violation of this chapter to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this article prior to the submission, review, and approval of applications for zoning or building permits; conditional use or special exception approvals; variances; or submission of plans for subdivision or land development.

   (1) Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this article and other applicable Borough ordinance provisions or federal or state regulations.

   (2) Restrictions to the disturbance of resources shall apply before, during, and after construction on a site.

D. Should the boundaries or delineations of any section of this article be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable section of this article shall continue to apply.

E. Plan information required by § 400-65 shall be verified as correct by the Borough Engineer or other qualified professional as determined by the Borough.

F. Liability. This article shall not create liability on the part of the Borough or any officer or employee thereof for any damages that result from negligence of this article or any administrative decision lawfully made thereunder.

G. All new development shall comply with Chapter 342, Stormwater Management, of the Borough of West Grove.

§ 400-61. Flood hazard.

Flood hazard regulations shall be in accordance with § 400-66, Flood Hazard District, which is placed at the end of this article due to the length of the regulations.

§ 400-62. Wetlands.

A. Purpose. To preserve and protect wetland areas as "natural filters" which aid in improving surface and groundwater quality, groundwater recharge areas, natural floodwater retention areas, and as unique habitats for species associated with wetland areas.

B. Applicability. Site alterations, regrading, filling or clearing of vegetation in a wetlands area prior to the approval of an application for a subdivision or land development, building permit, zoning permit, variance, conditional use, or special exception and all applicable permits, shall be a violation of this chapter.

C. General regulations.

(1) Wetland areas shall not be disturbed, altered, regraded, developed, filled, piped, diverted or built upon, except where state and federal permits have been obtained.

(2) Where wetlands are identified and delineated under § 400-62D, no more than 20% of a wetland margin area shall be altered, regraded, filled or built upon. Additionally, any Pennsylvania Department of Environmental Protection (PADEP) regulations concerning activities related to wetland margins shall be met.

(3) Permitted Activities. The following limited activities shall be permitted within an identified wetland or wetland margin:

(a) The Regulated activities permitted by the Commonwealth, Army Corps of Engineers, or other federal agency (such as permitted stream or wetlands crossing).

(b) Provision for unpaved trail or stream access.

(c) Selective removal of hazardous or invasive alien species.

(d) Vegetation management in accordance with an approved planting plan or management plan.

(e) A soil conservation project approved by the Chester County Conservation District.

(f) Removal of hazardous material or septic system, junk material, or diseased or invasive trees or other vegetation.

D. Identification and delineation of wetlands areas.

(1) Identification. The identification of possible wetland area shall be any areas of West Grove Borough consisting of wetlands, hydric soils, or seasonal high water table soils which are identified by:

(a) The West Grove Borough Comprehensive Plan, including but not limited to Map 3.

(b) The current Soil Survey for Delaware and Chester Counties by the Natural Resource Conservation Service of the United States Department of Agriculture, or the most recent revision thereto.

(2) Where wetlands are indicated by any of the sources in § 400-62D(1), or where the Borough otherwise has sufficient evidence that wetlands may be present on a site, an applicant shall be required to delineate wetlands in accordance with § 400-62D(3).

(3) Delineation of wetlands and administrative process.

(a) Coordination with the Pennsylvania Department of Environmental Protection and the United States Army Corps of Engineers:

[1] Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the United States Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations, regardless of whether a delineation under § 400-62D(3)(b) is required.

[2] If required, a wetlands delineation shall be sent to both agencies for review.

[3] A copy of any correspondence submitted to or received from either agency shall be provided to the Borough within 10 working days of mailing or receipt.

(b) If wetlands delineation is required as indicated on a property in accordance with this section, prior to the granting of any applicable permits from the Borough of West Grove, the applicant shall provide a wetlands delineation report consistent with the following requirements:

[1] A full wetland delineation report conducted by a qualified wetland

biologist, soil scientist, or environmental professional with demonstrated qualifications approved by the Borough.

[2] The wetland report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present. If there is a question as to the accuracy of the wetland delineation report, the Borough may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense.

[3] Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the delineation report shall be acceptable to the Borough Engineer or other qualified consultant hired by the Borough.

[4] Upon the completion of such a report, all delineated wetlands, wetlands margins, and hydric soils shall be mapped and categorized and submitted to the Borough for review and comment by the Borough Engineer.

[5] If no wetlands are found on the site, a note shall be added to the preliminary and final plans, stating that: "This site has been examined by (name and address with a statement of submitted qualifications), and no wetlands as defined by the United States Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January 1987 (or most currently used manual), were found to exist."

E. Permitted uses. Within wetland areas, uses within the underlying base zoning district are permitted only by special exception subject to § 400-136 and only upon approval and permitting by the applicable state and federal agencies.

§ 400-63. Steep slopes.

A. Purpose. The purpose of this section is to promote the health, safety and general welfare and to minimize negative environmental impacts by:

(1) Conserving and protecting steep slopes from inappropriate development.

(2) Protecting watersheds and limiting increases in stormwater runoff.

(3) Regulating development in order to limit erosion and reduce the potential for increased runoff and downstream flood hazards.

(4) Protecting the natural vegetative cover on steep slopes, thereby reducing runoff and flooding potential.

(5) Protecting the quality of streams which would be threatened by indiscriminate grading and development on steep slopes.

B. Identification and plan requirements.

(1) Delineation of steep slopes. Map 3 of the Borough Comprehensive Plan

provides a limited identification of areas which have been determined to constitute steep slopes within the borough. Map 3 does not confirm nor deny the presence of any given resource. Residents should conduct a thorough review of their property to determine whether steep slopes, as defined by this Chapter, are located on their property.

(a) Steep slopes shall be defined and regulated as anywhere on a site or property where slopes are:

[1] 15 - 25% (precautionary slopes)

[2] Greater than 25% (prohibitive slopes).

(b) Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For purposes of this chapter, slope shall be measured over three or more two-foot contour intervals (six cumulative vertical feet of elevation). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor licensed to practice in the Commonwealth of Pennsylvania.

(c) Areas of steep slope that are less than 1,000 square feet shall be exempted from these standards.

(2) Interpretation of steep slope boundaries and site plan requirement.

(a) A site plan prepared by a registered engineer, surveyor, or landscape architect shall be required for a subdivision and/or land development on any property where steep slopes are located prior to any development, in accordance with the following:

[1] All existing grades with contour lines at two-foot intervals and proposed grades within the area of the proposed construction.

[2] All slopes within the site in the categories 15% - 25% and greater than 25%. Such areas shall be mapped and displayed for existing and proposed conditions.

[3] Landscaping plan indicating proposed paved areas, storm drainage facilities, retaining walls, and ground cover, as well as trees and ornamental shrub locations.

[4] Architectural plans, elevations, and sections.

[5] A statement prepared by a registered engineer stating an explanation of the building methods to be used in overcoming foundation and other structural problems created by slope conditions, preserving the natural watersheds, and preventing soil erosion.

(b) The site plan shall be reviewed by the Borough engineer as the representative agent of the Borough to verify the delineation of slopes

on the application and make a determination. Should a dispute concerning any identified steep slopes occur subsequent to the determination, upon appeal, the party contesting the location of the boundary shall have the burden of establishing that land does not lie within the area of steep slopes as delineated by § 400-63B(1).

C. Resource protection standards.

(1) Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and the following requirements shall apply:

(a) Slopes 15% - 25%:

[1] The maximum impervious surface permitted shall be 20%.

[2] Maximum disturbance of slopes shall not exceed 30%.

(b) Slopes greater than 25%:

[1] The maximum impervious surface permitted shall be 15%.

[2] Maximum disturbance of slopes shall not exceed 15%.

(2) Grading for the minimum portion of a road or driveway necessary for access to the principal use and sewer, water, and other utility lines shall be designed within the existing contours of the land to the extent possible unless it can be demonstrated that no other routing is feasible.

(3) Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing grade, vegetation, and natural soils condition as displayed on the plans submitted for application as developed by a registered engineer, surveyor, or landscape architect.

(4) Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible.

(5) Finished slopes of all permitted cut-and-fill within steep slopes shall not exceed 25% slope.

(6) All stockpiles of earth shall be seeded or otherwise stabilized to the satisfaction of the Borough Engineer or the Chester County Conservation District, as applicable, when stored for more than 21 days. Cut and fill resulting in slopes 25% or greater shall be protected with an erosion control blanket.

(7) Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of Chapter 350, Subdivision and Land Development, and 25 Pa. Code §§ 102.1 to 102.51, in regard to erosion and sedimentation control.

(a) An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of Chapter 350, Subdivision and Land Development.

(b) The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.

D. Uses permitted.

(1) Uses by right. The following uses shall be permitted on steep slopes where such use is in compliance with the base zoning district and all other provisions of this section and chapter.

(a) Parks and outdoor recreational uses, not including structures and activities that would conflict with or impact natural resources such as floodplains and woodlands, or create an increase in stormwater runoff or impact.

(b) Driveways where it can be proven on the plan and application that an alternative route that does not use steep slopes is not feasible.

(2) Conditional use. Single-family detached dwellings or a portion thereof may be permitted by conditional use if the building is constructed in such a manner which does not substantially alter the existing grade and natural soil conditions, subject to the requirements of this section and Article XX, Administration and Enforcement.

(3) Prohibited uses. The following uses shall not be permitted on steep slopes of 15% or greater:

(a) On-lot sewage disposal systems.

(b) Structures other than those associated with § 400-63D(1) or (2).

(c) Removal of topsoil subject to § 400-77 and Chapter 350, Subdivision and Land Development.

§ 400-64. Riparian buffers and Woodlands.

A. Riparian buffers are regulated in accordance with Chapter 342, Stormwater Management, of the Borough of West Grove.

B. Woodlands.

(1) The purpose of this Section is to promote conservation of woodland resources in the Borough through resource identification and replacement. An applicant shall identify and delineate woodlands on a site prior to the issuance of any building permit, zoning permit, or subdivision and land development approval in accordance with Chapter 350, the Subdivision Ordinance, and Section 400-65 where applicable.

(2) Delineation. Prior to any activity under §400-60C an applicant shall identify

woodlands in accordance with the definition in §400-9. Map 3 of the Borough Comprehensive Plan provides a limited identification of areas which have been determined to constitute woodlands within the borough. Map 3 does not confirm nor deny the presence of any given resource. Residents should conduct a thorough review of their property to determine whether woodlands, as defined by this Chapter, are located on their property.

(3) Standards for Disturbance Allowance for Woodlands.

(a) Unless undertaken as an approved timber harvesting activity conducted in compliance with the applicable requirements, woodlands shall not be regraded, cleared, built upon or otherwise altered, except in compliance with the following:

[1] On lots or tracts of one (1) acre or less, no more than 75% of woodlands shall be disturbed.

[2] On lots or tracts greater than one (1) acre and smaller than five (5) acres, no more than 65% of woodlands shall be disturbed.

[3] On lots or tracts of five (5) acres or more, no more than 55% of woodlands shall be disturbed.

(b) In determining the extent of the woodland disturbance, it shall include the entire area within the drip line of any tree comprising a wooded area, where any portion of the drip line of such tree is subject to disturbance.

(c) Where disturbance or removal of existing areas of woodlands occurs on any lot or tract, woodland replacement shall be required consistent with the woodlands replacement standards in § 350-37F of the Subdivision Ordinance, Chapter 350.

(d) Preserved woodlands may be used to provide vegetative buffers required by Article 16, General Regulations of this Ordinance.

(e) A Planting Plan and/or a Timber Harvesting Plan may be required by the Borough and shall include a description through text and maps of proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a professional forester with verifiable expertise in forest management and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, land areas, and the tree removal process; and ensure site restoration.

(f) Where woodlands overlap other protected natural resources, the more restrictive disturbance standard shall apply

(4) Guidelines for Determining Permitted Woodland Disturbance. In determining where permitted woodland disturbance will occur, the following factors shall be considered:

(a) Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing woodland. Clear-

cutting shall be minimized and trees shall be selectively removed.

(b) Where possible, the remaining undisturbed woodlands and other vegetation shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife.

(c) Woodland alteration or disturbance that would threaten the growth of remaining trees shall be avoided.

§ 400-65. Natural resource protection.

In order to meet the natural resource protection standards of this article, the following information shall be submitted by the applicant. Where a subdivision or land development review is required, such information shall be included with the application for such review in accordance with Article IV of Chapter 350, Subdivision and Land Development.

A. A site plan which clearly delineates the limits of all natural resources on the site as outlined in this article including areas of floodplain, steep slopes, wetlands, wetland margins, hydric soils, riparian buffers, and woodlands, and the proposed use of the site, including any existing or proposed structures. This site plan shall include the site's watershed and the water quality designation of the watershed in which the property in question is located.

B. The limits of all encroachments and disturbances necessary to establish the proposed use on the site, including a grading plan showing existing and proposed contours at two-foot intervals.

C. The identification of the minimum buildable area(s). The purpose is to ensure that sufficient area is provided for the general location of buildings, driveways, and other improvement while meeting the requirements of the natural resource protection standards.

D. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the site plan as indicated in the following table in Figure 15-1. The figures in Column D (Proposed Disturbance) shall be less than or equal to the corresponding figures in Column C (Maximum Amount of Permitted Disturbance) for each protected resource.

Figure 15-1: Application of Natural Resource Protection Standards				
Protected Resource	**Column A** **Amount of Land in Protected Resource*** **(square feet)**	**Column B** **Maximum Disturbance Allowance**** **(square feet)**	**Column C** **Maximum Amount of Permitted Disturbance** **(square feet)**	**Column D** **Proposed Disturbance of Resource** **(square feet)**
Floodplain		0%		
Steep slopes (15% to 25%)		30 %		
Steep slopes (>25%)		15 %		
Wetlands		0%		
Wetland margins		20%		
Woodlands		See §400-67		
Total				

NOTES:

* See § 400-60B and D herein.

** Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Borough.

§ 400-66. Flood Hazard District.

A. General provisions.

(1) Statement of intent. The intent of this section is to:

(a) Promote the general health, welfare and safety of the community.

(b) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

(c) Minimize danger to public health by protecting water supply and natural drainage.

(d) Reduce financial burdens imposed on the community, its government units, and its residents, by preventing excessive development in areas subject to flooding.

(e) Comply with federal and state floodplain management requirements.

(2) Applicability. For the purposes of this chapter, the Floodplain Overlay District shall be an overlay to the existing underlying districts as shown on the Zoning Map and, as such, the provisions of the Floodplain Overlay District shall be imposed in addition to the requirements of the underlying zoning district(s).

(a) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough, unless a building permit and/or zoning permit has been obtained from the Zoning Officer.

(b) A building permit shall not be required for any minor repairs to existing buildings or structures.

(3) Abrogation and greater restrictions. This section supersedes any other conflicting provision which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this chapter, the more restrictive shall apply.

(4) Warning and disclaimer of liability.

(a) The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural cause, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

(b) This section shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereafter.

B. Administration.

(1) Building permits and/or zoning permits required. Building permits shall be required before any construction or development is undertaken within any area of the Borough. Before a building permit application can be initiated, the applicant shall have received a zoning permit approval. A zoning permit shall be applied for on forms supplied by the Borough and in conformance with Borough procedures and Article XX, Administration and Enforcement.

(2) Issuance of building permit.

(a) The Zoning Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

(b) Prior to the issuance of any building permit, the Zoning Officer shall review the application for a permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean

Streams Act (Act 1937-394, as amended); the United States Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.

(c) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection, Regional Office.

(d) In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Borough prior to any alteration or relocation of any watercourse.

(3) Application procedures and requirements. The applicant shall use building permit forms supplied by the Borough and shall follow the Borough's building permit application procedure.

(a) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:

[1] All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this and all other applicable codes and ordinances.

[2] All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

[3] Adequate drainage is provided so as to reduce exposure to flood hazard.

(b) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Zoning Officer to make the above determination:

[1] Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

[a] The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.

[b] The elevation of the one-hundred-year flood.

[c] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood.

[d] Detailed information concerning any proposed floodproofing measures.

[e] Supplemental information as may be necessary under 34 Pa. Code, Chapters 401 through 405, as amended, and the 2009 IBC or the 2009 IRC, or the most recent revisions thereof.

[2] The following data and documentation:

[a] A document, certified by the Zoning Officer and Borough Engineer, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one-hundred-year flood, and uses the current flood elevations maps in accordance with § 400-66C(1). Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

[b] Detailed information needed to determine compliance with § 400-66D(3)(g), Storage, and § 400-66D(4), Development which may endanger human life, including:

i. The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.

ii. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 400-66D(4), during a one-hundred-year flood.

(c) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(d) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

(4) Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Zoning Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

(5) Review of application by others. A copy of all plans and application for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., municipal engineer, etc.) for review and comment.

(6) Changes. After the issuance of a building permit by the Zoning Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Officer. Request for any such change shall be in writing and shall be submitted by the applicant to the Zoning Officer for consideration.

(7) Placards. In addition to the building permit, the Zoning Officer shall issue a placard which shall be displayed on the premises during the time construction or development is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Zoning Officer.

(8) Start of construction and/or development.

(a) Work on proposed construction and/or development shall begin within six months and shall be completed within 12 months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing by the Zoning Officer. Construction and/ or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footing, piers, or foundations, erection of temporary forms, the installation of the piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

(b) Time extensions shall be granted only if a written request is submitted by the applicant which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request.

(9) Inspection and revocation.

(a) During the construction or development period, the Zoning Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

(b) In the discharge of his duties, the Zoning Officer shall have the authority to enter the building, structure, premises or development in the identified flood-prone area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.

(c) In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant,

the Zoning Officer shall revoke the building permit and report such fact to the Borough Council for whatever action it considers necessary.

(d) A record of all such inspections and violations of this chapter shall be maintained.

(e) The requirements of 34 Pa. Code, Chapters 401 through 405, and the 2009 International Building Code and 2009 International Residential Building Code, or latest revisions thereof pertaining to elevation certificates and record retention, shall be considered.

(10) Fees. Applications for a building permit shall be accompanied by a fee, payable to the Borough and based on the Borough's adopted fee schedule.

(11) Appeals. Appeals shall be in accordance with Article XX and Article XXI of this chapter.

C. Identification of floodplain areas.

(1) Identification. The identified floodplain area shall be those areas of West Grove Borough, Chester County, Pennsylvania, which are subject to the one-hundred-year flood, as identified in the Chester County Flood Insurance Study (FIS) dated September 29, 2006 and the accompanying maps as prepared by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

(2) Description of floodplain areas/district. The identified floodplain area shall consist of the following specific areas:

(a) FW (Floodway Area). The areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA). The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

(b) FF (Flood-Fringe Area). The remaining portions of the one-hundred-year floodplain in those areas identified as an AE Zone in the Flood Insurance study, where a floodway has been delineated.

(c) The basis for the outermost boundary of this area shall be the one-hundred-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

(d) FA (General Floodplain Area). The areas identified as Zone A in the FIS for which no one-hundred-year flood elevations have been provided. When available, information from other federal, state, and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain

area which is nearest the construction site in question.

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

(3) Changes in identification of area. The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from FEMA.

(4) Boundary disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough Zoning Officer and any party aggrieved by this decision may appeal to the Borough Council. The burden of proof shall be on the appellant.

D. General technical requirements.

(1) General.

(a) In the identified floodplain area, the development and/or use of any land shall be permitted, provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the Borough.

(b) Within any FW (Floodway Area), the following provisions apply:

[1] Within any FW (floodway area), no new construction, development, use, activity, or encroachment shall be permitted that would cause any increase in the one-hundred-year flood elevation.

[2] No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection.

(c) Within any identified (FA General Floodplain Area) floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.

(2) Elevation and floodproofing requirements.

(a) Residential.

[1] Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially

improved residential structure shall be 1 1/2 feet or more above the one- hundred-year flood elevation.

[2] The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the most recent revisions thereof, and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

(b) Nonresidential. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be 1 1/2 feet or more above the one- hundred-year flood elevation or be floodproofed up to that height.

[1] Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least 1 1/2 feet above the one-hundred-year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the United States Army Corps of Engineers (June 1972, as amended), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction or development are in conformance with the above-referenced standards.

[2] The design and construction standards and specifications contained in the 2009 International Building Code (IBC), or the most recent revision thereof, and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized.

(c) Enclosed areas.

[1] Fully enclosed areas below the lowest floor (including basement) are prohibited.

[2] Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces. Designs for meeting this requirement must either be certified by a registered

professional engineer or architect, or meet or exceed the following minimum criteria:

[a] A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.

[b] The bottom of all openings shall be no higher than one foot above grade.

[c] Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

[3] Consideration may be given to the requirements of 34 Pa. Code (Chapters 401 through 405, as amended) and the 2009 International Residential Building Code and the 2009 International Building Code, or most recent revisions thereof.

(d) Accessory structures. Structures accessory to a principal building shall not be permitted within identified floodplain areas.

(3) Design and construction or development standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

(a) Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401 through 405, as amended), and not limited to the following provisions shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and/or supplement the requirements of this chapter:

[1] International Building Code (IBC) 2009 or most recent revisions thereof.

[2] International Residential Building Code (IRC) 2009 or most recent revisions thereof.

(b) Fill. If fill is used, it shall:

[1] Extend laterally at least 15 feet beyond the building line from all points.

[2] Consist of soil or small rock materials only; sanitary landfills shall not be permitted.

[3] Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

[4] Be no steeper than one vertical foot to two horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the Zoning Officer.

[5] Be used to the extent to which it does not adversely affect adjacent properties. The provisions contained in the International Building Code shall be utilized.

(c) Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties. The provisions contained in the 2009 IBC or most recent revisions shall be utilized.

(d) Water and sewer facilities and systems.

[1] All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.

[2] Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.

[3] No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

[4] The design and construction provisions of the UCC and 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the International Building Code, the 2009 International Residential Building Code or most recent revisions thereof, the American Society of Civil Engineers 24-98 (Sec. 8.3), FEMA # 348, Protecting Building Utilities From Flood Damages, and The International Private Sewage Disposal Code shall be utilized.

(e) Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

(f) Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.

(g) Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 400-66D(4), Development which may endanger human life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible. All other storage shall be completely enclosed within a dry floodproofed structure or shall be stored in a properly elevated area in accordance with this section.

(h) Placement of buildings and structures. All buildings and structures shall

be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.

(i) Anchoring.

[1] All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

[2] All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

[3] The design and construction requirements of the UCC pertaining to this Subsection as referred to in 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the 2009 IBC or most recent revisions thereof, the IRC (and American Society of Civil Engineers 24-98 (Sec. 5.6) shall be utilized. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

(j) Floors, walls and ceilings.

[1] Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural change to the building.

[2] Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.

[3] Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.

[4] Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

[5] The provisions of the Uniform Construction Code pertaining to this subsection and referenced in the 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the 2009 International Building Code or most recent revisions thereof, the 2009 International Residential Building Code or most recent revisions thereof and American Society of Civil Engineers 24-98 (Chapter 6) provisions shall apply.

(k) Paints and adhesives.

[1] Paints or other finishes used at or below the regulatory flood

elevation shall be of "marine" or "water-resistant quality."

[2] Adhesives used at or below the regulatory flood elevation shall be of a marine" or water resistant quality.

[3] All wooden components (doors, trim, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.

[4] The standards and specifications contained in 34 Pa. Code (Chapters 401 through 405, as amended), the 2009 International Building Code or most recent revisions thereof, and the 2009 International Residential Building Code or most recent revisions thereof provisions shall apply.

(l) Electrical components.

[1] Electrical distribution panels shall be at least three feet above the one-hundred-year flood elevation.

[2] Separate electrical circuits shall serve lower levels and shall be dropped from above.

[3] The provisions pertaining to the above provisions and referenced in the UCC and 34 Pa. Code (Chapters 401 through 405, as amended) and contained in the 2009 International Building Code or most recent revisions thereof, the International Residential Building Code, the 2009 International Fuel Gas Code or most recent revisions thereof and American Society of Civil Engineers 24 (Chapter 8), shall be utilized.

(m) Equipment.

[1] Water heaters, furnaces, air-conditioning and ventilating units, other mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

[2] The provisions pertaining to the above provision and referenced in the UCC and 34 Pa. Code (Chapters 401 through 405, as amended), and contained in the 2009 IBC or most recent revisions thereof, the 2009 IRC or most recent revisions thereof, the 2009 International Fuel Gas Code or most recent revisions thereof, and American Society of Civil Engineers 24 (Chapter 8) shall be utilized. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

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

(4) Development which may endanger human life.

(a) In accordance with the Pennsylvania Flood Plain Management Act,[5] and the regulations adopted by the Department of Community and Economic Development (DCED) as required by the Act, any new or substantially improved structure which: (1) will be used for the production or storage of any of the following dangerous materials or substances; (2) will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; (3) will involve the production, storage, or use of any amount of radioactive substances, shall be subject to the provisions of this section, in addition to all other applicable provisions.

(b) The following list of materials and substances are considered dangerous to human life:

[1] Acetone.

[2] Ammonia.

[3] Benzene.

[4] Calcium carbide.

[5] Carbon disulfide.

[6] Celluloid.

[7] Chlorine.

[8] Hydrochloric acid.

[9] Hydrocyanic acid.

[10] Magnesium.

[11] Nitric acid and oxides of nitrogen.

[12] Petroleum products (gasoline, fuel oil, etc.). [13] Phosphorus.

[13] Potassium.

[14] Sodium.

[15] Sulphur and sulphur products.

[16] Pesticides (including insecticides, fungicides and rodenticides).

[17] Radioactive substances, insofar as such substances are not otherwise regulated.

(c) Within any FW (Floodway Area), any structure of the kind described in § 400-66D(4)(a) above shall be prohibited.

(d) Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in § 400-66D(4)(a) above shall be:

[1] Elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the one-hundred-year flood.

[2] Designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood.

[3] Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing regulations (United States Army Corps of Engineers, June 1972, as amended), or with some other equivalent watertight standard.

(5) Special requirements for manufactured homes.

(a) Within any FW (Floodway Area), manufactured homes shall be prohibited.

(b) Within any identified FA (General Floodplain Area), all manufactured homes and any additions thereto shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

[1] Where permitted within any identified floodplain area, all manufactured homes and additions thereto shall be:

[2] Placed on a permanent foundation.

[3] Elevated so that the lowest floor of the manufactured home is 1 1/2 feet or more above the elevation of the one-hundred-year flood.

[4] Anchored to resist flotation, collapse, or lateral movement.

[5] Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of the 2009 International Residential Building Code or most recent revisions thereof or the United States Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto, shall apply, and 34 Pa. Code Chapters 401 through 405. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

[6] Consideration shall be given to the installation requirements of the 2009 International Building Code or most recent revisions

thereof and the 2009 International Residential Building Code or the most recent revisions thereto and 34 Pa. Code Chapters 401 through 405, as amended, where appropriate, and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units' proposed installation.

E. Activities requiring special permits. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development (DCED) to implement the Pennsylvania Flood Plain Management Act,[6] the following activities shall be prohibited within any identified floodplain area in West Grove Borough:

(1) The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure, or lot used, or intended to be used, for any of the following activities:

(a) Hospitals.

(b) Nursing homes.

(c) Jails or prisons.

(2) The commencement of, or any construction or development of a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

F. Existing structures in identified floodplain areas.

(1) Existing structures. The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 400-66F(2) below shall apply.

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

(a) No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one-hundred-year flood.

(b) No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development, increase the one-hundred-year flood elevation more than one foot at any point.

(c) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.

G. Variances.

(1) General. If compliance with any of the requirements of this chapter would result in an exceptional hardship to a prospective builder, developer or landowner, West Grove Borough may, upon request, grant relief from the strict application of the requirements.

(2) Variance procedures and conditions. Requests for variances shall be considered by West Grove Borough in accordance with the procedures contained in Article XXI and the following:

(a) No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred-year flood elevation.

(b) Except for possible modification of the one-and-one-half-foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to § 400-66D(4), Development which may endanger human life.

(c) If granted, a variance shall involve only the least modification necessary to provide relief.

(d) In granting any variance, West Grove Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.

(e) Whenever a variance is granted, West Grove Borough shall notify the applicant in writing that:

[1] The granting of the variance may result in increased premium rates for flood insurance.

[2] Such variances may increase the risks to life and property.

(f) In reviewing any request for a variance, West Grove Borough shall consider, at a minimum, the following:

[1] That there is good and sufficient cause.

[2] That failure to grant the variance would result in exceptional hardship to the applicant.

[3] That the granting of the variance will:

[a] Not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.

[b] Not create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulation.

(g) A complete record of all variance requests and related actions shall be maintained by West Grove Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

(h) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

ARTICLE XVI
General Regulations

§ 400-67. Applicability.

This article contains regulations that are common to all zoning districts, unless stated as pertaining to a specific district or use herein. These regulations shall apply in addition to those established by the individual zoning districts. In the event that the requirements of this article conflict with other regulations within this chapter, the more restrictive requirement shall apply.

§ 400-68. Buildings, structures, lots, and yards.

All buildings, structures, lots, and yards shall, in addition to the applicable district regulations, comply with the following regulations, as applicable. See Figure 16-1.

A. Buildings and structures.

(1) More than one principal structure shall be permitted on a lot provided the applicable area and bulk requirements of the applicable district are met for each structure.

(2) Exception of more than one principal use. Except as permitted in the C-1, C-2, C-4, E&P Overlay, and LI Zoning Districts, and/or where mixed use is a permitted use, only one principal use shall be permitted in a single structure.

(3) One or more accessory structures may be located on a lot, subject to the district regulations and in accordance with Article XVIII, Supplemental Uses.

(4) Building height. No building or structure in any zoning district shall exceed the height limitations of the applicable district. The height limitations of this chapter shall not apply to spires, belfries, cupolas, and domes not intended for human occupancy; monuments, observation towers, transmission towers, chimneys, smokestacks, flagpoles, radio and television towers, and masts except as regulated otherwise by this chapter.

(5) Minimum habitable floor area. The minimum habitable floor area of a dwelling unit shall be in accordance with the building code for the Borough of West Grove (UCC) and other applicable requirements of this chapter.

B. Lots. See Figure 16-1.

(1) Not more than one principal use shall be permitted on a lot, except as permitted in the C-1, C-2, C-4, E&P Overlay, and LI Zoning Districts and/or where mixed use is a permitted use.

(2) No lot shall be reduced in size so that the minimum lot area and/or dimensional requirements of this chapter are no longer met.

(3) Every principal structure shall be built upon a lot with frontage upon a public or private street improved to meet Borough regulations or for which such

improvements have been ensured by the posting of a performance guarantee pursuant to Chapter 350, Subdivision and Land Development.

(4) Minimum lot width. No principal structure shall be erected on any part of a lot which has a width less than the width required in the applicable zoning district.

(5) An existing lot that does not comply with the minimum lot area requirements shall not be subdivided.

(6) A lot that does not comply with the minimum dimensional requirements shall not be subdivided to further increase the nonconformity or create a new nonconforming condition.

(7) Corner lots.

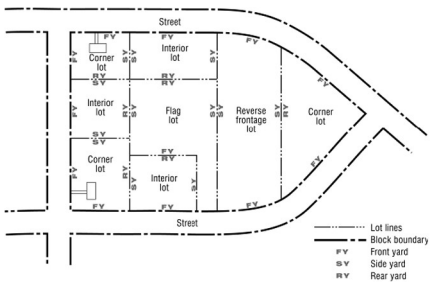
(a) On corner lots, any yard abutting a street shall meet the minimum required front yard for the applicable zoning district and shall be subject to all front yard requirements of this chapter.

(b) The minimum lot width requirements shall be applied to the street frontage to which the front of the primary structure or structures faces which shall be determined by the street for which the lot is addressed by the Borough.

(c) The yard opposite the front of the primary structure or structures established by § 400-68B(7)(b), above, shall be a rear yard and the remaining yard shall be a side yard.

(d) Corner lots shall comply with the requirements of § 400-70, Visibility at intersections.

Figure 16-1: Lots



(8) Flag lots. Flag lots shall be permitted by conditional use in accordance with the following regulations:

(a) Flag lots shall contain a lot area equal to the minimum required lot area of the zoning district in which the lot is located. The area of the access strip (stem) shall not be included in the calculations of the required minimum lot area.

(b) Access strip (stem).

[1] A flag lot shall be connected to an existing or proposed road by an access strip (stem) which shall have a minimum width of 25 feet measured from the existing street line of the road being accessed for the full length of the access strip (stem) to the point where the lot first obtains the required minimum lot width.

[2] Such access strip (stem) shall be owned in fee as part of the lot and not by way of a grant or right-of-way, easement, license, or similar grant. As such, shared driveways for flag lots shall not be permitted.

(c) The front yard for a flag lot shall be measured from the point where the lot first obtains the minimum required lot width for the district in which the lot is located.

(9) Reverse frontage lots (through lots).

(a) Any yard abutting a street shall meet the minimum required front yard for the applicable zoning district and shall be subject to all front yard requirements of this chapter. Remaining yards shall be side yards.

(b) The minimum lot width requirements shall be applied to the street frontage to which the front of the primary structure or structures faces, which shall be determined by the street for which the lot is addressed by the Borough.

C. Yards. See Figure 16-2.

(1) Where a minimum depth of a front, side, or rear yard setback is required as specified by the area and bulk requirements in the zoning districts, an open space a minimum of the specified depth shall be provided between the street line(s) or lot line(s) and the nearest point of any building or structure, except when permitted or otherwise specified elsewhere in this chapter.

(2) Side yards shall not be required for buildings or structures on adjacent lots or on a lot where such structures are connected by party walls where permitted by this chapter.

(3) Space provided to satisfy the yard and area requirements for any building or structure, either existing or proposed, shall not be used to meet the yard and area requirements for any other building or structure.

(4) Projection into yards. All required yards shall be unobstructed except as follows:

(a) No structure or any other item or property shall be placed so it that intrudes upon the required clear sight distance at a street intersection in accordance with § 400-70.

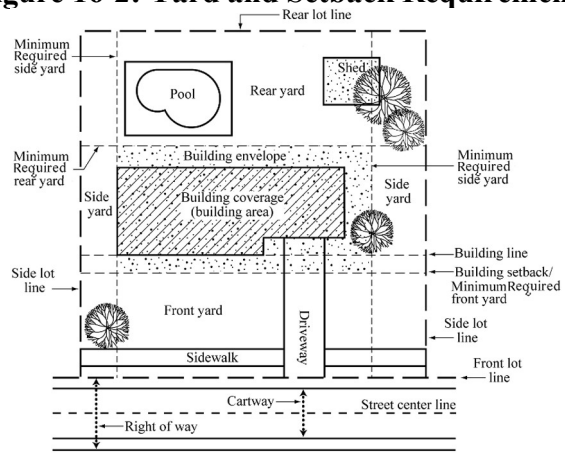
(b) Uninhabited structures, including sheds not used for automobile storage, arbor, open trellis, flagpole, lamppost, driveway, sidewalk, patio, eves, or unroofed steps, shall be permitted within required yards and shall be

subject to setbacks otherwise required by this chapter.

(c) An awning or movable canopy may project into any yard not more than five feet, but shall not be closer than five feet from the property line.

(d) An open fire escape, unroofed porch, or deck shall not project more than six feet into any required yard and shall be a minimum of five feet from any lot line.

Figure 16-2: Yard and Setback Requirements



§ 400-69. Fence and wall requirements.

A. Fences. Fences may be erected, altered and maintained within and along the periphery of any required yards in accordance with the following:

(1) Residential Uses.

(a) Any fence in the front yard shall not exceed four feet in height; and any fence in the side or rear yard shall not exceed six feet in height.

(b) Transparency. Fences shall maintain a minimum one-to-one ratio (1 to 1 opacity or 50% light & air ratio) of open areas to structural members (for example picket wrought iron fence and post, rail fence with meshed fence backing, shadow-box, etc.).

(c) Fences which are erected in residential zoning districts or for residential uses may be comprised of the following materials: wood; split rail; wrought iron; composite; chain link; a combination of the aforementioned materials; or other materials at the discretion of the Zoning Officer, are recognized as standard materials utilized for residential fencing.

(2) Nonresidential and industrial uses.

(a) Fences shall not exceed eight feet in height.

(b) Fences which are erected in the nonresidential zoning districts or for nonresidential uses may be comprised of the following materials: wood; split rail; wrought iron; composite; chain link; a combination of the

aforementioned materials; or other materials which, in the discretion of the Zoning Officer, are recognized as standard materials utilized for nonresidential fencing.

(c) The use of razor or barb wire fencing shall only be utilized as part of a security fence for nonresidential uses.

B. Height exemption. Retaining walls or walls constructed to hold back or support an earthen berm shall be permitted and shall be exempted from said height requirements but shall apply to all other applicable codes and ordinances, including but not limited to the UCC.

C. No fence or wall shall be erected, installed, or constructed which:

(1) Obstructs sight distance at street intersections in accordance with § 400-70, whether public or private, or at the point where any driveway intersects a public or private street.

(2) Obstructs or impedes water flow in any perennial or intermittent stream, drainage easement, or other drainage course.

(3) Is located within a road right-of-way.

D. General Regulations.

(1) No fence or wall shall be constructed without filing a zoning permit and receiving approval from the Borough. Permits are available on the Borough website and at the Borough Hall.

(2) Ordinary and normal maintenance and/or repairs of a fence or wall in any zoning district shall not require the issuance of a permit.

(3) An existing fence or wall replaced in its entirety shall comply with the provisions by this section.

(4) Fences and walls shall be constructed so as to place structural members toward the property being enclosed by the fence, thereby presenting the best appearance towards adjacent property.

(5) Walls may be comprised of the following materials: decorative concrete block (such as E.P. Henry, Mesa, Keystone); brick; stone; concrete with a brick or stone veneer; or other materials which, in the discretion of the Zoning Officer, are recognized as suitable industry standards.

(6) Fences exceeding six feet in height also require building code review and permits in accordance with the UCC.

(7) Fences and walls shall be maintained in good repair, structurally sound and sanitary as not to pose a threat to public health, safety or welfare. Fences, walls or other barriers that serve as a swimming pool or spa barrier shall be maintained as per the Pennsylvania Uniform Construction Code/UCC.

§ 400-70. Visibility at intersections.

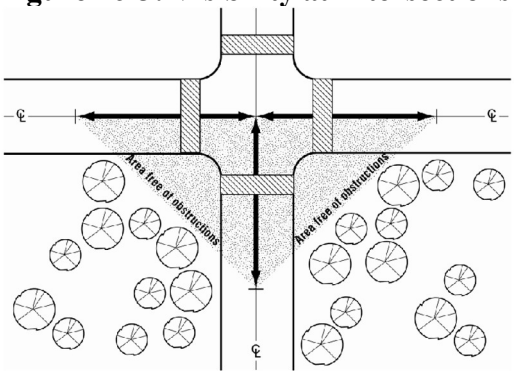
A. At street intersections or at a point of entry on a public road, nothing shall be erected, placed or allowed to grow in a manner which obscures vision in accordance with this section. See Figure 16-3.

B. A clear sight triangle shall be maintained within which structures or vegetation shall be limited to a height of not more than 2 1/2 feet or less than 10 feet above the street grade measured from the center line of the intersecting streets or driveways, exempting the trunks of street trees or other ornamental trees whose foliage is kept trimmed to a minimum height of 10 feet above the street grade.

C. A clear sight triangle shall apply within the area bounded by the center line intersecting streets or accessways and a line joining points on these center lines 25 feet from their intersection.

D. Sight distance requirements for all intersections shall be in accordance with the Pennsylvania Code, Title 67, Transportation, Chapter 441, "Access to and Occupancy of Highways by Driveways and Local Roads," latest revision. Plans shall indicate clear sight distances.

Figure 16-3: Visibility at Intersections



§ 400-71. Lighting.

The intent of the regulations in this section is to minimize the off-site impact of lighting while providing for lighting that is sufficient for safe use of a property. The following regulations shall apply in regard to outdoor lighting in the Borough:

A. Purpose.

(1) Provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns.

(2) Protect drivers and pedestrians from the glare of nonvehicular light sources.

(3) Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.

(4) Promote energy efficient lighting design and operation.

B. Applicability.

(1) Outdoor lighting shall be required for the purpose of safety and personal security in areas of public assembly and traverse, including but not limited to:

(a) Parking areas of multifamily, commercial, institutional and industrial uses.

(b) Loading facilities.

(c) At the ingress and egress of parking areas.

(d) At street intersections.

(e) The Borough Council may require or permit lighting to be incorporated for other uses where security and safety reasons warrant.

(2) The requirements herein apply to all uses and situations mentioned above, including but not limited to signs, security, landscaping, and residential lighting.

C. Plan submission.

(1) Lighting plans shall be submitted to the Borough for review and approval with all applications for building permits, a change in use, and subdivision and land development plans. The required lighting plan shall include the following information:

(a) A site plan containing a layout of the proposed fixture locations and type.

(b) Catalogue cuts and photometrics for each light fixture, the method of energizing each light fixture, a listing of the hours of operation and a plan showing the photometrics for the entire site, based upon the proposed placement of the light fixtures. A description of glare-reduction devices, lamps, control devices, mounting heights, pole foundation details, and mounting methods, as appropriate for each fixture, should also be included.

(2) Post-approval alterations to lighting plans shall be submitted to the Borough for review and approval.

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

D. Illumination levels. Lighting, where required by this chapter, shall have intensities and uniformity ratios in accordance with, but not limited, to Figure 16-4.

Figure 16-4: Illumination Levels		
Use/Task	**Illumination (average)***	**Uniformity Ratio** (average per minute)**
Pedestrian walkways	0.2 to 0.4 avg.	5:1
Local commercial streets: intersections of streets-parking areas	0.4 to 1.0 avg.	6:1
Local residential streets: intersection of streets-parking areas	0.4 to 0.6 avg.	4:1
Parking: multifamily	0.6 min. to 0.8 max.	4:1
Parking: commercial/industrial	0.6 min. to 1.2 max.	4:1
Illuminated signs	0.6 to 1.0 avg.	6:1
Recreational uses/parks	0.6 to 0.8 avg.	4:1

NOTES:

* Illumination levels are maintained horizontal footcandles on the task, e.g., pavement or area surface.

** Uniformity ratios dictate that average illumination values shall not exceed minimum values by more than the product of the minimum value and the specified ratio [e.g., for commercial parking, high activity, the average footcandles shall not be in excess of 3.6 (0.9 x 4)].

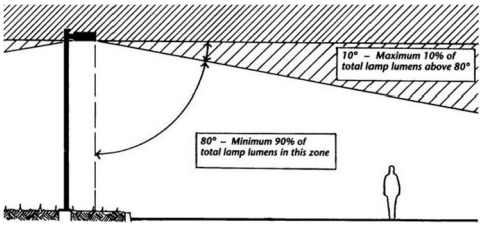
avg. - Average; Min. - Minimum; Max. - Maximum

E. Design requirements.

(1) Fixtures shall be of a type and design appropriate to the lighting application and shall otherwise comply with the UCC.

(2) Unless otherwise specified elsewhere within this chapter, for the lighting of predominantly horizontal surfaces such as, but not limited to, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive fuel-dispensing facilities, loading docks, active and passive recreational areas, building entrances, sidewalks, paths, site entrances and parking areas, fixtures shall be aimed straight down and shall meet IESNA "full-cutoff" criteria (no light output emitted above 90° at any lateral angle around the fixture and no more than 10% light output above 80°). See Figure 16-5.

Figure 16-5: Full-Cutoff Lighting



(3) For the lighting of nonhorizontal (vertical) surfaces, including but not limited to facades, landscaping, signs, billboards, fountains, displays, flags and statuary, the use of floodlighting, spotlighting, wall-mounted fixtures and other fixtures not meeting IESNA full-cutoff criteria, the following requirements shall apply:

(a) Lighting fixtures shall be installed and aimed so their output is not projected into the windows of adjacent uses, past the object being illuminated, skyward, or onto a public roadway.

(b) When necessary to redirect offending light distribution, fixtures shall be equipped with light-directing devices such as shields, visors, or hoods as approved by the Borough Council, based upon acceptable glare control and their consistency with the character of the surrounding area.

F. Control of glare.

(1) Floodlighting and outdoor lighting in all districts, whether or not required by this chapter.

(a) Shall not be aimed, installed, or directed so as to project into the windows of neighboring residential uses, and shall not be directed skyward or onto a roadway.

(b) Shall be diffused, directed, shielded, located, designed, and maintained in such a manner as not to present any hazardous situations for passing vehicular or pedestrian traffic or create a nuisance by objectionable light projected beyond its lot line onto a neighboring use or property.

(2) All fixtures shall be equipped with light directing or shielding of a type and design appropriate to the lighting application, for the purpose of redirecting offending light or reducing direct or reflected glare, and no glare shall be discernible beyond its lot line onto adjacent properties.

(3) The intensity of illumination projected onto a residential use from another property shall not exceed 0.1 vertical footcandle, measured line-of-sight at the property line.

(4) Vegetation screens shall not serve as the primary means for controlling glare. Rather, glare control shall be achieved through the use of full-cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

(5) Nighttime lighting.

(a) All nonessential lighting, including display, aesthetic, parking, and sign lighting, shall be required to be turned off or reduced by 75% within one hour of close of business or 11:00 p.m., whichever is earlier, and dawn, leaving only the necessary lighting for site security or continued advertising through lighted signs as approved by the Borough.

(b) Where all-night safety or security lighting is deemed necessary, the lighting intensity levels shall generally not exceed 25% of the levels permitted by this section, but in no case shall they be less than the minimum levels for safety or security as invoked by IESNA.

(c) The use of automatic switching devices, timers, motion detectors, and photocells is encouraged for extinguishing lighting.

(6) No outdoor lighting shall have blinking, flashing, or fluttering lights or devices that cause changing intensity, brightness, or color, except for seasonal decorative lighting.

(7) Externally illuminated signs shall be lit by fixtures mounted at the top of the sign or billboard and aimed downward. The fixtures shall be designed, fitted and aimed to place the light output on and not beyond the sign or billboard.

(8) Except for public streetlights and traffic signals, freestanding light fixtures shall not exceed 20 feet in height.

(9) All lighting requirements and necessary equipment shall meet the requirements of the appropriate utility.

(10) All outdoor lighting fixtures and ancillary equipment shall be maintained as to continuously meet the requirements of this chapter.

G. Installation.

(1) Electrical feeds for lighting shall be run underground not overhead.

(2) Pole-mounted fixtures for lighting horizontal tasks shall be aimed straight down.

H. Nuisance glare and inadequate illumination levels.

(1) When the Borough judges an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this chapter, the Borough may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.

(2) If the infraction so warrants, the Borough may act to have the problem corrected as in § 400-71H(1) above at the expense of the owner violating the chapter.

§ 400-72. Outdoor storage.

A. All outdoor storage shall be completely screened or hidden from view from any public right-of-way, a contiguous residential use, or property zoned for residential use. Screening shall consist of evergreen plants or an architectural screen in accordance with § 400-73.

B. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide definite areas within the required parking space areas for storage of said carts. Each designated storage area shall be clearly marked for storage of shopping carts. Such signs indicating storage shall not be considered as regulated by the sign controls listed in Article XIX. Each designated storage area shall be enclosed by a barrier a minimum of four inches higher than the parking area surface, and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during nonoperating hours.

C. All organic refuse or garbage shall be stored in durable, verminproof containers. In multifamily uses over four units, commercial, and industrial uses, garbage storage shall be centralized to expedite collection and screened from adjacent uses.

D. Storage area.

   (1) Outdoor storage shall be permitted within the rear yard of any property.

   (2) Outdoor storage shall not exceed 50% of the rear yard area.

   (3) Outdoor storage shall be screened from adjacent properties in accordance with § 400-73 and Chapter 350, Subdivision and Land Development.

E. Vehicles and vehicle parts.

   (1) No more than one unregistered, uninspected and unlicensed vehicle of any kind shall be permitted per owner/per lot in the driveway for the property.

   (2) No vehicle shall be stored on blocks or in a constant state of disrepair for more than 60 continuous days unless covered by automobile cover, which shall not consist of a tarp or other similar cover that is not specifically designed or fitted to cover a vehicle.

F. Storage of boats, trailers, or recreational vehicles (RVs, ATVs) shall be permitted behind the building line.

G. Outside storage or display shall not occupy any part of the street right-of-way, area intended or designed for pedestrian use, required parking area, or required front yard except as specifically permitted herein.

H. Outdoor display. In the C-1 Town Center Zoning District, merchandise available for retail sale may be displayed in a neat and orderly fashion outside of the building of the retail establishment that is selling the merchandise, provided:

   (1) No merchandise shall be placed within four feet of the edge of cartway.

   (2) A four-foot-wide clear sidewalk path shall be maintained at all points.

(3) No merchandise shall be displayed outdoors that is pornographic, includes explicit depictions of violence, or is otherwise unsuitable for viewing by children.

(4) No merchandise shall be displayed outdoors in a manner that is intended to or has the effect of interfering with pedestrian or vehicular traffic or is distracting to motorists.

(5) The outdoor display of merchandise shall not interfere with the sight lines of traffic and shall not impair the visibility of any public or private sign.

(6) The merchandise shall not be placed within required parking spaces.

(7) No merchandise shall be displayed outdoors in a manner that will result in the merchandise falling into the street or sidewalk, blowing, spilling, or otherwise becoming disorderly, hazardous or a nuisance.

(8) No additional signage in excess of that approved for the property shall be attached to or placed in conjunction with the merchandise being displayed.

(9) Any merchandise that is placed on the public sidewalk or right-of-way in violation of this section or that otherwise constitutes a hazard to the public may be removed by the Borough Zoning Officer or police officer with or without notice to the owner.

(10) All merchandise displayed outdoors shall be removed and placed indoors at the close of business each day.

§ 400-73. Landscaping, buffering and screening.

Landscaping, buffering, and screening as required herein shall be in accordance with § 350-37 of Chapter 350, Subdivision and Land Development.

§ 400-74. Access and traffic control.

To minimize traffic congestion and hazard and encourage the orderly development of street frontage, the following regulations shall apply:

A. All lots shall be direct access to a public or private street.

B. Unless clearly impractical, no driveway shall be situated within five feet of a side property line, except where shared or common driveways are permitted.

C. Lots abutting two or more streets. Unless clearly impractical or inappropriate from a safety or traffic planning perspective, lots which abut two or more streets shall have their primary access from the street of lesser functional classification as defined by as identified by Chapter 350 Attachment 2, the Borough Comprehensive Plan or other Borough document, code, or ordinance, in accordance with traffic counts, or as determined by Borough Council.

D. All accessways to any public street or highway shall be located a minimum of 40 feet from the intersection of any street line, and shall be designed in a manner conducive to safe ingress and egress.

E. The developer shall be responsible for the construction of any necessary traffic control devices, acceleration or deceleration lanes, or other roadway modifications or features required by the Pennsylvania Department of Transportation or the Borough Engineer for ingress or egress to any public street.

§ 400-75. Off-street parking and loading.

Off-street parking and loading shall be required for all uses and shall be in accordance with Article XVII.

§ 400-76. Performance regulations.

A. Applicability.

(1) All uses shall comply with the requirements of this section. The regulations established in this section are designed to prevent dangerous or objectionable hazards or conditions which would be adverse to the health, safety and welfare of Borough residents.

(2) In no instance shall any use or activity be permitted which by reason of noise, dust, odor, appearance, smoke, glare or other objectionable factor creates a nuisance, hazard, or other adverse effect upon the value or reasonable enjoyment of the surrounding properties, in accordance with this section.

(3) Compliance shall be determined by the Zoning Officer with respect to permitted uses, by the Zoning Hearing Board with respect to special exceptions, and by the Borough Council in respect to conditional uses. In order to determine whether a proposed use will conform to the requirements of this chapter, the Borough may obtain a qualified consultant's report, whose cost for services shall be borne by the applicant.

B. Vibration. Vibrations detectable without instruments on neighboring properties in any district shall be prohibited, with the exception of temporary vibrations associated with new construction.

C. Air pollution. No pollution of air by ash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property or can cause soiling or property damage.

D. Fire and explosives protection. Fire protection and firefighting equipment, acceptable to the Board of Fire Underwriters, shall be readily available for any activity involving the handling or storage of flammable or explosive materials.

E. Glare and heat.

(1) Lighting devices which produce objectionable direct or indirect glare on adjoining properties or thoroughfares shall not be permitted. All lighting shall be in accordance with § 400-71.

(2) There shall be no emission or transmission of heat or heated air that is discernible at the lot line.

F. Nonradioactive liquid or solid wastes. There shall be no discharge at any point into

any public or private sewage disposal system or stream, or into the ground of any liquid or solid materials except in accordance with the laws and regulations of the United States, Commonwealth of Pennsylvania, Chester County and the Borough of West Grove.

G. Radioactivity or electrical disturbances. No activity shall emit radioactivity at any point or cause electrical disturbance adversely affecting the operation of radio or other equipment in the vicinity.

H. Noise. Noise emanating from a use shall not exceed the level of ordinary conversation at the boundaries of the lot. Short, intermittent noise peaks may be permitted, if they do not exceed normal traffic noise peaks at any point on the lot boundaries.

I. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

J. Erosion. No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties. Any earth disturbance activity shall be conducted in accordance with Chapter 350, Subdivision and Land Development.

K. Water pollution. Water pollution shall be subject to the requirements established by the Pennsylvania Department of Environmental Protection.

L. Stormwater.

(1) All development and construction within the Borough shall be in accordance with Chapter 342, Stormwater Management, of the Borough of West Grove.

(2) The ownership and maintenance responsibilities for stormwater management facilities serving all new development shall:

(a) Be clearly established and recorded in the Chester County office of Recorder of Deeds.

(b) Demonstrate that the person or entity intended to own and maintain such facilities will be capable of such maintenance and available for enforcement of such responsibilities.

(c) The documentation establishing such ownership and maintenance responsibilities shall be subject to the prior review by the Borough Solicitor and approval by Borough Council.

M. Every owner of any vacant lot shall keep the lot clean, free from garbage, litter, standing water, debris, and all things causing the property to be detrimental to the public health, safety, welfare or to the aesthetics of adjacent properties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

N. Any lot kept vacant for more than 180 days following the demolition of any buildings thereon shall be landscaped and thereafter maintained in good order. The lot shall be fenced as appropriate for public safety and aesthetics. All plant

material shall be watered, fertilized, pruned, kept clean from weeds and litter, and replaced if diseased, injured or dead, consistent with good horticultural practices. Such lots shall not be used for storage.

O. Trail requirements. Trail surface and cross section, including materials and thicknesses, shall be based on site specific conditions. Each trail design must be certified by a geotechnical engineer and must be reviewed and approved by the Borough Engineer and applicable federal, state, county and local agencies.

§ 400-77. Stripping of topsoil.

In all districts, topsoil or sod may be removed from a premises only in connection with the construction or alteration of a street, building, structure, or parking lot and grading incidental to such approved activity.

ARTICLE XVII
Off-Street Parking and Loading

§ 400-78. Purpose and applicability.

A. Purpose.

(1) Establish standards for the layout, design, location, and amount of off-street parking for land uses within the Borough.

(2) Provide appropriate parking and loading facilities for all permitted structures and uses while providing flexibility, recognizing the challenges of accommodating parking within an existing urban center that does not compromise or dominate the traditional building pattern and streetscape

(3) Promote the design and allocation of parking and loading facilities that enhances safety, convenience, and the pedestrian experience while reducing traffic congestion, circulation conflicts, and storm water impacts.

B. Applicability.

(1) Off-street parking and loading facilities shall be provided whenever:

(a) A new building is constructed or new use established.

(b) An existing use is changed to a use requiring different parking or loading facilities than the prior use.

(c) An existing building or use is altered or enlarged so as to change the amount of parking and loading spaces required.

(2) Buildings and uses in existence on the date of adoption of this chapter shall not be subject to the provisions of this Article, except as provided in § 400-78B(1) above.

(3) All land uses proposed subsequent to the adoption of this chapter shall be in conformance with this article.

(4) Off-street parking and loading facilities existing at the effective date of this chapter shall not subsequently be reduced below the requirements of this article, unless a reduction is otherwise permitted and approved in accordance with this Article.

(5) All parking and loading facilities required by this article shall be constructed and subsequently maintained in an attractive, safe, and functional manner for as long as the building or use which they are designed to serve remains in existence.

§ 400-79. Off-street parking.

A. General requirements.

(1) Location of required parking spaces.

(a) Required off-street parking spaces shall be located on the same lot as the principal use, unless otherwise provided by this article.

(b) Off-street parking spaces shall be located outside of the public right-of-way.

(2) Use of parking facilities. Parking facilities shall not be used for any use that interferes with the availability for the parking need it is required to serve, unless otherwise provided in this article.

(3) No storage of vehicles or motor vehicle repair other than emergency service shall be permitted in parking areas.

(4) Landscaping, buffering and screening shall be in accordance with § 400-73 and § 350-37 of Chapter 350, Subdivision and Land Development.

(5) Handicapped parking, access, curb ramps, and markings shall be in accordance with appropriate current laws, codes, and requirements including but not limited to editions of the international codes adopted by reference by the Uniform Construction Code (UCC), which is administered and enforced in the Borough by the Borough.

(6) Appropriate signage and pavement markings shall be incorporated to facilitate safety and clear functioning of traffic movements, including but not limited to exit and entrance, no parking, fire lane, stop, yield, crosswalks, one-way or two-way, disabled parking spaces, and other similar messages appropriate to parking facilities.

B. Nonresidential off-street parking requirements. (See § 400-79E for residential parking requirements.)

(1) Uses not specifically listed in § 400-79B(6) shall comply with the requirements for the most similar use listed in § 400-79B(6) as determined by the Borough Zoning Officer.

(2) Where a building or use contains or includes more than one type of use, the number of parking spaces required shall be the sum of the parking requirements for each separate use, unless a reduction is otherwise permitted and approved in accordance with this Article.

(3) Connected parking lots. Connected parking lots between adjacent uses may be permitted as follows: (See Figure 17-1)

(a) When parking lots are developed, they may be permitted and are encouraged to connect to parking lots on adjacent lots as follows:

[1] Where there is no existing parking lot on an adjacent lot, a parking lot may be constructed so that such connection may be made in the future if a parking lot is constructed on the adjacent lot.

[2] Where there is an existing adjacent parking lot, the connection

shall be subject to approval of the owner of the adjacent use.

[3] Adjacent parking lots shall be connected through aisles/traffic lanes.

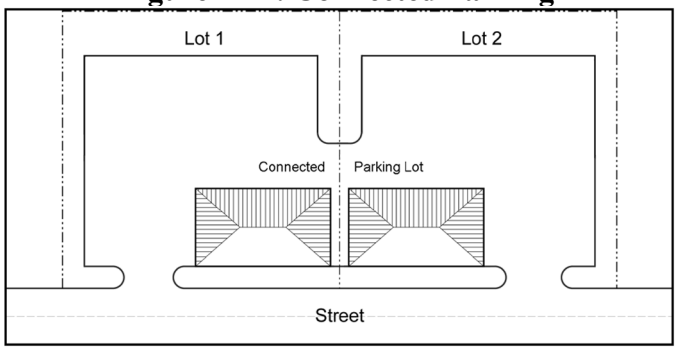
[4] Parking structures shall be exempt from this requirement.

(b) Access. When a new parking lot is developed adjacent to an existing parking lot and the required connections are constructed, existing access drives may be eliminated to reduce the access for the connected lots to the requirement for one lot. Any eliminated access drives may be repurposed for parking spaces.

(c) A common access agreement between adjacent uses shall be required and approved by the Borough to maintain the parking lots and the shared access. If a connection is removed due to development on one lot or other reason, the remaining parking lot(s) shall be required to meet access requirements for individual parking lots.

(d) Where when a new parking lot is constructed with a connection to an adjacent off-street parking lot, the total number of spaces required for the uses appliable to the connected lots may be reduced by a maximum of 15 percent by conditional use when authorized by Borough Council subject to Article XX, and the number of parking spaces and lots may be constructed in accordance with the approved standard.

Figure 17-1: Connected Parking



(4) Required off-street loading facilities shall not be used to satisfy the parking requirements listed in Figure 17-2 below.

(5) Required off-street parking facilities as accessory to uses listed herein shall be solely for the parking of passenger vehicles of patrons, occupants, or employees of each use.

(6) Off-street parking requirements.

(a) The off-street parking requirements in Figure 17-2 shall constitute the minimum spaces required for the following buildings and uses hereafter erected, converted or otherwise established in any district, unless otherwise reduced in accordance with §400-79B(6)(f), or other applicable provision of this Article.

(b) Where computations result in fractions, a fraction of 1/2 or more shall be rounded up, and a fraction of less than 1/2 rounded down.

(c) All ratios are expressed in number of required spaces per 1,000 square feet gross floor area (# spaces/1,000 gfa) unless otherwise specifically noted.

(d) In addition to the required parking spaces in this section, handicapped parking shall be located, designed and constructed in accordance with the applicable standards and provisions all local, state, and federal laws and codes, including but not limited to the currently adopted version of the UCC by the Borough.

(e) The following off-street parking requirements shall apply to all uses within the Borough (Figure 17-2):

Figure 17-2: Nonresidential Parking Requirements

Use	Parking Requirement (spaces/square feet gross floor area)
Accessory Use	No additional spaces required, except as otherwise required herein
Commercial Uses:	
Adult Use	4/1,000
Bank or financial institution	4/1,000 for area devoted to office/ administration and 5/1,000 for area devoted to customer service
Brewery/Distillery	Shall be in accordance with requirements for Restaurant as applicable to areas of a brewery, brewpub, microbrewery, nanobrewery, distillery, tap room, beergarden, tasting room, etc. accessible to patrons; any portion of a brewery dedicated to production (brewing, canning, bottling) shall comply with requirements for an industrial/manufacturing use
Private club or fraternal institution	1 space for every 3 seats provided for patrons, customers, members or guests, or 1 space per 3 persons permitted at the maximum capacity of the use as established by the Fire Marshal or other official mechanism, whichever is greater
Casino	1 space for every 2 seats provided for patrons or 1 space per 2 persons permitted at the maximum capacity of the use as established by the Fire Marshal or other official mechanism, whichever is greater
Cemetery	4/1,000 for area devoted to office
Crematorium	4/1,000 for area devoted to office/administration

Convenience store	10/1,000
Child day-care center (commercial day care	2/1,000 plus 1 space per 6 students/ attendees the facility is licensed, permitted, or intended to serve at maximum capacity
Funeral parlor or undertakers establishment	8/1,000
Grocery store	5/1,000
Home based business	See § 400-91
Laundromat	10/10,000 or 2 spaces per washing machine, whichever is greater
Kennel	4/1,000
Medical clinic	4/1,000 or 3 spaces per examining room, whichever is greater
Mixed use	Required spaces shall be the sum of all applicable uses, or in accordance with §400-95
Office (professional, business, etc.)	4/1,000
Personal service shop	3/1,000
Recreational use or facility; park or outdoor recreation:	
a. Indoor use (bowling, skating, etc.)	a. 6/1,000 or 1 space per 3 people permitted for the maximum capacity of the use as established by the Fire Marshal or other official mechanism, whichever is greater
b. Park or outdoor recreational use	b. 1 space per 4 visitors estimated peak service
Restaurant; Coffee shop:	5/1,000 for areas devoted to kitchen, guest reception plus 1 space for every 3 seats provided for patrons, customers, members, or guests as follows:
a. Where establishments provide benches instead of fixed individual seats	a. 3 linear feet of seating shall equal 1 seat
b. Where no fixed seats are used	b. 75 square feet of gross floor area shall equal 1 seat
Retail store	4/1,000
Smoke shop/Tobacco Store	4/1,000
Studio	3/1,000
Theater	1 space per every 3 seats plus 10/1,000 for foyer, customer service, or assembly areas.
Vehicle fueling station (gas station)	1 parking space for fueling and 2 stacking spaces per pump
Vehicle repair, or service	4/1,000 for office/retail space plus 2 spaces per service bay, however the internal space of a service bay shall not count towards parking requirements
Vehicle sales	3/1,000

Figure 17-2: Nonresidential Parking Requirements (continued)	
Use	**Parking Requirement (spaces/square feet gross floor area)**
Institutional Uses:	
Continuing care retirement center	2 spaces per administrative office, plus 1 space per room for residents, plus 1 space per residential dwelling unit where applicable
Educational use:	
a. Elementary or junior high school	a. 1.5 spaces per classroom plus 4/ 1,000 devoted to office or administration plus auditorium requirement
b. High school	b. 1 space per classroom plus 4/1,000 devoted to office or administration plus 1 space per 10 students in grades 11 and 12 plus auditorium requirement
c. Plus - Auditorium or gymnasium space for either use as applicable	c. 1 space per 4 fixed seats or 4 people permitted for the maximum capacity of the use as established by the Fire Marshal or other official mechanism, whichever is greater
Emergency services facility	1 space per staff or volunteer projected on the largest shift or the greatest capacity of the facility, whichever is greater
Institution; government; municipal use/facility	4/1,000 devoted to office or administration plus 1 space per every 2 seats of capacity for public meeting facilities
Library	3/1,000
Park or outdoor recreational use	See recreational use above under Commercial Use
Place of worship	4/1,000 devoted to office or administration plus 1 space per every 3 seats or 1 space per 3 people permitted for the maximum capacity of the use as established by the Fire Marshal or other official mechanism, whichever is greater
Post office	4/1,000 for area devoted to office/ administration and 6/1,000 for area devoted to customer service.
Wireless communication facility	2 spaces per facility
Youth activity center	5/1,000

Figure 17-2: Nonresidential Parking Requirements (continued)	
Use	**Parking Requirement (spaces/square feet gross floor area)**
Industrial/Manufacturing uses:	
Contractors establishment	4/1,000 for area devoted to office/ administration

Industrial/Commercial Mushroom Operation	4/1,000 for area devoted to office or administration and 2/1,000 for area devoted to storage, warehousing, processing, or similar use
Junkyard/Vehicle (Auto) Salvage	2 spaces per office located on the premises
Manufacturing	4/1,000 for area devoted to office/ administration and 2/1,000 for area devoted to manufacturing, processing and similar uses
Public utility operating facility	4/1,000
Research, engineering, or testing laboratory	4/1,000 for area devoted to office, administration, or research and 2/1,000 for area devoted to engineering or testing
Rail freight terminal	4/1,000
Truck freight terminal	2/1,000 plus 1 parking space for every 2 fleet vehicles stored and/or intended for operation in connection with said use
For all other uses not listed	The requirement for the most similar use shall apply as determined by the zoning officer or the applicant shall supply sufficient documentation to justify requested parking allocation in accordance with § 400-79B(6)(f)

(f) Where a specific use is not listed or the site conditions do not warrant the specified requirement in Figure 17-2, an applicant may request an alternative requirement by special exception subject to Article XXI and §400-136. Where a change in the number of required off-street parking spaces is considered, the applicant shall provide evidence to substantiate that the use does not warrant the spaces required by Figure 17-2 and the Zoning Hearing Board may approve a reduction in the spaces required. Evidence supplied by the applicant may include but is not limited to case studies on similar existing uses to that being proposed, parking space requirements provided by professional organizations widely accepted by the planning/engineering industry, or a traffic study created for the use and location in question.

C. General off-street parking regulations.

(1) The following regulations shall apply within all zoning districts:

(a) Off-street parking or loading facilities shall not be permitted in front of any primary building or structure except where otherwise permitted herein. All parking and loading facilities shall be located either to the side or rear of the principal structure and connected to the front sidewalk by pedestrian walkways or sidewalks. Alternative side or rear entrances to buildings are encouraged in addition to primary entrances along the street frontage.

(b) Front access to associated off-street parking facilities shall not be permitted on lots accessible from an alley or a side street of lower

functional classification as identified by Chapter 350 Attachment 2.

(c) Off-street surface parking shall not extend more than 60 feet in width along any street frontage.

(d) Not more than 130% of the required minimum parking requirement shall be permitted, unless otherwise provided by this chapter or when approved by special exception subject to §400-79B(6)(f), Article XXI, and §400-136.

(2) Off-site parking alternatives. Parking requirements shall be located on the same lot as the use for which the parking is required, except in cases where it is not feasible due to the Borough's small size and the limitations of lot sizes and space. The following alternatives for off-street parking are permitted by special exception, subject to Article XXI and § 400-136 of this chapter or as otherwise permitted by this chapter:

(a) Off-site parking. Required parking spaces may be accommodated off site on a different lot than the use for which they are required, provided: (See Figure 17-3)

[1] The owner(s) of the use(s) or structure(s) shall submit a plan to the Borough that includes a site plan and agreement showing use(s), ownership, maintenance responsibility, and location of the off-street parking facility.

[2] The parking facility fulfills the required parking for the use(s) with which it is associated.

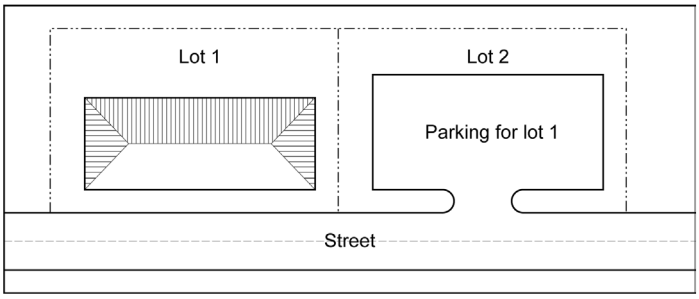
[3] Sidewalks for pedestrian safety are available between the parking lot and the associated use.

[4] The lot can be accessed by patrons where safe crossing streets are available through crosswalks or other similar means and are located within 300 feet of the building entrance(s) in which the use(s) is(are) located.

[5] Off-site parking facilities shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.

[6] The applicant(s) shall provide sufficient legal documentation to ensure the long-term availability of the parcel to be used for off-site parking. This may be in the form of a deed, lease, contract, easement or similar instrument, of which the form and duration shall be subject to the review of the Borough Solicitor and approved by the Zoning Hearing Board.

Figure 17-3: Off-Site Parking



(b) Shared parking. Required parking spaces for a place of worship, theater or other use open primarily outside of typical business hours may be provided and used jointly by banks, offices, retail stores, service establishments, and other similar commercial uses which are normally open, used or operated during typical business hours (8:00 a.m. to 5:00 p.m. Monday through Friday), according to the following provisions: (See Figure 17-4)

[1] The owner(s) of the use(s) or structure(s) shall submit a plan to the Borough that includes a site plan and agreement showing use(s), ownership, maintenance responsibility, and location of the off-street parking facilities.

[2] The sharing of parking shall be approved by the Borough Zoning Hearing Board which shall consider, among other criteria, the hours of operation of the uses which are sharing required parking spaces and the number of spaces involved.

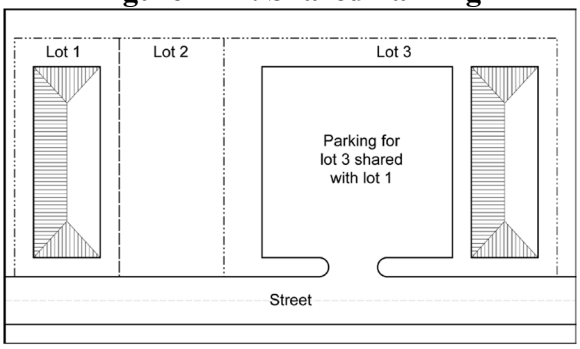
[3] A written agreement ensuring the retention of parking spaces for such sharing of required parking shall be properly drawn and executed by the parties concerned for review by the Borough Solicitor and approval of the Zoning Hearing Board. Such approval may be rescinded by the Borough, and additional parking shall be obtained by the owner of the use sharing the parking spaces to meet the required off-street parking standard in the event the Borough determines the joint use of parking results in a public nuisance or adversely affects the public health, safety, or welfare or if there is a change in use of the property that owns the parking lot being shared or other issue which results in negating the ability of the shared parking to fulfill the parking requirement for the use sharing the parking.

[4] The lot can be accessed by patrons where safe crossing streets are available and are located within 300 feet of the building entrance(s) in which the use(s) is(are) located.

[5] Sidewalks for pedestrian safety are available between the parking lot and the associated use.

[6] Shared facilities shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.

Figure 17-4: Shared Parking



(3) Fee-in-lieu. When approved by special exception subject to Article XXI and §400-136 a portion of the required off-street parking spaces for nonresidential uses may be reduced when a fee-in-lieu of some of the required parking spaces is approved in accordance with the following:

a. The Borough may authorize the payment of a one-time fee in lieu of the actual creation of some of the required parking by the applicant.

b. The amount of the fee shall be specified in the parking fee schedule adopted by resolution of the Borough Council. All fees collected and all interest earned thereon shall be placed in the Borough General Fund. Such fees and interest shall be used only for the acquisition and/or lease of land or the improvement of land owned or leased by the Borough for off-street parking within the Borough and the installation of off-street parking on such land. Such collected fees shall be expended for the purposes set herein within ten (10) years of the receipt thereof.

D. Design of off-street parking facilities.

(1) Parking space and traffic aisle design.

(a) Off-street parking spaces with proper and safe access shall be provided, either within a structure or in the open, to serve the use or uses for which it is designed.

(b) Parking spaces shall be a rectangular block containing a minimum of nine feet wide by 18 feet long, exclusive of access driveways, aisles and maneuvering space. Not more than two feet of a parking space may overhang a perimeter buffer, so long as such overhang does not intrude into a right-of-way or pedestrian walkway, and for such spaces, the area directly below the overhang need not be paved.

(c) Individual parking spaces shall be clearly marked by durable white or yellow striping a minimum of four inches in width.

(d) Each required off-street parking space shall open directly upon an aisle,

or an access driveway to provide safe and efficient means of vehicular access to such parking space in accordance with applicable standards.

(e) Off-street parking shall be permitted head-in only in accordance with the following:

Angle of Parking Row				
	30°	**45°**	**60°**	**90°**
Depth of parking row (feet)	17	20	21	18
Width of parking space (feet)	9	9	9	9
Depth of aisle one-way (feet)	11	18	20	24

NOTE: * All two-way aisles shall be 25 feet in width.

(f) On-street parking shall be permitted and may include head-in angled parking in accordance with § 400-79D(1)(e) or parallel parking. Parallel parking spaces shall be a minimum of seven feet wide and 22 feet in length.

(2) Parking lot access and traffic control.

(a) All parking lot and access driveways shall be constructed and maintained to provide safe and orderly access to a street, alley, or other approved access driveway, at all times.

(b) Accommodation of off-street stacking of vehicles waiting to enter or exit the parking facility shall be required, and a minimum one stacking space shall be provided.

(c) Interior drives and aisles shall be designed to prevent blockage of vehicles entering or leaving the site. Interior drives and aisles within parking lots separating rows of parking spaces shall have a minimum width of 12 feet for one-way use and maximum width of 25 feet for two-way use and shall be clearly defined by means of painted lines, curbing, or landscaping.

(d) Provisions for clear sight distance in § 400-70, Visibility at intersections, shall apply to all access points and access driveways to parking lot.

(e) Parking areas shall be designed to permit each vehicle to proceed to and from a parking space without requiring the moving of any other vehicle.

(f) No parking lot or space, except for permitted access driveways, shall directly abut a street, and shall at a minimum be separated from the street by a curb or vertical barrier except for access driveways. No off-street parking shall be designed so that a vehicle is required to back into a public street in order to leave the parking lot or space.

(g) The following shall be required for parking lots with 20 spaces or greater:

[1] Parking lots shall be divided so interior drives, access aisles, and parking spaces are clearly defined, and that moving traffic will be confined to designated drives and aisles.

[2] Parking lots shall be separated from the street by a permanent raised curb, landscaped buffer, or other area as required by § 400-73 of this chapter and § 350-37 of Chapter 350, Subdivision and Land Development.

(h) Access to parking lots shall be provided by a common access driveway to an alley or on the street of lowest functional classification as identified by Chapter 350 Attachment 2 or as otherwise designated, unless clearly impractical.

(i) For the purposes of servicing any property, a maximum of two access driveways shall be permitted for each use, unless otherwise permitted herein.

(3) Lighting. Lighting of parking lots shall be in accordance with § 400-71. All access driveways, aisles, maneuvering spaces, and parking spaces shall be adequately illuminated.

(4) Construction of off-street parking.

(a) All parking spaces, aisles, access driveways, and lots shall be constructed of an all-weather surface approved by the Borough Engineer.

(b) Parking spaces, aisles, access driveways, and lots may be constructed of a permeable surface, subject to approval by the Borough Engineer.

(c) All off-street parking facilities shall be accompanied by a plan prepared by a Pennsylvania licensed engineer, surveyor, or landscape architect incorporating stormwater management design as applicable, which shall be approved by Borough Council.

(d) Parking spaces, aisles, access driveways, and lots shall have a minimum slope of 1% and a maximum slope of not greater than 5%.

(e) Parking facilities shall be designed to prevent pooling or flooding of parking areas, with drainage designed in an acceptable manner to prevent problems off site with flooding, water flow, or erosion, as approved by the Borough Engineer and in compliance with Chapter 350, Subdivision and Land Development, and Chapter 342, Stormwater Management.

(5) Pedestrian circulation. When off-street parking facilities are constructed or modified, existing sidewalks or the installation of sidewalks or other pedestrian facilities as necessary or desirable shall be constructed to achieve the following:

(a) To logically continue, link, or expand existing pedestrian facilities on, across, and abutting the site.

(b) Provide convenient and logical connections between the entrance of a principal building and its required parking spaces, in conjunction with required landscaped islands or buffer using sidewalks or internal walkways which shall be a minimum of 5 feet wide and may be delineated by painted markings, curbs, wheelstops, or combination thereof, as approved by the Borough engineer and according to Chapter 350, Subdivision and Land Development.

(c) The installation of marked and signed crosswalks across access drives, travel lanes, or aisles is required to facilitate safe travel of pedestrians to and from parking spaces.

E. Residential parking requirements.

(1) Parking requirements. Unless otherwise required within this chapter, required minimum parking spaces for residential units shall be in accordance with Figure 17-5, with proper and safe access from a street, shall be provided for each residential dwelling either within a driveway or off-street parking lot or space. The required parking space for each vehicle shall be a minimum of nine feet by 18 feet in size. Parking spaces shall have a stable and usable all-weather surface and shall have a safe and convenient access, in all seasons, from the street and dwelling. Off-street parking for multifamily dwellings, townhouses, and within mixed use buildings shall be in accordance with §400-95, 400-97, 400-107, 400-108 and 400-109.

(2) Location. For detached and semidetached dwellings and townhouses, the required parking spaces shall be located on the lot with the dwelling except where otherwise permitted by this chapter. No required parking shall be on a street or within a street right-of-way and shall be at least five feet from all street rights-of-way. All required residential parking in parking lots shall be located within 100 feet of the dwelling it is provided for except as provided in § 400-95, 400-97, 400-107, 400-108 and 400-109.

(3) For attached and multifamily residential developments or when there is a mixed-use building or development proposed with residential units, an applicant may request an alternative requirement to the specified requirement in Figure 17-5 by special exception subject to § 400-136 of this chapter. Where a change in the number of required off-street parking spaces is considered, the applicant shall provide evidence to substantiate that the use does not warrant the spaces required by Figure 17-5 and the Borough Zoning Hearing Board may approve a reduction in the spaces required. Evidence supplied by the applicant may include but is not limited to case studies on similar existing uses to that being proposed or parking space requirements provided by professional organizations widely accepted by the planning/engineering industry.

Figure 17-5: Residential Parking Requirements	
Residential Use	**Parking Requirement**
Detached dwelling	2 spaces per dwelling
Semidetached dwelling: duplex or twin	2 spaces per dwelling
Attached dwelling(townhouses)	A minimum of 2.5 spaces per townhouse, otherwise the requirements in § 400-107, 400-108 and 400-109 shall apply
Multifamily (apartments, apartment buildings) or apartment above or behind a nonresidential use (mixed use)	2.5 spaces per unit for resident and visitor parking; unless reduced when approved in accordance with §400-79E(4)
Accessory dwelling units (ADU)	1 space per unit
Mobile home (individual)	2 spaces per dwelling
Mobile home park	2 spaces per mobile home, plus 1 space per 3 mobile homes for visitor parking

(4) Fee-in-lieu. When approved by special exception subject to Article XXI and §400-136 a portion of the required off-street parking spaces for multi-family (including as part of a mixed-use) may be reduced when a fee-in-lieu of some of the required parking spaces is approved in accordance with the following:

(a) The Borough may authorize the payment of a one-time fee in lieu of the actual creation of some of the required parking by the applicant.

(b) The amount of the fee shall be specified in the parking fee schedule adopted by resolution of the Borough Council. All fees collected and all interest earned thereon shall be placed in the Borough General Fund. Such fees and interest shall be used only for the acquisition and/or lease of land or the improvement of land owned or leased by the Borough for off-street parking within the Borough and the installation of off-street parking on such land. Such collected fees shall be expended for the purposes set herein within ten (10) years of the receipt thereof.

400-80. Off-street loading.

Any commercial, industrial, or institutional use, building, or structure that requires the receipt or distribution of materials, supplies, merchandise, or other goods by trucks or similar vehicles shall provide a sufficient number of off-street loading and unloading berths for the intended use in accordance with the following regulations.

A. General requirements.

(1) Off-street loading and unloading space, or spaces, with proper and safe access from street or alley or from an traffic aisle or access driveway connecting with a street or alley, shall be provided on the same lot for which it intended to serve, either within a structure or in the open, except as provided for in § 400-80D. The ingress and egress of loading operations shall not require backing into a public street and shall minimize interference with regular traffic movements.

(2) Loading and unloading spaces shall have all-weather surfaces to provide safe and convenient access during all seasons.

(3) Loading facilities shall not be constructed between the building line and a street right-of-way line, except as provided in § 400-80D.

(4) Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended, and as provided in § 400-80D.

(5) Where a use abuts an existing or proposed alley, off-street loading shall be accessed by or accommodated within the alley, except where the applicant applies for and is approved an alternative in accordance with §400-80D.

(6) Areas provided for loading and unloading of delivery trucks and other vehicles and for servicing by refuse collection, fuel and other service vehicles shall be arranged so that they may be used without blocking or interfering with the use of any parking space, access driveways, traffic aisle, pathways, sidewalks, crosswalks, streets, or within the front, side or rear yard setbacks, except as provided in § 400-80D below.

(7) All loading berths and circulation areas which abut a residentially zoned district or residential use shall be buffered and screened in accordance with §400-73, Landscaping, buffering and screening.

(8) All off-street loading berths shall be constructed and maintained for as long as the use for which they are designed to serve remains in existence.

B. Size.

(1) For structures and uses that are served only by smaller vehicles such as vans, the minimum size for each berth shall be 10 feet in width and 20 feet in length, with a minimum vertical clearance of 12 feet.

(2) For structures and uses that are served by larger vehicles than specified in § 400-80.B(1), such as tractor trailers, the minimum size for each berth shall be 14 feet in width and 50 feet in length, with a minimum vertical clearance of 16 feet.

C. Required number of off-street loading berths.

(1) Every commercial, industrial, or institutional use shall have at least one off-street loading space unless as provided in § 400-80D. Where there is an aggregate gross floor area of 20,000 square feet or more for each use, one additional off-street loading space shall be provided for each additional 20,000 square feet of gross floor area or part thereof.

(2) Where a structure or use includes more than one type of use, the number of berths required shall be the sum of the requirements for each separate use, unless approved under § 400-80D.

D. Alternatives. Where off-street loading cannot be accommodated on site due to site

constraints that preclude the installation of appropriate off-street loading, turning movements for, or access for applicable delivery vehicles, applicants for a development may apply for one of the following off-street loading alternatives which may be approved by special exception subject to §400-136 of this Chapter:

(1) Use of public alleys and streets for loading and unloading may be permitted where:

   (a) The applicant demonstrates that loading and unloading may be conducted without blocking or interfering with vehicular and pedestrian traffic.

   (b) Loading and unloading shall not generally interfere with the use of on-street parking spaces.

   (c) Loading and unloading is limited to off-peak hours but no earlier than 7:00 a.m.

(2) Common loading and unloading facilities. Required off-street loading spaces may be provided cooperatively for two or more uses on the same lot or on immediately adjacent lots.

(3) Loading in a required off-street parking space or lot may be permitted where:

   (a) The parking space or lot being used is associated with the use being served, unless as approved in conjunction with § 400-80D(2).

   (b) Loading and unloading will not generally interfere with the use of the parking space or lot to fulfill the parking requirements of this article.

(4) Loading in an on-street parking space may be permitted where:

   (a) The parking space proposed to be used must be on the same side of the street and on the same block as the use it is proposed to serve.

   (b) The preferred location shall be the end space on the block, which may be designated by the borough as a loading/unloading space during certain hours.

(5) The applicant shall submit a plan to the Borough that includes a site plan and agreement showing use(s), ownership, maintenance responsibility, and location of the off-street loading facilities.

ARTICLE XVIII
Supplemental Uses

§ 400-81. Application.

This article establishes specific controls for uses which require special design considerations to achieve compatibility with the general character of the uses permitted within a zoning district. The following regulations shall apply to all zoning districts for which the particular use being regulated is permitted. The provisions of this article shall be in addition to the standards established by the applicable zoning district.

§ 400-82. Accessory use.

A. General regulations. Accessory uses shall be in accordance with applicable sections of Article XVI and the following:

(1) Incidental and subordinate to the principal use on the tract or lot and shall not constitute a single and separate use from the associated principal use.

(2) Located on the same tract or lot as the associated principal use.

(3) Maximum height shall be in accordance with the regulations set forth herein, unless otherwise expressly permitted by this chapter.

(4) No truck bodies, travel trailers, recreational vehicles or similar items shall be used as accessory buildings or to house any accessory uses including but not limited to accessory dwelling units.

(5) Where accessory uses include buildings or structures, such buildings or structures shall be securely anchored and shall not pose a hazard to surrounding uses.

(6) No accessory use shall constitute a nuisance by way of odor, noise, light, glare, or other means, or shall endanger the health, safety, or welfare of area residents and other uses.

(7) Accessory use setbacks. Except as otherwise permitted by this chapter and as permitted in § 400-68C(4), accessory uses shall not be permitted within the required front yard and shall comply with the following regulations:

(a) A minimum setback of not less than five feet from any right-of-way or property line shall be required for all accessory uses, unless otherwise specified by this chapter.

(b) Alleys. Where accessory uses abut an alley, the accessory use shall not be located within the right-of-way of the alley.

(c) Commercial uses. Accessory uses shall have the following minimum setbacks from any lot line:

[1] In the C-1 District: 5 feet.

[2] C-2, C-3, C-4, E&P Overlay, and LI Districts: 10 feet.

[3] When adjacent to an existing residential use: 15 feet.

(d) Industrial uses. Accessory uses shall be set back a minimum of 20 feet from any lot line.

(8) Accessory use maximum height. The maximum height of an accessory use, unless otherwise permitted by this chapter, shall not exceed the following requirement:

(a) Residential districts and E&P Overlay District: 25 feet.

(b) C-1, C-2, C-4, E&P Overlay, and LI Districts: 25 feet.

B. Residential accessory uses.

(1) Accessory uses permitted by-right in every district include the following:

(a) Private residential garages or similar accessory structure.

(b) Storage sheds. Storage sheds shall be permitted not to exceed the lot coverage for a given lot.

(c) Private swimming pools, in accordance with § 400-101.

(d) No-impact home-based business, in accordance with § 400-91.

(e) Private recreation facilities or equipment.

(f) Animal shelters, in accordance with § 400-103.

(g) Gardens and noncommercial greenhouses.

(h) Driveways and off-street parking facilities in accordance with Article XVII.

(i) Fence or wall in accordance with § 400-69.

(j) Signs as permitted by Article XIX.

(k) Landscaping, buffering, and screening in accordance with § 400-73.

(l) Lighting in accordance with § 400-71.

(m) Roof mounted solar energy system mounted parallel to the roof surface in accordance with § 400-109.2.

(2) Accessory uses permitted by conditional use when authorized by Borough Council and subject to the requirements of Article XX include the following:

(a) Intensive home-based business in accordance with § 400-91.

(b) Bed and Breakfast permitted within a detached dwelling in accordance with §400-84.

(c) Roof mounted solar energy system mounted on a flat roof that are mounted vertically, in accordance with § 400-109.2.

(d) Ground-mounted solar energy systems in accordance with § 400-109.2.

(3) Accessory uses permitted by special exception when authorized by the Borough Zoning Hearing Board and subject to Article XXI include the following: Accessory Dwelling Units in accordance with §400-109.1.

(4) General regulations.

(a) Permanent residency in travel trailers, tents, or recreational vehicles stored on a lot shall be prohibited.

(b) Temporary or nightly outdoor parking or storage of commercial vehicles shall be limited to one vehicle per lot on the driveway provided which shall be owned or operated by the resident of the lot.

(c) Where storage of materials constitutes an accessory use, § 400-72 shall apply.

C. Nonresidential accessory uses.

(1) Accessory uses permitted by-right include the following:

(a) Driveways and off-street parking and loading in accordance with Article XVII and applicable sections of this chapter in the C-1, C-2, C-4, E&P Overlay, and LI Districts.

(b) Signs in accordance with Article XIX.

(c) Accessory buildings, structures, or storage sheds.

(d) Fences or walls in accordance with § 400-69.

(e) Landscaping, buffering, and screening in accordance with § 400-73.

(f) Lighting in accordance with § 400-71.

(g) Flagpoles.

(h) Outdoor storage or display in accordance with § 400-72.

(i) Outdoor dining as an accessory use to a restaurant or similar use in accordance with § 400-98.

(j) Crematory as an accessory use to a funeral parlor or undertaker's establishment.

(k) Beergarden as an accessory use to a brewpub, nanobrewery, microbrewery, regional brewery, or tap room.

(l) Tasting room as an accessory use to a nanobrewery, microbrewery, or regional brewery.

(m) Roof mounted solar energy system mounted parallel to the roof surface in accordance with § 400-109.2.

(n) Solar energy systems in accordance with §400-109.2F(4)(d), may be

installed within required off-street parking areas as covered parking for vehicles but shall not be located within required landscaping or buffer areas.

(o) The sale of tobacco and/or tobacco products and vaping products shall be permitted as an accessory use to a convenience store by-right when in accordance with §400-109.3.

(2) Accessory uses permitted by conditional use when authorized by Borough Council and subject to the requirements of Article XX for specific uses include the following:

(a) Cafeterias may be permitted solely for the use of employees, patients or students of the applicable use, or for official visitors to the use, but not open to the general public, including but not limited to educational use, place of worship, office, or other similar nonresidential use.

(b) Child day-care center in accordance with § 400-87 may be permitted as an accessory use for the use of employees patients, and students of the applicable use, or for official visitors to the use, but not open to the general public, including but not limited to educational use, place of worship, office, or other similar nonresidential use.

(c) Roof mounted solar energy system mounted on a flat roof that are mounted vertically in accordance with § 400-109.2.

(d) Ground-mounted solar energy systems in accordance with § 400-109.2.

(e) Skill Games may be permitted as an accessory use to a convenience store, vehicle fueling station (gas station), brewery, restaurant, or smoke shop/tobacco store in accordance with §400-109.4.

§ 400-83. Adult use.

A. No adult use shall be permitted:

(1) Within 2,000 feet of any other adult use.

(2) Within 50 feet of any residentially zoned district or residential use, or within 500 feet of any of the following uses:

(a) Place of worship.

(b) Day care.

(c) Educational use and any associated play areas and facilities.

(d) Public playgrounds, public swimming pools, public parks and libraries.

B. No such use shall be located in any zoning district except the (LI) Limited Industrial District when authorized as a conditional use by Borough Council subject to Article XX.

C. For the purposes of this section, spacing distances shall be measured in a straight line between the closest points of the listed uses, as follows:

(1) From all property lines of the lot supporting any adult use.

(2) From the outward line of boundary of all residential zoning districts or all property lines of a residential use.

(3) From all property lines of any use listed in § 400-83A(2)(a) through (d).

D. Sign messages shall be limited to verbal description of material on the premises.

E. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.

F. Messages which are visible or intended to be visible from outside the property, such as on or within doors, windows or exterior walls, shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films or live presentations of persons performing or services offered on the premises.

G. Any building or structure used and occupied as an adult-related use shall have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale materials, merchandise or film shall be visible from outside of the building or structure.

H. No materials or merchandise offered for sale, rent, lease, loan, or for view upon the premises, shall be exhibited or displayed outside a building or structure.

I. Should any adult commercial use cease or discontinue operation for a period of 90 or more consecutive days, it shall not resume, nor may it be replaced by another adult commercial use unless said use complies with all the requirements of this section.

J. Nothing in this chapter shall be deemed to allow any uses that are "obscene," as that term has been interpreted from time to time by the courts of the United States or the Commonwealth of Pennsylvania.

§ 400-84. Bed-and-breakfast.

A. Bed-and-breakfast establishments shall be permitted as an accessory use when approved as a conditional use by Borough Council subject to Article XX. A use and occupancy permit for a bed-and-breakfast establishment shall be required prior to the beginning operation of the use.

B. Bed-and-breakfast establishments shall be conducted within a detached dwelling only, which is the bona fide residence of the operator. The appearance of the dwelling shall not be altered in such a way as to detract from the residential character of the structure. The principal use of the structure shall remain that of a detached dwelling.

C. No more than two persons who are not residents of the property may be hired as an employee or retained as a volunteer to conduct the bed-and-breakfast establishment.

D. Guest rooms shall not contain cooking facilities.

E. At least one full bathroom, including a toilet, lavatory, and bathtub and/or shower,

shall be provided for guest rooms in addition to one full bathroom specifically designated for and reserved for the owners/residents of the property.

F. No guest shall be accommodated for more than seven consecutive nights. The owner shall maintain a guest register and the register and all records shall be made available for inspection by the Zoning Officer upon request.

G. Meals may be provided and any amenities associated with the residence, such as a swimming pool, hot tub, or outdoor deck may be made available to registered guests.

H. Proof of annual fire inspection by a certified agency shall be available at all times.

I. In addition to the off-street parking spaces required for the residential use of the property, one off-street parking space shall be provided for each nonresident employee or volunteer, plus one additional space for each guest room.

J. Permits and inspections.

(1) The proposed use shall be certified by the Chester County Health Department and other regulatory authorities having jurisdiction on the basis of an on-site inspection, or where required improvements to the sewage system have been completed.

(2) Upon compliance with all of the requirements of this section, other applicable codes and regulations, and in accordance with Article XX, the Borough Council may apply a condition that the Zoning Officer shall be authorized to periodically inspect the bed-and-breakfast use for a violation of any condition imposed by the Board, any misrepresentation of fact made to the Borough or Zoning Officer in conjunction with the conditional use, permit, review process, or violation of this section or any provision of this chapter.

(3) Prior to an applicant establishing a bed-and-breakfast operation, the Zoning Officer shall issue a temporary use and occupancy permit. This permit shall be reviewed on an annual basis from the date it was issued until such time that the use is removed. A fee, in an amount established by resolution of the Borough Council, shall be paid by the landowner or applicant upon each renewal of the temporary permit.

(4) Upon nonrenewal or revocation of the use and occupancy permit for cause shown, the use of the premises as a bed-and-breakfast shall immediately cease, and continuation thereof shall subject the owner to the penalty provisions of this chapter and/or such other legal action as the Borough shall determine necessary.

§ 400-85. Cluster development option.

When authorized by Council as a conditional use, a residential subdivision and its individual lots and uses may be developed using the standards in this section instead of those in § 400-24 and 400-25 which relate to the same subject. Where this section does not provide a specific standard, the other standards and regulations of this chapter shall remain in effect and be applied to the development as well as the individual lots and uses. A subdivision developed pursuant to this section is referred to as “cluster development.”

A. Prerequisites for cluster development option. In order to use the standards of this section, a proposed development must meet the following conditions:

(1) The area of the tract to be developed must contain a minimum of 15 acres.

(2) The proposed development must be served by public water and sewer.

B. Uses. In a cluster development, only the following uses are permitted:

(1) Principal uses.

(a) Single-family detached dwelling.

(b) Common open space uses authorized by § 400-85D.

C. Density and area and bulk requirements.

(1) The overall density (i.e., the total number of acres in the tract to be developed minus the total area in public rights-of-way, utility easements, stormwater retention facilities and drainage easements, divided by the total number of dwelling units) of the cluster development shall be a minimum of 18,100 square feet per dwelling unit. A subdivided lot shall be provided for each dwelling unit.

(2) Following are the minimum requirements for lot area and the placement of structures on lots:

(a) Lot size: 16,000 square feet.

(b) Lot width at building line: 100 feet.

(c) Lot width at street line: 50 feet.

(d) Building setback line: 35 feet.

(e) Front yard: 35 feet in depth.

(f) Side yards: each residential lot shall have two side yards with no side yard having less than 20 feet in depth and the aggregate depth of both side yards shall be a minimum of 45 feet.

(g) Rear yard: 35 feet in depth.

(h) Corner lot yards: each yard abutting a street shall be 35 feet in depth; the other yards shall be treated as side yards.

D. Common open space. Shall be in accordance with § 400-108E.

E. Design standards.

(1) Each single-family detached dwelling within a cluster development shall have a minimum of 1,700 square feet of living area, three bedrooms, a full basement and a fully enclosed two car garage on the lot. For purposes of this regulation, “living area” shall not include garages, porches or basements, whether finished or not. However, any area counted as living area must be finished. “Finished” means that the area is floored, framed, all wall surfaces

(e.g., dry wall) are complete and electric and heat are functional and comply with applicable building code requirements. A bedroom which is not finished may not be counted toward the minimum bedroom requirement.

(2) All utilities shall be placed underground.

(3) The conditional use application shall include a landscaping plan prepared by a registered landscape architect. This plan shall include model landscaping plans for the individual lots, as well as an overall design plan for required common open spaces and buffer areas. The developer shall provide any landscaping for individual lots according to the approved overall landscaping plan and individual lot models. Streetlights and all proposed signage shall be shown on the landscape plan. The plan shall also identify all significant stands of mature trees.

(4) The requirements of § 400-74 of this chapter may be reduced only with respect to the minimum driveway location requirement for residential lots. Private driveways may be located not less than 40 feet from any intersection of two streets, which distance shall be measured from the nearest intersection of the street lines.

§ 400-86. Commercial mushroom manure operation.

A. Commercial manure or compost wharf or areas used for the preparation of compost or manure for the purpose of selling it to others shall be permitted within the LI Zoning District.

B. The minimum lot size shall be five acres.

C. Such use shall be required to have a Mushroom Farm Environmental Management Plan approved by the Chester County Conservation District.

§ 400-87. Day care.

The following standards shall apply to all day care facilities (home-based business: home child day care, family child day-care home, group child day-care home) and child day- care center (commercial day care) where permitted by this chapter:

A. Operators are responsible for obtaining and complying with all pertinent approval and license requirements from appropriate state, county, and other agencies including but not limited to the Pennsylvania Department of Human Services or Department of Aging, and compliance with applicable building, fire, UCC and other applicable code requirements. The applicant shall have received and hold all pertinent approvals and licenses and shall provide evidence thereof prior to issuing of a zoning permit by the Zoning Officer.

B. The minimum lot size for any day-care facility shall be based upon fulfilling the requirements of this section, accommodating required off-street parking, and buffering/landscaping requirements, but in no case shall be less than the applicable minimum lot size of the zoning district in which the facility is located.

C. Minimum indoor areas and outdoor play area requirements per child shall meet the most current Pennsylvania Department of Human Services requirements, and the

applicant shall submit proof to the Borough, prior to the issuing of permits, that these requirements have been met. In addition, an outdoor recreation area, where applicable, shall be in accordance with the following:

(1) The outdoor recreation area shall be located to the rear or side of the building and shall not include driveways, parking areas, land used for other purposes, or unsuited for active recreation due to natural conditions.

(2) The outdoor recreation area shall be enclosed by a fence suitable to restrict attendees to the play area, and fencing shall be a minimum of five feet in height and meet all other applicable requirements of the UCC in conjunction with the Pennsylvania Department of Human Services.

(3) The outdoor recreation shall be on the same lot as the principal structure and fully controlled by the operator of the facility.

(4) Outside play shall be limited to the hours of daylight.

D. Parking and drop-off area requirements for child day-care center (commercial day care).

(1) Off-street parking shall be provided in accordance with Article XVII and shall be so designed to prevent interference with traffic flow on any adjacent roadways. In addition, appropriate areas designed specifically for temporary parking and dropping off patrons may be provided in addition to and separate from off-street parking spaces in accordance with this section.

(2) Dropoff areas shall be designed to eliminate the need for patrons to cross traffic lanes within or adjacent to the site and shall not be provided within parking aisles or lanes.

(3) Dropoff areas shall be separate from required off-street parking spaces or aisles and shall be designated and maintained for the discharge and collection of attendees associated with the day-care use.

(4) Dropoff areas shall be marked by appropriate signs, pavement markings, or text.

§ 400-88. Drive-through.

A. Where permitted, drive-through service shall be an accessory use in conjunction with any restaurant, bank, or other similar commercial use that provides service to customers who remain in automobiles and are served through an exterior window in the establishment.

B. A site circulation plan shall be developed that separates those patrons utilizing drive-through service from those patrons utilizing indoor facilities. The plan shall include the following information:

(1) Location and dimensions of all structures.

(2) Location and access to the drive-through service.

(3) Location and dimension of parking, landscaping areas and signage.

(4) Description of internal circulation and external access.

C. Drive-through facilities shall have a dedicated area for conducting business, including a vehicle stacking lane, which shall accommodate a minimum of five vehicles waiting to utilize the drive-through service, and an area for departing vehicles which shall be situated to prevent vehicles from queuing onto adjoining roadways. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking or circulation. The stacking lane shall be separated from parking and interior aisles by a curb and/or median buffer, and shall be clearly marked to distinguish it from parking areas and traffic aisles.

D. Exterior microphone/speaker system shall be arranged or screened to prevent objectionable noise impact on adjoining properties. Devices used to facilitate communication between the establishment and customers shall not be audible on adjacent residential properties, where applicable.

E. The drive-through facility, including teller or service windows and intercoms, and the access driveway or access aisles, shall be located along the side or rear faces of the associated use.

F. A buffer yard/screen planting shall be maintained along all property lines abutting a residential use or district in accordance with this chapter and Chapter 350, Subdivision and Land Development.

G. Trash receptacles shall be provided outside in conjunction with drive-through service for patron use located specifically so they may be accessed by persons in automobiles using the drive-through facilities.

H. When this use is adjacent to or on the same lot as other commercial establishments, it shall use a common access with the other establishments and not have a separate entrance to the street, otherwise, the drive-through service shall not have a separate access from that of the associated use. See Figure 18-1.

Figure 18-1: Drive Through



§ 400-89. Educational use (public or private school).

The following standards shall apply to public and private schools:

A. Minimum lot area: two acres.

B. Minimum lot width: 100 feet.

C. Maximum impervious surface coverage: 50%.

D. Outdoor play areas shall be located in the rear or side yards at a minimum of 10 feet from side yards and rear property lines. Outdoor play areas shall be screened from adjacent uses in accordance with § 400-73.

E. All proposed areas designated for the loading or unloading school buses shall be planned and arranged so they may be utilized without interfering with the interior traffic circulation and parking facilities.

F. Accessory uses shall be permitted as follows. The following accessory support uses shall be permitted for any school only when specifically for the use of the students, guests, or employees of the facility:

(1) Indoor and outdoor recreational facilities including but not limited to auditoriums, activity rooms, craft rooms, libraries, lounges, walking trails, tennis courts, pools, sitting area, picnic areas, and pavilions or shelters.

(2) Kitchen and dining facilities.

(3) Office or facilities that serve directly the facility, including but not limited to school medical offices or treatment centers, ATM machine, school counselors.

(4) Child day-care center for the use of employees of the associated use in accordance with § 400-87.

§ 400-90. Forestry/timber harvesting operations.

A. Applicability. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land and forestry activities, including but not limited to timber harvesting, and to be in compliance with the Municipalities Planning Code, forestry shall be a permitted use by right in all zoning districts. The following standards apply to all timber harvesting within the Borough where the value of trees, logs, or other timber products removed exceed $1,000. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre- commercial timber stand improvement.

B. Purpose. In order to conserve forested open space and the environmental and economic benefits it provides, it is the policy of the Borough to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations contained in this section are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining property owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.

C. Notification and preparation of a logging plan.

(1) For all timber harvesting operations that are expected to exceed one acre, the landowner shall notify the Borough Zoning Officer a minimum of three business days before the operation commences and within three business days before the operation is complete. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the

land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.

(2) Every landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this chapter. No timber harvesting shall occur until the plan has been prepared. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation and shall be provided to the Borough Zoning Officer upon request.

(3) The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

D. Contents of the logging plan. As a minimum, the logging plan shall include the following:

(1) The design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings.

(2) The design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars.

(3) The design, construction, and maintenance of stream and wetland crossings.

(4) The general location of the proposed operation in relation to municipal and state highways, including any accesses to those highways.

(5) A sketch map or drawing containing the site location and boundaries, including both the boundaries of the Property on which the timber harvest will take place and the boundaries of the proposed harvest area within the property: significant topographic features related to potential environmental problems; location of all earth disturbance activities such as roads, landings, and water control measures and structures; location of all crossings of waters of the commonwealth; and the general location of the proposed operation to municipal and state highways, including any accesses to those highways.

(6) Documentation of compliance with the requirements of all applicable state regulations, including but not limited to the following: erosion and sedimentation control regulation contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. § 691.1 et seq.) and stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.).

(7) Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified above, provided all information required is included or attached.

E. Forest practices. The following requirements shall apply to all timber harvesting

operations in the Borough:

(1) Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Borough or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.

(2) No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining residential property.

(3) All tops and slash between 25 and 50 feet of any public roadway or private roadway providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped to a maximum height of four feet above ground.

(4) No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.

(5) Litter resulting from a timber harvesting operation shall be removed from the site before the operator vacates it.

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

G. Enforcement. The Borough Zoning Officer shall be the enforcement officer for the standards set forth herein.

H. Inspections. The Borough Zoning Officer may go upon the site of any timber harvesting operation before, during, or after active logging to review the logging plan or any other required documents for compliance with the standards and inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.

I. Violations notices; suspensions. Upon finding that a timber harvesting operation is in violation of any provision of these standards and regulations, the Borough Zoning Officer shall issue the operator and the landowner a written notice of violation describing each violation and specifying a date by which corrective action must be taken. The Borough Zoning Officer may order the immediate suspension of any operation upon finding that corrective action has not been taken by the date specified in a notice violation; the operation is proceeding without a logging plan; or the operation is causing immediate harm to the environment. Suspension orders shall be in writing, shall be issued to the operator and the owner, and shall remain in effect until, as determined by the Borough Zoning Officer, the operation is brought into compliance with the regulations herein or other applicable statutes or regulations. The landowner or the operator may appeal an order or decision of an enforcement officer within 30 days of issuance to the Zoning Hearing Board of the Borough.

J. Penalties. Any landowner or operator who violates any provision of these regulations, refuses to allow the Borough Zoning Officer access to a harvest site pursuant to § 400-90H, or who fails to comply with a notice of violation or suspension order issued under § 400-90I, shall be subject to the enforcement remedies set forth in this chapter, in addition to any other remedy at law or in equity, And is guilty of a summary offense and upon conviction shall be subject to a fine of not less than $100 nor more than $300, plus costs, for each separate offense. Each day of continued violation shall constitute a separate offense.

§ 400-91. Home-Based Business

A. The following general regulations shall apply to all home-based businesses, except as otherwise permitted by §400-91C(2) and §400-91D for intensive home-based businesses:

(1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(2) The use shall employ no employees other than the inhabitants residing in the dwelling.

(3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(4) There shall be no exterior indication of a business use, including but not limited to parking or lights beyond that permitted for residential uses.

(5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.

(6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

(7) The business activity shall be conducted only within the dwelling and may not occupy greater than 25% of the habitable floor area.

(8) The business may not involve any illegal activity.

(9) The use does not involve any customer, client, or patient visits to the dwelling, whether pedestrian or vehicular and/or delivery and pickup of goods and supplies in excess of what is normally associated with a residential use.

(10) Minimum parking requirements for off-street parking shall be determined by the Zoning Officer and West Grove Borough Council based on the specific use intended in Article XVII.

B. Permits Required and Determination of Classification

(1) Permits Required. All home-based businesses shall be required to obtain a zoning permit from the Borough in accordance with the requirements of

Article XX, prior to beginning operation of the use. This permit shall be renewed every three years from the date it was issued until such time that the use is removed. A fee, in an amount established by resolution of the Borough Council, shall be paid by the landowner or applicant upon each renewal of the permit.

(2) Determination of classification. The Zoning Officer shall determine whether a proposed home-based business is classified as a no-impact home-based business, an intensive home-based business, or does not quality as a home-based business. The applicant shall be responsible for supplying such information as deemed necessary by the Borough to make this determination within the zoning permit application.

(3) A Zoning Permit for a home-based business shall not be transferable to another property or to another type of home-based business. The permit issued shall only be valid for the use and on the property for which it was originally issued. In the event that a property with an existing home-based business is sold, leased, or rented to someone other than the original permit holder, the new owner, lessee or renter, shall be required to obtain a new zoning permit for a home-based business, demonstrating full compliance with the requirements of this Ordinance and any other applicable regulations.

C. Uses. Home-based business shall include the following permitted uses:

(1) The following uses shall be permitted as No-impact home-based businesses:

(a) Offices including but not limited to insurance or real estate sales; individual architect, engineer, planner, lawyer, or consultant; individual contracting or renovation consultant.

(b) Dressmaking, tailoring, and sewing.

(c) Teacher or tutor, limited to no more than four students at one time.

(d) Painting, sculpting, and writing.

(e) Home crafts, such as model making, rug weaving, woodworking, and cabinetmaking.

(f) Computer programming and word processing.

(g) Home child day care. Serving less than four children unrelated to the homeowner in accordance with §400-87.

(h) All other uses deemed as non-intensive by the Zoning Officer.

(2) The following uses shall be permitted as intensive home-based businesses when authorized by Borough Council as a conditional use subject to Article XX and §400-127:

(a) Any use permitted by §400.91C(1) that does not meet the criteria in §400-91A.

(b) Bed-and-breakfast in accordance with §400-84.

(c) Family child day-care home in accordance with §400-87.

(d) Group child day-care home in accordance with §400-87.

(e) Other home-based businesses deemed as intensive by Borough Council.

(f) Any home-based business which serves more than four students or customers at one time.

(g) A home-based business for which not more than two persons, other than the residents of the dwelling, shall be employed or subcontracted at the residence.

D. General regulations for intensive home-based businesses:

(1) Off-street parking. One parking space shall be provided for each employee not residing within the dwelling and parking spaces shall be provided for guests or patrons. The maximum number of off-street parking spaces shall be limited to six parking spaces and shall not include parking within a garage. The number of required spaces shall be determined by the conditional use application and process.

(2) Where additional parking for the home-based business cannot be accommodated on the existing driveway on the property, additional off-street parking shall be located to the side or rear of the principal structure.

(3) Home-based business activity shall not be conducted between the hours of ten p.m. and eight a.m. including individuals entering or leaving the premises or mechanical operations, however, this provision shall not apply to a Bed and Breakfast or a day care as permitted by §400-91.C(1)(g), §400-91.C(2)(c), or §400-91.C(2)(d).

§ 400-92. Junkyard.

A. There shall be a minimum setback of 20 feet from any lot line and the use shall be screened in accordance with § 400-73.

B. The maximum lot coverage including storage, buildings, and structures shall not exceed 75%.

C. In addition to buffers, landscaping and screening required by § 400-73, junkyards shall be protected and enclosed by continuous barricades or fencing that shall be a minimum of 90% opaque or solid, and a minimum of eight feet in height surrounding all areas on a lot used as a junkyard to deny access to the area at unauthorized times or locations.

D. Access to the site of the junkyard and/or salvage yard shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized activities, all access to the site shall be closed and locked to deny access to the area at unauthorized times or locations.

E. Storage piles shall not exceed eight feet in height and no more than two adjoining rows of junked cars shall be stored together.

F. There shall be provided a minimum of 12 foot wide accessways which shall be kept clear and free at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes.

G. Gasoline, oil, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises. Such liquids shall be removed and disposed of in a proper manner and shall not be deposited on or into the ground.

H. No junk or other material shall be burned on the premises.

I. No garbage or other waste liable to give off a foul odor or attract vermin or insects shall be kept on the premises.

J. All junk shall be kept a minimum of 200 feet from any stream or watercourse.

K. All junk shall be stored or arranged to prevent accumulation of water in addition to controlling mosquito propagation.

L. Stormwater planning.

(1) A stormwater plan shall be submitted as part of any land development plan for a junkyard and the use shall allow reasonable inspection by the Borough at any reasonable time.

(2) The stormwater plan and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water on the site and include best management practices to address chemicals or pollutants that may adversely impact water quality.

M. Tire storage piles shall be in accordance with 25 Pa. Code § 299.155-163.

N. Junkyards shall be licensed in accordance with Pennsylvania Act 4 of Special Session Number 3 of 1966, where applicable.

O. Junkyards shall comply with all other applicable Borough, state, or federal regulations and shall provide proof of compliance upon request of the Zoning Officer. Examples include Environmental Protection Agency (EPA), the Solid Waste Management Act the Clean Streams Law in terms of water runoff, and storage and/or disposal of hazardous materials.

P. All tires of all trucks leaving the site shall be cleaned. All trucks leaving the site shall not deposit accumulating amounts of dirt, mud or other such substances on public roads. Runoff from the tire-cleaning area shall be controlled and disposed of in accordance with all pertinent local, county, state or federal standards.

Q. The permittee shall allow inspection of the business premises by the Borough or its appointed representative at any reasonable time.

§ 400-93. Kennel.

A. Minimum lot size shall be one acre with a minimum lot width of 100 feet.

B. Minimum yard dimensions:

(1) Front yard: 30 feet.

(2) Side yard: 30 feet.

(3) Rear yard: 35 feet.

C. Each kennel shall have all outdoor exercise yards entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of 50 feet from front, side, and rear lot lines.

D. Animals shall not be permitted to remain outdoors in exercise yards overnight and exercise yards shall predominantly be used between dawn and dusk prevailing time.

E. Outdoor lighting of outdoor exercise yards shall be prohibited.

F. The sale of related products shall remain accessory to the kennel, and shall occupy no more than 25% of the floor area of the principal building.

G. All kennels shall be licensed by the Commonwealth of Pennsylvania, if and as required by the Pennsylvania Dog Law, Act 119 of 2008, Pennsylvania Statutes as it may be amended from time to time; kennels shall apply to all pertained provisions of the Dog Law and 7 Pa. Code § 21.21 et seq.

§ 400-94. Medical clinic.

A. Uses within a medical clinic shall include but not be limited to administrative and professional offices, outpatient examination/treatment rooms, pharmacy, and other similar uses, in accordance with applicable sections of this chapter and shall be for the use and treatment of patients and their guests. The cumulative gross floor area of all such subordinate uses shall not occupy more than 30% of the cumulative gross floor area of the medical clinic.

B. Public and private hospitals and medical facilities (medical clinics) are explicitly prohibited within floodplain areas in accordance with the flood hazard regulations in Article XV.

§ 400-95. Mixed use.

Where a combination of uses, including residential dwelling units above or to the rear of a nonresidential use, an office above a commercial use, or anywhere two or more uses are permitted within the same structure or upon a single lot each use shall be required to meet the following criteria:

A. Only those uses permitted in the district in which the mixed use is located shall be permitted. Where three or more dwelling units are created, the applicable provisions of § 400-97 shall apply.

B. Off-Street Parking Requirements.

(1) A minimum of one improved, all-weather off-street parking space per bedroom of any residential use shall be provided and maintained for the exclusive use of the residents, otherwise, the off-street parking requirements of this chapter shall be met in accordance with Article XVII.

(2) Parking requirements shall be calculated for each use and the total parking

requirements shall be met for all uses, but may be designed within a common or interconnected parking lot, or as otherwise provided by this chapter.

(3) For mixed use developments, combined parking requirement totals for all uses may be reduced by up to twenty (20) percent when authorized by Borough Council as a conditional use subject to §400-127 and Article XX.

C. Where a dwelling is proposed above or to the rear of a nonresidential use (mixed-use), the following requirements shall apply:

(1) Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permit requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough. Trash receptacles shall be screened so as not to be visible from the street or abutting properties except on scheduled days for trash pickup.

(2) Each dwelling unit shall contain a minimum of 600 square feet of living area.

(3) Residential dwelling units shall have independent access to the outside; in some cases, access may be accomplished by a common hallway for dwelling units in accordance with building codes and fire regulations. The outside access for residential dwelling units shall be separate from the access for any associated nonresidential use in the same structure (mixed-use).

(4) Site and floor plans for the dwelling unit(s) shall be included with the application for such use, including both exterior and interior building alterations for an existing building, if applicable, and the location of fire exits and fire escapes in accordance with building and fire code requirements.

§ 400-96. Mobile (manufactured) home park.

The following requirements shall apply to mobile (manufactured) home parks:

A. A mobile (manufactured) home park shall be developed and approved in accordance with regulations as set forth herein and in accordance with Chapter 350, Subdivision and Land Development.

B. Area and bulk requirements:

(1) Minimum tract area: five acres.

(2) Minimum tract width at street line: 100 feet.

(3) Minimum mobile home site: 7,500 square feet.

(4) Minimum mobile home site width: 65 feet.

C. Maximum gross density: five mobile homes/acre.

D. Setback requirements.

(1) Mobile (manufactured) home lot setbacks:

(a) The minimum distance from any lot line for a mobile home lot shall be 35 feet from an exterior and/or public street right-of-way or exterior boundary of the lot or tract for the mobile home park.

(b) Side yard setback: 10 feet.

(c) Rear yard setback: 10 feet.

(2) Mobile (manufactured) home setback:

(a) From the cartway line of a park street: 20 feet.

(b) From another mobile home: 25 feet.

(3) Accessory use setbacks:

(a) Accessory uses shall be permitted within the side or rear yard.

(b) Detached accessory structures shall be a minimum of five feet from a mobile (manufactured) home and any lot line.

E. Utilities.

(1) Provision for public water and sewer shall be required for all mobile home parks.

(2) All utilities shall be located underground (water, sewer, electric, gas, etc.).

F. Mobile home parks are explicitly prohibited within floodplain areas in accordance with the flood hazard regulations in Article XV of this chapter.

§ 400-97. Multifamily use (townhouse/residential conversion/apartment building).

A. Townhouses. Where permitted in the Residential Zoning Districts and subject to the applicable sections of this article: § 400-107, 400-108 and 400-109.

B. Residential conversion in accordance with § 400-104.

C. Multifamily apartment building containing three or more units.

(1) Area and bulk requirements.

(a) Mixed use.

[1] Where residential dwelling units are provided within a mixed use with dwelling units on the second or higher floors or to the rear of a nonresidential use within the same structure, area and bulk requirements shall be in accordance with the applicable underlying nonresidential first floor use in the district in which the use is located.

[2] Where residential dwelling units are developed on the same lot as a nonresidential use/structure but not part of the same structure (mixed-use on the same lot but not within the same structure), the area and bulk standards for the residential use shall be in accordance with the residential area and bulk requirements for the

applicable zoning district.

(b) Single use (multifamily apartment building).

[1] The required front yard shall meet the front yard requirements for detached dwellings in the zoning district in which the multifamily use is located.

[2] Required side yards shall be not less than 10 feet but shall otherwise meet the minimum side yard requirements for detached dwellings in the zoning district in which the multifamily use is located,

[3] Rear yard requirements shall be not less than 30 feet but shall otherwise meet the minimum side yard requirements for detached dwellings in the zoning district in which the multifamily use is located.

(2) Multifamily units shall not be located in a below-ground basement where the exterior grade is more than half the height of the exterior wall unless there is a minimum of one exterior wall where the multifamily unit is at or above grade with the ground outside.

(3) Pedestrian access from building entrances shall be connected to existing public sidewalks at the perimeters of the lot where applicable.

(4) Access. Each unit shall have either direct access to the outdoors or to a common area or hallway, or stairwell that has direct access to the outdoors in accordance with the UCC.

(5) Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permit requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough.

(6) Each dwelling unit shall contain a minimum of 600 square feet of living area.

(7) Where there is condominium ownership of the dwelling units, a homeowners' association document shall be submitted and approved by the Borough in accordance with § 400-108E(5).

(8) Trash receptacles shall be screened so as not to be visible from the street or abutting properties in accordance with § 400-73 except on scheduled days for trash pickup.

(9) Single-use (not mixed use) multifamily apartment buildings shall be in accordance with the following regulations:

(a) The maximum length of a multifamily building shall be 150 feet.

(b) Where more than one building is proposed, multifamily buildings are encouraged to be located along a grid street pattern with open space, walkways, and/or alleyways between buildings.

(c) Dwelling units shall be set back a minimum of 15 feet from common parking areas; however, common parking areas assigned to a particular multifamily unit shall not be more than 200 feet from the building in which the unit is located.

(d) Sidewalks shall be provided from entrances to dwelling unit to parking facilities, recreation or open space areas, refuse collection points, and public sidewalks along any public street within or adjacent to the tract on which the multifamily use is located.

(e) The following separation distances between multiple buildings shall be met in order to provide individual dwelling units with some level of privacy:

[1] Front or facing walls (long wall): 45 feet.

[2] Facing end walls (short wall): 25 feet.

(10) Off-street parking shall be required in accordance with Article XVII. Parking areas shall be adequately landscaped to provide shade, screening from adjacent uses, and to reduce glare and noise, in accordance with § 400-73, §400-75, and other applicable regulations of Article XVI.

(11) All single use (not mixed use) multifamily developments shall have a minimum of 10% of the land reserved for recreation areas which shall comply with the following:

(a) Recreation areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands.

(b) Such an area shall be contiguous and shall be set back a minimum of 10 feet from any residential uses or residential accessory uses.

(c) Maintenance of this area shall be the responsibility of the landowner, or homeowners' or condominium owners' association.

(d) This area shall not be located within or be included in calculating the required buffer area or setback areas, but shall be included in calculating the maximum density permitted.

(e) This area shall be substantially free of structures, except those designed for recreational purposes (such as playground equipment), and shall be usable to the residents of the associated multifamily use.

(f) This area shall be located and designed so as to be easily accessible by residents of the multifamily dwelling development.

(g) When an area designed for recreation abuts a collector street, per the Borough Comprehensive Plan, it shall be fenced, provided with an earthen berm, a landscaped screen, or combination thereof, that physically separates it from the street.

(h) Failure to maintain any recreational areas shall constitute a violation of this chapter and shall be actionable by the Borough.

§ 400-98. Outdoor dining. See Figure 18-2

A. Applicability.

(1) It shall be unlawful for any person to erect, construct or maintain an outdoor dining area with outside service and seating area without first applying for and securing a permit therefor as hereinafter provided.

(2) Any person who shall desire to open an outdoor dining area with outside service and seating area in the Borough shall make application therefor (the applicant) in writing to the Zoning Officer. Such application shall be accompanied by a certificate of general public liability insurance in an amount not less than $500,000 per single occurrence and such application fee as required by a schedule of fees established by and amended from time to time by resolution of Borough Council. Such application shall be made upon forms provided by the Borough and shall set forth and include the following:

(a) The name and address of the applicant.

(b) A plan drawn to scale specifying the precise location of the outside service and seating area of the outdoor dining area, including a calculation of the proposed occupant load and the number of tables and chairs.

(c) The written consent of the property owner, if different than the applicant.

(d) An agreement of indemnity as required by this section.

(e) The indoor seating capacity and occupant load of the establishment.

(f) A copy of the license issued by the Chester County Health Department to the applicant permitting the service of food and beverages.

(g) Such other information as may be required by the Zoning Officer from time to time.

(3) No action shall be taken on any application for a permit under this subsection until the application has been completed in its entirety and the application fee, as required by a schedule of fees established and amended from time to time by resolution of Borough Council, has been paid in full. The schedule of fees shall be kept at the Borough Office. There shall be no proration of fees under this subsection.

(4) The applicant/property owner shall well and truly save, indemnify, defend and keep harmless the Borough of West Grove, its officers, employees and agents from and against any and all actions, suits, demands, payments, costs and charges for and by reason of the existence of the outdoor dining area and all damages to persons or property resulting from or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of such restaurant or by the acts or omissions of the employees or agents of the applicant in connection with such establishment.

B. Outdoor dining areas shall be associated with a principal use of a restaurant or other similar use and shall be located abutting that building in which the principal use is located, and on the same lot as the principal use.

C. A minimum pedestrian walkway with a clear path of travel in compliance with established American with Disabilities (ADA) requirements shall be maintained.

D. The minimum height of umbrellas which project into the required minimum pedestrian walkway shall be 80 inches.

E. Advertising displayed on umbrellas or tables which are located on the sidewalk directly abutting or adjacent to the outdoor dining area shall not be permitted.

F. There shall be no advertising in conjunction with the outdoor dining area aside from the approved signs for the associated use in accordance with Article XIX, Signs.

G. There shall be no temporary signs or banners associated with the outdoor dining area.

H. If the establishment provides on-street parking in front of the premises, tables at the curbline are prohibited. If the establishment does not provide on-street parking in front of the premises, tables are permitted at the curbline, provided that a barrier is erected which is approved by the Borough Zoning Officer in accordance with § 400-98A(2). The outdoor dining area shall, at all times, be separated from all parking areas by a barrier approved by the Borough Zoning Officer.

I. Tables which are placed on the sidewalk directly abutting or adjacent to the eating establishment shall not exceed 13 square feet in area.

J. All tables, chairs, umbrellas, and other furnishings shall be temporary in nature so as to be easily moved or removed during winter months when outdoor dining is not in operation, severe weather, for emergency purposes, or other occurrence as warranted by the Borough. However, all furnishings shall be weighted or of a substantial nature so as not to be blown off the property by strong winds and to ensure the safety and convenience of patrons.

K. Railings, fences, planters, and other enclosures shall not be greater than 42 inches in height and shall be anchored, weighted, connected, or constructed so as to prevent them from being easily moved.

L. Owners of the establishment must provide table service.

M. The establishment may utilize disposable plates and utensils and may serve beverages in disposable cups for the outdoor dining area.

N. The owner of the establishment is responsible for keeping the pedestrian walkway and seating area in front of the premises clean and free of trash and debris.

O. Owners of the establishment must stop serving customers seated at the outdoor dining area on or before 10:00 p.m. prevailing time and clear all tables of food, beverages, and customers on or before 11:00 p.m. prevailing time.

P. The owner shall maintain the outdoor dining area in accordance with all Borough

ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to this use of eating establishments.

Q. The owner shall remove the outdoor dining area within 30 days after written notice if the Borough or the Zoning Officer determines that the outdoor dining area is detrimental to the health, safety and general welfare of the Borough or its citizens because of one or more of the following conditions has occurred:

(1) The outdoor dining area narrows the sidewalk to the extent that pedestrian traffic is impeded.

(2) The outdoor dining area interferes with the maintenance or installation of an underground utility structure.

(3) The outdoor dining area is no longer being used as such.

(4) The outdoor dining area has been temporarily or permanently closed for violation of any Borough, state or federal law and/or regulation.

(5) The outdoor dining area is operated in violation of an ordinance, rule, or regulation of the Borough of West Grove.

R. In the event that the owner fails to remove the outdoor dining area within 30 days after written notice, the Borough may proceed to remove and restore the area and charge the owner for the cost thereof. Should an outdoor dining area be removed by the Borough, the owner shall be entitled to a return of the equipment, furnishings or appurtenances so removed only after the payment of all costs due to the Borough an by requesting the return in writing. The responsibility for removal under the provisions of this subsection shall be the sole responsibility of the owner without any obligation or cost assessed against the Borough.

Figure 18-2: Outdoor Dining



§ 400-99. Parking structure. See Figure 18-3

A. Accessory parking structures. Where permitted as an accessory use on the same lot as the principal structure, the following shall apply:

(1) Accessory parking structures shall not be permitted at the ground level facing a public street, except for entrances or exits as provided below. Entrances to and the façade of the associated principal structure shall predominate along public road frontages. Access to parking structures from lower-functioning streets or alleys is encouraged.

(2) Exit and entrances to accessory parking structures on a public street along the front building façade shall not exceed a total of 30 feet in width.

B. Height requirements.

(1) Accessory parking structures on the same lot or on an adjacent lot and attached to the associated principal use and structure shall not exceed the height of the principal structure.

(2) Where a parking structure is the principal use on a lot or an accessory use not on the same lot and not attached to the associated principal structure (off site): the maximum building height permitted in the zoning district in which the use shall be permitted.

C. Where a parking structure is a principal use, it may provide as many spaces as may be constructed in accordance with the applicable area and bulk requirements and design standards.

D. Where a parking structure is an accessory use, a parking structure may accommodate some or all of the parking spaces for the associated use or uses. It shall be the responsibility of the associated use(s) to fulfill all of its required parking through the use of the parking structure and/or other available off-street parking methods as permitted by this chapter.

E. Where a parking structure is constructed as an accessory use to more than one use or in a mixed use development to meet required off-street parking requirements, an agreement documenting how different users can maintain full required parking capacity shall be approved by the Borough.

F. Parking structures may contain retail or commercial space along the entire length of each first-floor which faces a street, providing all off-street parking requirements are met.

G. Considerations for review of parking structures include but are not limited to the following:

(1) Functional requirements such as appropriate turning radius and future trends such as electric vehicles utilizing recharging facilities and bicycle parking, appropriate ventilation and lighting, internal circulation, and exit/entrance planning in relation to traffic flow and impact on public streets.

(2) Structural requirements, including but not limited to the ability of the structure to withstand environmental conditions (wind, snow, rain), expansion and contraction, manage drainage through floor slope and surface type, and stormwater management.

(3) Safety and security, including but not limited to safety for pedestrians, handicapped accessibility, safety of movement for pedestrians and automobiles, air quality (ventilation), lighting (efficiency and safety, interior and exterior), security devices (cameras, emergency call access), cleanliness.

(4) Signs and wayfinding measures, including but not limited to color coding, visual cues, appropriate and clear directional signs, pedestrian access and

direction, exit and entrance signs, traffic control and traffic flow/direction signs, and lighting/visibility.

(5) Aesthetic features, including but not limited to integrating with the architectural features of the surrounding buildings, maintaining or improving the street front through similar sidewalk conditions as adjacent uses, through providing storefronts at street level, facade treatments, or elements such as benches, streetlights, and other similar items to create a pleasant pedestrian experience, using landscaping and changes in architectural treatments to enhance the facade along a street, breaking down the scale of parking structures by implementing varied facade elements, pilasters, materials, and using elevator cores and stairwells as design elements to break up the horizontal and vertical surface of the structure.

(6) Environmental impact and features, including but not limited to landscaping, use of solar panels integrated into the design for shading vehicles on the top floor and as other elements in the structure's design, using green roofs and the use rain gardens, dry wells, and other best management practices to mitigate stormwater.

Figure 18-3: Parking Structure



*Photo credit: Hamilton Form Company, LLC

H. Parking structures shall be designed to be compatible with the architecture of the attached structure or adjacent buildings, as applicable, and in accordance with the following:

(1) On facades that front on public streets, façade design and screening shall mask the interior ramps and create the illusion of horizontality and shall minimize blank facades through architectural detail.

(2) Accessory parking structures.

(a) When located on the same lot and/or attached to the associated principal structure or use for which off-street parking is required, the design of the exterior of the accessory parking structure shall be compatible with the exterior design of the principal structure. Building materials used for the accessory parking structure shall be the same as those used on the principal structure. Where the accessory parking structure is attached to the principal structure, the facade treatment of the principal structure shall be extended onto the parking structures.

(b) When not located on the same lot and/or not attached to the associated principal structure or use for which off-street parking is required, the

design of the exterior of the accessory parking structure shall be compatible with the exterior design of the associated principal structure, so that the accessory parking structure is clearly identified with the associated principal structure.

(3) When a parking structure is the principal use, all facades that are visible from a public street or sidewalk shall be complementary to nearby commercial facades in terms of building materials and architectural design.

(4) Exterior finish materials of parking structures shall be of an enduring quality. Stucco, concrete block and simulated wood products may not be used as primary exterior finish materials. Vehicular entrances to parking structures should be designed using residential or neighborhood commercial architectural treatments such as recesses, peaked roof forms and arches with the intention of minimizing the appearance of a parking structure. The use of chains, bars, or similar security devices that are visible from a street shall be prohibited.

(5) Any portion of a ground-floor facade where parking spaces are visible from the public right-of-way shall require a decorative fence and landscaping or a knee wall to screen parking spaces. Such fence or knee wall shall be a minimum of four feet in height. See Figure 18-4.

Figure 18-4: Parking Structure Screening

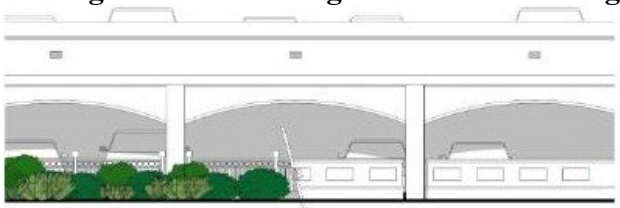


*Figure Source: Tredyffrin Township, PA, Zoning Ordinance

(6) For parking structures with rooftop open-air parking, a five-foot parapet wall is required for screening.

(7) A vehicular clear sight zone shall be included at vehicular exit areas as follows: See Figure 18-5

(a) The facade of vehicular exit areas shall be set back from any pedestrian walkway along that facade a minimum of eight feet for the portion of the facade that includes the vehicle exit area and eight feet on each side of the exit opening.

(b) A sight triangle shall be defined by drawing a line from the edge of the vehicular exit area to a point on the property line abutting the pedestrian walkway eight feet to the side of the exit lane.

(c) In the sight triangle (bound by the parking structure wall, pedestrian walkway and vehicular exit lane), ground cover, landscape, or decorative wall shall be used to act as a buffer between the exit aisle and the pedestrian walkway. Landscape or a decorative wall shall not exceed three feet in height in order to maintain driver sight lines to the

pedestrian walkway.

(d) The upper story facade(s) of the parking structure may overhang the vehicular clear sight zone.

Figure 18-5: Clear Sight Zone

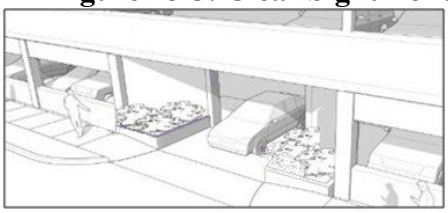


*Figure Source: Tredyffrin Township, PA, Zoning Ordinance

§ 400-100. Place of worship.

The following uses shall be permitted accessory uses to a place of worship and shall be conducted upon the same lot:

A. Accessory uses permitted by right:

(1) Administrative and counseling offices.

(2) Related recreational facilities, including but not limited to playgrounds, ball fields or courts (basketball, volleyball).

(3) Indoor gymnasium.

(4) Rectory.

B. Accessory uses permitted when approved as a conditional use:

(1) Child day-care centers in accordance with § 400-87.

(2) Preschools or kindergartens.

§ 400-101. Private swimming pool.

A. All permanent swimming pools over 24 inches in depth, hereafter constructed, installed, established or maintained, shall be enclosed by a permanent fence of durable material a minimum of four feet but not more than six feet in height, and shall be constructed so as not to have openings, mesh or gaps larger than four square inches in any direction. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. All gates used in conjunction with the fence shall meet the same specifications as to the fence itself and shall be equipped with approved locking devices and shall be locked at all times when the swimming pool is not in use.

B. Hot tubs, whirlpool baths and tubs, and jacuzzi-type tubs or baths shall not be considered swimming pools if located outdoors or designed to be located outdoors, and are provided with permanent outdoor water plumbing and a lockable cover.

C. A dwelling unit or an accessory building may be used as part of such enclosure. However, height requirements for a fence shall not apply to the building.

D. The provisions regulating fencing shall not apply to pools having sides extending

four feet above grade, provided that the stairs, or other means of access to the pool, are removed or locked in such a position as to make it readily inaccessible when not in use.

E. All materials used in the construction of pools shall be waterproofed and so designed and constructed as to facilitate emptying and cleaning and shall be maintained and operating in such a manner as to be clean and sanitary at all times.

F. Water may not be discharged from a swimming pool directly onto adjacent properties or rights-of-way, or into the public sanitary sewer system.

G. Enclosed indoor pools must comply with applicable regulations pertaining to accessory structures.

H. Outdoor lighting, if any, shall be shielded and/or reflected away from adjoining properties so that no beam of light, only diffused or reflected light, enter adjoining properties.

I. Aboveground pools shall have a combination of a pool wall and fence in accordance with the UCC.

§ 400-102. Rail freight terminal.

A. Where a rail yard is located on a lot which is adjacent to a residential district or use, all structures, storage of materials, and associated activities shall be set back 100 feet from the district boundary or use and screened in accordance with § 400-73.

B. The maximum lot coverage including storage, buildings, and structures shall not exceed 80%.

C. Any area where material is stored outside shall be enclosed by a 90% solid or opaque screen accomplished through a combination of earthen berms, fencing and/ or vegetative screening in accordance with § 400-73.

D. Storage piles shall not exceed eight feet in height.

§ 400-103. Animals shelter.

In any district, domesticated animals may be kept as pets provided that any animal shelter is located in the rear yard a minimum of five feet from any lot line and not less than 50 feet from any dwelling other than that of their owner. Exercise areas shall be enclosed and located in the rear yard a minimum of 10 feet from any lot line, except where an approved fence is present that fully encloses the exercise area.

§ 400-104. Residential conversion.

Within the R-4 District, C-1, and E&P Overlay District, the conversion of an existing detached dwelling into a multifamily dwelling may be permitted when authorized by Borough Council as a conditional use, subject to Article XX in addition to the following requirements:

A. A detached dwelling existing at the effective date of this chapter may be converted from one dwelling unit into as many units as may be possible with the number of bedrooms available at the time of application and in conformance with the borough

building code.

B. Each dwelling unit shall contain a minimum of 600 square feet of living area.

C. The building and lot shall meet or exceed the required minimum area and bulk requirements specified for single-family detached dwellings in the district in which it is located.

D. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permit requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough.

E. A floor plan shall be included with any application for a residential conversion indicating interior modifications to the building.

F. There shall be no external alteration of the building, except as may be necessary for reasons of safety and access.

G. The structure shall maintain the façade and appearance of a detached dwelling with a single front entrance. The dwelling units may share the single front entrance.

H. Additional entrances, when required, shall be placed on the side or rear of the building. Exterior stairways and fire escapes shall be located on the rear wall in preference to either side wall, and in no case be located on a front or side wall facing a street.

I. Parking. A minimum of one all-weather off-street parking space shall be required for each additional bedroom created as part of the residential conversion. All parking areas shall meet the following standards:

(1) Flexibility in location and construction of required parking. Off-street parking may, in some cases, be the only factor restricting conversion. Where physically possible, all spaces should be provided off-street. Where it is judged by Borough Council to be undesirable to provide all required spaces off-street and where on-street parking is permitted, all or part of the required spaces may be met through on-street parking where approved. In computing the amount of on-street spaces available, 22 feet of usable lot frontage along a public street where parking is permitted may be counted as one parking space.

(2) All off-street parking spaces shall have unrestricted ingress and egress to the street.

(3) All newly constructed driveways and parking spaces shall be set back a minimum of five feet from all property lines and shall meet all size and other requirements of this chapter.

(4) Every effort shall be made to locate parking spaces in the rear or side yards. Front yard parking spaces are strongly discouraged. If the front yard must be used, in no case shall more than 25% of the front yard be used for parking spaces or driveways.

(5) There shall be not more than one access point to the parking area.

(6) The development plan required to be filed by the applicant should clearly set forth and label the total number of parking spaces required and the number and area that will be placed in reserve as well as show the physical layout and design.

(7) The required off-street parking shall be screened from adjacent properties as applicable in accordance with § 400-73.

§ 400-105. Wireless communications facilities.

A. Permitted areas for wireless communications facilities. Wireless communications facilities, including communications antenna support structures and wireless communications equipment buildings, may be located on land located within the and LI Limited Industrial Zoning Districts, through the issuance of a conditional use decision and order issued by the Borough Council. Additionally, wireless communications facilities, including all components thereof, as specified herein, may be located on any land owned by the Borough. In the case of the location of such facilities on land owned by the Borough, no conditional use application or approval will be necessary; however, the Borough Council will determine whether permission will be granted for the location of such facilities on Borough-owned land, pursuant to the terms of a leasing or other agreement, which will incorporate the requirement of compliance with such substantive regulations of this chapter, as amended, as determined to be necessary by the Borough Council.

B. Location. Wireless communications facilities may be located on a land site only within a zoning district where permitted as a conditional use, or on Borough-owned land, or as an attachment to an existing structure, as provided herein. Prior to the issuance of a conditional use approval for the construction and installation of any communications antenna support structure, the applicant for conditional use approval must prove by a preponderance of evidence that the applicant cannot adequately extend or in-fill its communications system by the use of equipment, such as repeaters, antennas or other similar equipment installed on existing structures, such as utility poles or other tall structures. This requirement will be deemed to have been satisfied through the submission of a report or testimony by a qualified radio frequency engineer, verifying that the proposed communications antenna (or other wireless communications facility component) will advance the provision of wireless communications service. The Borough Council will limit any evidence or objections sought to be introduced by any objecting party seeking to question the need for the installation of any wireless communications facility (or component thereof). The purpose of this subsection is merely to confirm that the provider of wireless communications service has made a threshold determination that the component for which municipal approval is sought will substantially improve the level of wireless communications service provided to the consumer(s) of such service.

C. Maximum heights. No communications antenna support structure shall be taller than 125 feet, measured from undisturbed ground level, unless the applicant proves that another provider of wireless communications service has agreed to co-locate communications antennas on the applicant’s communications antenna support

structure or the applicant demonstrates that a greater tower height is necessary to provide satisfactory service for wireless communications. In such case, the communications antenna support structure shall not exceed 150 feet, unless the applicant secures approval as a condition of the conditional use process from the Council members by demonstrating such proof as would be required in the case of a special exception under Article XXI of this chapter. In no event shall mounted communications antennas height on any tower extend more than 25 feet above the installed height of the tower. While evidence relating to the criteria set forth in Article XXI of this chapter shall be considered by the Borough Council, the Borough Council will impose reasonable limitations on the admissibility of evidence sought to be introduced by any objecting party seeking to question the need for any wireless communications facility (or component thereof). The requirement of establishing a need for any such component and/or the height of any proposed wireless communications support structure shall be deemed to be satisfied through the submission of a report or testimony by a properly qualified radio frequency engineer confirming that the installation of the proposed wireless communication facility will substantially improve the provision of wireless communications service.

D. Wireless communications equipment building. In those zoning districts where communications antenna and communications antenna support structures are permitted by conditional use, or on Borough-owned property, either one single-story wireless communications equipment building, not exceeding 500 square feet in area, or metal boxes placed on concrete pads, of a total aggregate square footage of 600 feet, housing the receiving and transmitting equipment necessary to the proper functioning of the wireless communications facility, may be located on the land site selected for installation and location of the wireless communications support structure, for each unrelated company sharing communications antenna on the wireless communications support structure. The building and/or concrete pads may be located within a side yard or rear yard, provided that:

(1) The concrete pad and metal boxes or buildings are located 25 feet away from the property line, or in the case of the building, the minimum setback distance applicable in the zoning district, whichever is greater.

(2) The combined height of the concrete pad and metal boxes or building does not exceed eight feet.

(3) An evergreen landscape buffer screen, having a planted height of six feet, is installed and maintained, so as to provide a visually effective barrier, for individuals standing at ground level in the nearby area, between the building or metal boxes and any adjacent property.

E. Other facilities. With the exception of the wireless communications equipment building housing the receiving and transmitting equipment necessary to the proper functioning of the tower and communications antenna, all other structures and uses ancillary to communications antenna and communications antenna support structures, including but not limited to a business office, a mobile telephone switching office, maintenance depot and vehicular storage area, shall not be located on any land site, unless otherwise permitted by the applicable district regulations in which the site is located. Additionally, the wireless communications equipment

building must comply with the setback regulations pertaining to structures applicable in the zoning district in which the building is located.

F. Attachments to existing structures. In all zoning districts, an applicant may, upon conditional use approval being granted, locate communications antenna and their support members (but not a communications antenna support structure) on an existing smoke stack, utility pole, water tower, commercial or industrial building, or any similar tall structure, provided:

(1) The height of the communications antenna and apparatus attaching the communications antenna thereto shall not exceed 10 feet in height, unless the applicant proves that a greater antenna height is required to make it an adequately functional component of the applicant's system, but in no case shall such height exceed 25 feet.

(2) The applicant proves that such location is necessary to satisfy their function in the applicant's wireless communications system, or will obviate the need for the erection of a communications antenna. Support structure in another location where the same is permitted.

(3) The applicant submits a plan showing each of the contiguous properties, identified by tax parcel number and owner, depicting all buildings and structures located on such properties and their principal and/or accessory uses; provided, however, that the applicant shall not be required to trespass upon the land of another in order to obtain the information set forth in this provision.

(4) The applicant employs concealment or other reasonably appropriate stealth measures (the determination of which shall be in the Council's reasonable discretion) to camouflage or conceal antennas, such as the use of neutral materials that hide antennas, the location of antennas within existing structures, such as steeples, silos and advertising signs, the replication of steeples and other structures for such purpose, the simulation of elements of rural landscapes, such as trees and such other measures as are available for use for such purpose.

(5) The proposed use otherwise complies with the requirements of this chapter (with the exception of the provisions herein pertaining to the maximum height and location of a communications antenna support structure or tower).

(6) If the Council finds that location of antenna on an existing structure obviates the need for the construction and erection of a communications antenna support structure in any zoning district in which the same is a conditional use, the Council may authorize, by conditional use, the location of either a building not exceeding 500 square feet or metal boxes placed on a concrete pad not exceeding, in the aggregate, 600 square feet in area, housing the receiving and transmitting equipment necessary to the operation of the antenna(s), for each unrelated necessary to the operation of the antenna(s), for each unrelated entity or company sharing communications antenna space on the smokestack, utility pole, water tower, commercial or industrial building or other similar tall structure. The building and/or concrete pads may be located

within a side yard or rear yard, provided that:

(a) The concrete pad and metal boxes or buildings are located within 25 feet away from the property line, or in the case of the building, the minimum setback distance applicable in the zoning district, whichever is greater.

(b) The combined height of the concrete pad and metal boxes or building does not exceed eight feet.

(c) An evergreen landscape buffer screen, having a planted height of six feet, is installed and maintained, so as to provide a visually effective barrier for individuals standing at ground level in the nearby area, between the building or metal boxes and any adjacent property.

G. Setbacks from tower base. The nearest point of any communications antenna support structure (exclusive of any guy wires or guy wire anchors) shall be located not less than a distance equal to the height (in linear feet) of the communications antenna support structure from any adjoining property line and any street.

H. Antenna support structure safety.

(1) The applicant shall demonstrate that the proposed Communications Antenna and Communications Antenna Support Structure are designed and will be constructed in accordance with all applicable provisions of the Uniform Construction Code (UCC) of the Commonwealth of Pennsylvania standards for such facilities and structures and all applicable industry standards, including but not limited to those standards developed by the Institute of Electrical and Electronics Engineers, Telecommunications Industry Association and American National Standards Institute. The applicant shall demonstrate that the proposed wireless communications facility is designed in such a manner so that no part of the facility will attract/deflect lightning onto adjacent properties.

(2) When a communications antenna is to be located on an existing structure and the general public has access to the structure on which the communications antenna is to be located, the applicant shall provide engineering details showing what steps have been taken to prevent microwave binding to wiring, pipes or other metals. For purposes of this section, the term "microwave binding" shall refer to the coupling or joining of microwave energy to electrical circuits, including but not limited to the coupling or joining of microwave energy to electrical circuits, including but not limited to power lines and telephone wires, during which process the transference of energy from one to another occurs.

(3) The information necessary to demonstrate compliance with the above requirements is to be submitted concurrently with the submittal of an application for a building permit.

I. Fencing. A security fence shall be required around the communication antenna support structure and other equipment, unless the communications antenna is mounted on an existing structure, as provided herein.

J. Landscaping. The following landscaping shall be required to screen as much of a newly constructed communications antenna support structure as possible. The Borough Council may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if in the discretion of the Borough Council, they achieve the same degree of screening as the required landscaping.

(1) An evergreen screen shall be required to surround the communications antenna support structure. The screen can be either a hedge planted 10 feet on center maximum, or a row of evergreen trees planted 10 feet on center maximum. The evergreen screen shall be a minimum planted height of six feet at planting and shall be capable of growing to a minimum of 15 feet at maturity.

(2) Existing vegetation on and around the land site shall be preserved to the greatest extent possible.

K. Design. In order to reduce the number of communications antenna support structures in the Borough in the future, the proposed communications antenna support structure shall be designed to accommodate other potential communication users, including not less than one wireless communication company, and not less than one local police, fire or ambulance service communications provider, through the addition or incorporation of antenna anchored at a location or in locations on the communications antenna support structure which the applicant does not intend to anchor its communications antenna.

L. Licensing and applicable regulations. The applicant must demonstrate that it is licensed to provide wireless communications services by the Federal Communications Commission (FCC), through the submission of a copy of a license issued by the FCC authorizing the provision of wireless communications services by the applicant directly or through licensure or other authorized permission. A copy of this license is to be provided to the Borough within 15 days of the submission of an application for conditional use or other municipal approval.

M. Proof of inspection. The owner of a communications antenna support structure shall submit to the Borough Engineer proof of the annual inspection of the communications antenna support structure and communications antenna by an independent professional engineer, as required by the ANSI/EIA/TIA-222-E Code. Based upon the results of such an inspection, the Borough Council may require removal or repair of the wireless communications facility. In the event the annual inspection referred to above is not performed in a timely manner, the landowner, as well as the applicant or other licensed provider of wireless communications service, shall be subject to civil enforcement proceedings, in accordance with Article XX of this chapter, and such other remedies as are provided by law.

N. Soil report and inspection by engineer.

(1) A soil report complying with the standards of Geotechnical Investigations, ANSI/EIA-222-E, or a substantively similar report, shall be submitted to the Borough Engineer to document and verify the design specifications of the foundation for communications antenna support structure and anchors for the

guy wires, if used. The soil report must, in the opinion of the Borough Engineer, establish that the communication antenna support structure may be properly installed and maintained at the proposed site. Prior to the Borough's issuance of a permit authorizing construction and erection of a communications antenna support structure, a structural engineer registered in Pennsylvania shall issue to the Borough a written certification of its ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the communications antenna support structure. Where an antenna is proposed to be attached to an existing structure, such engineer shall certify that both the structure and the antenna and their appurtenances meet minimum industry standards for structural integrity. These requirements shall constitute a required condition of any conditional use approval for the proposed use.

(2) However, this documentation is to be submitted concurrently with an application for the issuance of a building permit. All reasonable engineer fees associated with the review of these reports or other documentation confirming the soil suitability and structural integrity of a communications antenna support structure or anchoring for a communications antenna will be paid by the applicant, within 30 days of the submission of an invoice (which invoice must provide a reasonably detailed explanation of the engineering services provided at the Borough's request).

O. Required parking. If the wireless communication facility is fully automated, an adequate parking area shall be required for all maintenance workers. If the wireless communication facility is not fully automated, the number of required parking spaces shall equal the number of employees present at the wireless communication facility during the shift with the greatest number of employees or staff.

P. Visual appearance. Communications antenna support structures shall be painted silver or another color approved by the Borough Council or shall have a galvanized finish. All wireless communications equipment buildings and other accessory facilities shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like I to blend with the existing surroundings and the neighboring buildings to the greatest extent possible. The Borough Council may require that:

(1) Communications antenna support structures be painted green up to the height of nearby trees.

(2) Wireless communications equipment buildings, which house electrical transmitter equipment be placed underground, unless determined to be detrimental to the functioning and physical integrity of such equipment.

(3) In making these determinations, the Borough Council shall consider whether its decision will:

(a) Promote harmonious and orderly development of the zoning district involved.

(b) Encourage compatibility with the character and type of development

existing in the area.

(c) Benefit neighboring properties by preventing a negative impact on the aesthetic character of the community.

(d) Preserve woodlands and trees existing at the site to the greatest possible extent.

(e) Encourage sound engineering and land development design and construction principles, practices and techniques.

Q. Site plan. A full site plan shall be required for all wireless communications facilities, showing all existing and proposed structure(s) and improvements, including but not limited to the communications antenna, communications antenna support structure, building, fencing, buffering and ingress and egress. The plan shall comply with Chapter 350, Subdivision and Land Development, with the exception of such planned documentation/information which would be required to demonstrate compliance with those provisions of Chapter 350, Subdivision and Land Development (or the Pennsylvania Storm Water Management Act) pertaining to stormwater management.

R. Signs. No sign or other structure shall be mounted on the wireless communications facility, except as may be required by the Federal Communications Communication (FCC), Federal Aviation Administration (FAA) or other governmental agency, and except for an identifying sign of no greater than three square feet, setting forth the name and means of contacting the operator.

S. Lighting. Communications antenna support structures shall meet all FAA regulations. No communications antenna support structure may be artificially lighted, except when required by the FAA or other governmental authority. When lighting is required by the FAA or other governmental authority, it shall be limited to no greater than 50% in excess of the minimum lumens and number of lights so required and, if not inconsistent with FAA or other governmental regulations, shall be oriented inward so as not to project onto surrounding properties. The applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Borough Secretary.

T. Maintenance. The applicant shall describe anticipated maintenance needs, including landscaping, frequency of service, personnel needs, equipment needs and the traffic safety and notice impacts of such maintenance. This information shall be submitted, in writing, in the form of a proposed maintenance schedule, as part of the conditional use application or other application for zoning or building authorization.

U. Vehicular access. In the event a communications antenna is attached to an existing structure, vehicular access to the wireless communications facility shall not interfere with the parking or vehicular circulation on the site for the existing principal use.

V. Co-location. If the applicant proposes to build a communications antenna support structure (as opposed to mounting the communications antenna on an existing

structure), the applicant shall demonstrate that it has contacted the owners of structures of suitable location and height (such as smoke stacks, water towers and buildings housing existing communications antenna support structures) within a one-mile radius of the site proposed, and asked for permission to install the communications antenna on an existing structure, as set forth in this subsection, or demonstrate that the applicant cannot adequately extend or infill its communication system through the use of these structures.

W. Abandonment.

(1) If use of the wireless communications facility is abandoned or is not properly maintained (so as to assure continued structural integrity and safety), or if the wireless communications facility is not in use for a period of six months or longer, the owner shall demolish and/or remove the wireless communications facility from the land site within six months of such abandonment and/or nonuse. All costs of demolition and/or removal shall be borne by the owner of the wireless communications facility. In the event the demolition and/or removal referred to above is not performed in a timely manner, the owner shall be subject to civil enforcement proceedings, in accordance with Article XX of this chapter and other legal remedies available to the Borough.

(2) Further, prior to constructing or installing any wireless communications facility, the applicant must submit financial security in an amount sufficient to cover the cost of disassembly, demolition and removal of the wireless communications facility. The form of the financial security shall be of a type described in Section 509 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10509I, including but not limited to federal- or commonwealth-chartered lending institution irrevocable letters of credit, restrictive or escrow accounts in such lending institutions, as well as bonds. Approval of the type of financial security to be submitted shall be determined by the Borough Council; however, approval of the form of security and of the provisions thereof (e.g., the language of a bond) shall not be unreasonably withheld. The amount of financial security shall be determined by the Borough Council, based upon information submitted by the applicant and reviewed by either the Borough Engineer or other qualified consultant. In the event of a dispute concerning the appropriate amount of financial security, the Borough Engineer and the applicant shall select a qualified third party to arbitrate the dispute informally and submit a determination to the Borough Council; the amount of financial security determined by the neutral third party shall be binding. The financial security may be utilized for the disassembly, demolition and removal of any wireless communications facility, in the event that the facility is either: (a) not properly maintained; (b) abandoned; or (c) not used for a period of six months or longer. The financial security shall be so utilized after 30 days' advance written notice is forwarded by United States mail or private courier service (e.g., Federal Express, United Parcel Service) to any address provided by the applicant as part of the submission of an application for zoning or other municipal or other building authorization or to any other address, provided by applicant for the purposes of the receipt of notice under this provision. The bond or other security will be released to the applicant promptly upon the expiration of the lease, license or other

permission/authorization to make use of the subject property for the maintenance of a wireless communication facility.

(3) In addition, prior to the issuance of any building permit or use authorization or similar municipal authorization which may result in construction or installation of a communications antenna, communications antenna support structure or wireless communications facility, a declaration of covenant must be submitted by the applicant and approved by the Borough Council for recording in the Office of the Recorder of Deeds of Chester County, by which the landowner and is/her/its successors in interest, authorize Borough officials and Borough designees to effectuate the disassembly, demolition and/or removal of any wireless communications facility antenna or similar structure, as contemplated by this provision. Appropriate documentary proof must be submitted to the Borough staff confirming the recording of the declaration of covenant prior to commencement of any construction or installation of any communications antenna, communications antenna support structure or wireless communications facility. The covenant requiring proper maintenance (or removal in the case of abandonment) of a wireless communications facility shall expire promptly upon the expiration of any lease or other arrangement by which the applicant has permission to maintain a wireless communications facility (or any component thereof) on a land site or other property. Upon submission of appropriate documentary proof of the expiration of the lease or other permission specified herein, the Borough will authorize the recording of a document memorializing the expiration of the effective terms of the declaration of covenants.

(4) The requirement of this section may be waived or altered by the Borough Council in the event that either:

(a) Another appropriate form of guarantee for the continued maintenance (or removal in the case of abandonment) of a wireless communications facility is provided; or

(b) The Borough Council is satisfied that adherence to these requirements would be unnecessary, duplicative or violative of Federal Telecommunications Act of 1996, or other applicable law.

X. Notification. All applicants seeking to construct, erect, relocate or alter a wireless communications facility shall file a written certification with the Borough Zoning Officer that all property owners within a one-thousand-foot radius of the proposed communications antenna support structure have been given written notice by the applicant, mailed a minimum of 14 days prior to the date of the hearing of the applicant's intent to construct, erect, relocate or alter a wireless communications facility. The certification shall contain the name, address and tax parcel number of the property owners so notified. Such notice shall also contain the date and time of the Borough Council meeting at which the applicant will appear and demonstrate compliance with the provisions of this chapter.

Y. Interference. In the event the wireless communications facility causes interference with the radio, subscriber equipment or television reception of any Borough resident for a period of three consecutive days, the resident shall notify the

Borough, in writing, of such interference. The Borough shall notify the owner/operator of the wireless communication facility of such interference and the owner/operator, at the owner/operator's sole expense, shall thereafter ensure that any interference problems are promptly corrected. In the event the interference is not corrected in a timely manner, the owner/operator shall be subject to the civil enforcement proceedings, in accordance with Article XX of this chapter, and may have the conditional use or other municipal approval revoked.

Z. Annual report. In January of each year, the owner or operator of any wireless communications facility shall pay the registration fee established from time to time by resolution of the Borough Council and shall provide the Borough Secretary with the following information. Changes occurring with respect to any such reported information shall be reported to the Borough Secretary, in writing, within 10 days of the effective date of such change(s).

(1) The names and addresses of the owner of the wireless communications facility and any organization utilizing the wireless communications facility and telephone numbers of the appropriate contact person in case of emergency.

(2) The name and address of the property owner on which the wireless communications facility is located.

(3) The location of the wireless communications facility by geographic coordinates, indicating the latitude and longitude.

(4) Output frequency of the transmitter.

(5) The type of modulation, digital format and class of service.

(6) The effective radiated power of the communications antenna.

(7) The number of transmitters, channels and communications antenna.

(8) A copy of the owner or operator's FCC authorization. A copy of the FCC license shall be sufficient for this purpose.

(9) Communications antenna height.

(10) Power input to the communications antenna.

(11) A certification signed by an authorized representative of the applicant that the wireless communications facility is continuing to comply with this chapter and all applicable governmental regulations, including but not limited to output and emission limits established by the FCC.

(12) A certificate of insurance issued to the owner/operators evidencing that there is adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by the land site and the wireless communications facility.

AA. Privately owned and operated communications antennas, including residence-mounted satellite dishes and television receiving devices, and ham or citizen band radio antennas, are exempt from the regulations of this section.

§ 400-106. Vehicle sales, service, and repair.

A. General service, maintenance, and repair facilities shall be permitted, provided that they are conducted within an enclosed building that complies with all applicable provisions of this chapter.

B. If gasoline pumps are to be installed, all requirements for a vehicle fueling station shall be satisfied including but not limited to applicable fire code, local, state, and federal requirements.

C. Any use involving the generation of waste grease and/or oil shall be required to install traps to collect these waste products, including but not limited to oil water separators. Such uses shall also demonstrate a regular and proper means of disposal of such greases and/or oils, as required by applicable state and/or federal regulations.

D. No outdoor stockpiling of tires, trash, or vehicle parts is permitted except as permitted by § 400-72 and screened in accordance with § 400-73. An area enclosed by a wall or fence, screened from view of adjoining properties, shall be provided whenever outdoor storage is required. No materials may be stored so as to create a fire hazard.

E. Satisfactory provision shall be made to minimize harmful or unpleasant effects such as noise, odors, fumes, glare, vibration and smoke.

F. All exterior vehicle storage areas shall be screened from view of any adjoining residential use or residentially zoned lot or zoning district.

G. There shall be no more than two parked vehicles awaiting service per service bay in an open area or within a required parking space or lot and shall not exceed greater than 30% of the required parking spaces, any additional vehicles shall be in an enclosed or fenced area.

H. Junk vehicles may not be stored in the open at any time; any junked vehicles shall be stored within an enclosed or fenced area.

I. The demolition or cannibalization of junked vehicles is prohibited.

§ 400-107. Townhouse development.

A. Tract area and density requirements. Each townhouse shall be part of a town house development on a tract ("tract") developed exclusively for townhouses. Such a tract shall have a minimum of six gross acres. The density of townhouses in the development shall not exceed 11 dwelling units per net acre of tract area. Such net tract area shall be determined by subtracting the following from the gross tract area:

   (1) All wetlands regulated as such by the United States Army Corps of Engineers ("Corps") and/or the Pennsylvania Department of Environmental Protection ("DEP").

   (2) All existing and proposed public road right-of-way offered for dedication to the Borough.

   (3) All existing (not to be vacated) and proposed easements for public water

supply and sanitary sewerage (overlapping easements to be counted once) not within road right-of-way already subtracted.

(4) Fifty percent of areas with steep slopes with grades of 15% through 25%, calculated pursuant to § 400-63.

(5) Seventy-five percent of areas with steep slopes with grades of over 25%, calculated pursuant to § 400-63.

B. In each townhouse development, a sidewalk with a width of a minimum of four feet shall be provided along a minimum of one side of all public streets offered for dedication, except for areas used for driveway aprons.

C. Each townhouse shall comply with the following:

(1) No townhouse shall be part of a set (or "block") or connected townhouse unit that includes more than four townhouses.

(2) The following minimum setbacks shall apply to all townhouse blocks and related improvements:

(a) Thirty feet from tract boundaries except on public road frontage.

(b) Twenty-seven feet from the face of a road curb or the edge of paving for roads without a curb for public dedicated roads.

(c) Fifteen feet from wetlands regulated as such by the Corps or DEP.

(d) Buildings, patios and decks shall be separated by a minimum of 12 feet from all paved parking areas and common driveways.

(e) Each patio and deck for a townhouse block shall be separated by a minimum of 20 feet from all patios and decks of other townhouse blocks.

(3) Minimum separation between buildings shall be 30 feet.

(4) The minimum width for each townhouse unit shall be 24 feet.

(5) Parking requirements. There shall be a minimum of two paved parking spaces for the exclusive use of each townhouse. One such space shall be in a garage within the townhouse and the other shall be on the driveway which accesses the garage, which driveway shall be a minimum of 25 feet in length measured from the common driveway or public road to the garage door. Where there is a conflict, the residential off-street parking requirements in Article XVII shall not apply to townhouse developments in this section, and the requirements of this section shall apply.

D. Where there is condominium ownership of the dwelling units or common open space created as part of the development, a homeowners' association document shall be submitted and approved by the Borough in accordance with § 400-108E(5).

§ 400-108. Townhouse cluster development.

A. Prerequisites for townhouse cluster development option. In order to use the

standards of this section, a proposed development must meet the following preconditions:

(1) The area of the tract to be developed must contain a minimum of 15 acres.

(2) The proposed development must be served by public water and public sewer.

B. Uses. In a townhouse cluster development, the following principal uses are permitted by right:

(1) Townhouses.

(2) Common open space uses authorized by § 400-108E below.

C. Density and area and bulk requirements. The overall density (i.e., the total area in the tract which is either part of the lot size of the individual townhouse lots or common open space, which does not include any area in public rights-of-way, utility easements, stormwater retention facilities and drainage easements, divided by the total number of dwelling units) of the townhouse cluster development shall be a minimum of 12,500 square feet per dwelling unit. No more than six townhouse dwellings may be part of a connected group or row of dwellings. A subdivided lot shall be provided for each dwelling unit. Following are the minimum requirements for lot area and the placement of structures on lots:

(1) Lot size: 2,500 square feet.

(2) Lot width at building line: 24 feet.

(3) Lot width at street line: 10 feet.

(4) Building setback line: 40 feet.

(5) Front yard: 40 feet in depth.

(6) Side yards: each townhouse which is an end unit (i.e., one with only one common wall) shall have a lot with a side yard of not less than 15 feet in depth, provided that unenclosed porches may be extended from the dwelling up to five feet into the side yard.

(7) Rear yard: 25 feet in depth, provided that unenclosed decks and porches may be extended from the dwelling up to 12 feet into the rear yard.

(8) Minimum distance between buildings: 30 feet.

D. Design standards.

(1) Each single-family attached dwelling within a townhouse cluster development shall have a minimum of 1,250 square feet of living area, two bedrooms, and a full basement. For purposes of these regulations, “living area” shall not include garages, porches or basements, whether finished or not. However, any area counted as living area must be finished. “Finished” means that the area is floored, framed, all wall surfaces (e.g., dry wall) are complete and electric and heat are functional and comply with applicable building code requirements. A bedroom which is not finished may not be

counted toward the minimum bedroom requirement.

(2) All utilities shall be placed underground.

(3) The conditional use application shall include a landscaping plan prepared by a registered landscape architect. This plan shall include basic landscaping plans for the individual lots, as well as an overall design plan for required common open spaces and landscape buffer areas. The developer shall provide any landscaping for common areas and individual lots according to the approved overall landscaping plan and the basic individual lot plans. Streetlights, sidewalks and all proposed signage shall be shown on the landscape plan. The plan shall also identify all existing stands of mature trees.

E. Common open space. These provisions are intended to establish interrelated use regulations, performance standards, design and locational criteria for all designated open space land. Designated open space is land identified for recreational use or other open space purposes on the subdivision plan, which is not part of an individual lot for a dwelling unit.

(1) Calculating required common open space area. The following are limitations on land which is counted for the purposes of determining compliance with open space requirements:

(a) The surface area of existing and proposed bodies of water, areas with seasonal high water table soils as designated in the soil survey, utility easements, rights-of-way, required landscape buffer areas, and areas to be used for permanent sedimentation and erosion control or stormwater management facilities, including drainage easements and natural watercourses and areas regulated as wetlands by DEP or United States Army Corps of Engineers, shall not be counted.

(b) When land with a vertical change in grade of six feet or more and slopes of 15% or more is designed as open space, only ½ of such slopes may be counted, provided that only ¼ of the land with vertical change in grade of six feet or more and slopes of 25% or greater may be counted.

(c) When land which is in a one-hundred-year floodplain or which has alluvial soils as identified in the soil survey is designated as open space, only ¼ of such land and no portion which has a seasonally high water table may be counted.

(d) No area within 100 feet of an area used for retail sales of agricultural products, whether or not grown or raised on the premises, shall be counted. Such retail uses include all accessory parking areas.

(2) Delineating common open space areas.

(a) Locational criteria. The location and proposed use of land designated as common open space must be shown on preliminary and final subdivision and land development plans and will be approved finally, for purposes of these regulations, when the final subdivision plan is approved.

(b) Areas identified for recreational uses must be suitable for the proposed

use.

(c) In planning a development, land with the following characteristics should be given a high priority for designation as open space:

[1] Land in and contiguous to floodplains.

[2] Areas with steep (15% to 24%) and very steep (25% and greater) slopes.

[3] Woodlands and stands of trees where the majority of trees are greater than 12 inches in caliper.

[4] Land surrounding surface water resources such as lakes, ponds, streams and springs.

[5] Significant groundwater recharge areas (aquifers).

(3) Design standards for common open space areas. The common open space designated within the development shall not be only left over or otherwise unusable land. Common open space areas shall be laid out according to sound site design principles and shall provide appropriate access for residents of the development. Land designated as part of the minimum common open space area requirement must meet the following design standards:

(a) Minimum contiguous area. A designated open space parcel shall have a contiguous area of not less than ½ acre.

(b) Minimum parcel width. An open space parcel shall have a minimum average width of 50 feet in all directions.

(c) Maximum impervious coverage. Not more than 5% of the total required common open space area shall be covered by impervious surfaces.

(d) Minimum setbacks.

[1] New property lines shall be located so that any existing structures within the designated open space shall be no less than 50 feet from any lot line created by the proposed subdivision.

[2] New structures, including recreational structures, but not signs, boundary fences, walls, benches, light standards and landscaping, shall have a setback of 100 feet from all property lines.

(4) Use of areas designated as common open space. Land designated as common open space may be used for any of the following purposes and no others:

(a) Conservation uses, including woodlands, and other natural areas such as grasslands, marshes, lakes, ponds, streams and floodplains.

(b) Agricultural uses including cropland, pasture, silviculture and nurseries.

(c) Passive recreational uses such as parks and natural trails.

(d) Active recreational uses which are not for profit and for the use of the residents

and their guests, including playing fields, playgrounds, tennis and basketball courts and swimming pools.

(e) Planted areas used for visual screening purposes and noise control.

(f) Presently existing structures may be used only in connection with the open space uses.

(g) The following open space uses, when approved by Borough Council:

[1] Bridges.

[2] Signs which are accessory to permitted open space uses. Whenever reasonably possible, signs should be placed outside of designated open space areas.

[3] Boundary fences and walls.

[4] Recreational structures. The design of all recreational buildings and structures must be compatible with the character of the surrounding area, other open spaces and the development as a whole. An architect's or landscape architect's analysis of the compatibility of the proposed design, siting, materials and colors should accompany all applications for approval.

(h) Accessory uses:

[1] No new parking facilities shall be located in designated common open space areas.

[2] Retail sales of agricultural products, including those grown or raised on the premises, shall not be located in designated open space areas.

(5) Common open space ownership and maintenance.

(a) The common open space areas or any part thereof may be offered to the Borough which may, but is not obligated to, accept ownership thereof. If the Borough accepts ownership of any part of the common open space, such acceptance shall not affect the overall density of the development.

(b) The developer shall cause the common open space areas not conveyed to the Borough to be deed restricted so that their use will be limited perpetually to the uses shown on the approved final subdivision plan and those authorized by this article.

(c) For all common open space areas not conveyed to the Borough, the developer shall identify the entity (called "homeowners' association" in this section) which will own the open space and will insure that the open space is maintained properly in perpetuity.

(d) The Borough Solicitor shall review the legal documents creating the homeowners' association, the association's bylaws and the deed restrictions and shall determine whether these documents comply with

the provisions of this article. It is important to the Borough that the open space owner be financially responsible and have both the means and incentive to maintain and pay the taxes on the property in a timely manner.

(e) The homeowners' association shall be organized in compliance with the following:

[1] The homeowners' association shall be organized by the landowner or developer and shall be in existence and operating before the sale of any lots within the development.

[2] Membership in the homeowners' association shall be mandatory for all purchasers of dwelling units within the development with common open space or common facilities (e.g., for stormwater management), and must bind all purchasers' heirs, successors and assigns.

[3] Homeowners' association members shall share equitably the costs of maintaining the common open space areas.

[4] The homeowners' association declaration and bylaws shall allow the association to place a lien against an individual member's property if the member fails to pay his or her share of the assessed open space maintenance costs.

[5] The homeowners' association shall be responsible for maintenance of insurance and payment of taxes on the common open space. All homeowners shall be responsible jointly with the association for the payment of taxes.

[6] The homeowners' association shall have the authority and the ability to promptly correct hazardous conditions, nuisances and ordinance violations with respect to the open space areas.

[7] The landowner or developer shall provide the Borough with a plan for adequate administration of the homeowners' association's affairs.

(f) In the event that the homeowners' association shall, at any time after the creation of the common open space, fail to maintain said open space and/ or any facilities located therein in reasonable order and condition in accordance with any and all approved plans, the Borough shall have the right, and the documents creating the homeowners' association shall acknowledge such right, to serve written notice upon the association or upon the residents and owners, setting forth the manner in which the association has failed to maintain the open space and/or facilities in reasonable condition, and said notice shall include a demand that such deficiencies be cured within 30 days thereof, and shall state the date and place of a hearing, which shall be held within 14 days of the notice. At such hearing, Borough Council may modify the terms of the original notice as to the deficiencies and may give an extension of time within

which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of properties and to prevent the open space from becoming or continuing as a public nuisance, may enter upon said open space and maintain the same for a period of one year, at the expense of the association. The cost of any such maintenance shall be borne by the owners of the lots within the development from which the open space shall be derived. Said entry and maintenance shall not vest in the public any rights to use the open space. Before the expiration of the year during which the Borough maintains the common open space, Borough Council shall, upon its initiative or upon the request of the association, call a public hearing upon notice of the association or to the residents and owners of the dwelling units in the development. The purpose of this hearing shall be to allow the association and the owners and residents to show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough determines that the association is ready and able to maintain the common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough determines that the association is not ready and able to maintain the common open space, the Borough may, in its discretion, continue to maintain the open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough in any such case shall constitute a full administrative decision subject to judicial review at the expense of the homeowners' association. The Borough's cost of maintaining the common open space under this provision shall be assessed ratably against the properties within the development and shall become a municipal lien on said properties. The Borough, at the time of entering upon the common open space for the purpose of maintenance, shall file a notice of lien in the office of the Prothonotary of Chester County, which shall give notice with respect to all of the properties in the development.

§ 400-109. Townhouse development option.

A. Each townhouse shall be a part of a development on a tract developed exclusively for townhouses under the requirements of this section. Such a tract shall have a minimum of 6 ½ gross acres. The density of townhouses in the development shall not exceed one townhouse per 3,000 square feet of net tract area. Such net tract area shall be determined by subtracting the following from the gross tract area (and not by using the requirements applicable to calculating minimum lot size):

(1) All wetlands regulated as such by the United States Army Corps of Engineers ("Corps") and/or the Pennsylvania Department of Environmental Protection ("DEP").

(2) All existing and proposed public and private road right-of-way.

(3) All existing (not to be vacated) and proposed easements for public water supply and sanitary sewer facilities (overlapping easements to be counted

once) not within existing and/or proposed public or private road right-of-way already subtracted.

(4) All watercourses and bodies of water and their floodplains.

(5) All areas within existing and/or proposed stormwater management easements.

(6) All areas within required riparian buffer setbacks.

(7) Fifty percent of areas (based on predevelopment conditions) with steep slopes with grades of 15% through 25%, calculated pursuant to § 400-63.

(8) Seventy five percent of areas (based on predevelopment conditions) with steep slopes of 25% or greater, calculated pursuant to § 400-63.

B. The maximum tract coverage (i.e., the maximum percentage of the area of the tract which is not within existing and/or proposed public street rights-of-way and which may be covered by buildings, roofed structures and paving) shall be 35%.

C. There shall be a minimum of one new parking space provided for common and/or guest parking for every two townhouses. Such parking shall be in addition to the parking required for the exclusive use of each individual townhouse. The common and/or guest parking may be provided along, but not within, the required cartway (i.e., the travel lanes) of streets to be constructed on the tract and/or within parking lots on the tract. However where an existing public street is widened to create new parallel parking spaces, such new parking spaces (minus any existing parking spaces which are outside of the street's travel lanes and are lost as a result of the widening) may be counted for up to ¼ of the common/guest parking requirement if such spaces are located along public streets on or contiguous to the tract. To be counted toward the common/guest parking requirement, such spaces shall be a minimum of 10 feet wide and 24 feet long, located entirely outside of the street's travel lanes and otherwise designed according to such specifications, such as curbing, lighting, and sidewalk access, as the Borough shall direct. Parking lots for common and/or guest parking shall be screened with evergreen landscaping so that car lights shall not shine directly into any dwelling. Existing parking on existing public streets shall not be counted toward common and/or guest parking. For this section, the locational requirements for off-street parking and driveway spacing requirements in Article XVII shall not apply to off-street parking for and driveways to individual townhouses, as the requirements of this section shall control.

D. No freestanding accessory building or roofed structure (including, without limitation, storage sheds) shall be permitted. There shall be no outside storage of trash, junk and/or lawn mowers.

E. A sidewalk with a width of a minimum of four feet shall be provided along a minimum of one side of all private streets, except for areas used for driveway aprons. This is an addition to sidewalks required along all existing and proposed public streets.

F. When a development is proposed to create improvements and/or real property which is to be operated, owned and/or maintained as a common-interest community, planned community, condominium, cooperative and/or pursuant to

maintenance covenants between the owners of townhouses, the documents establishing such maintenance, operation and ownership rights and duties shall be subject to the Borough's prior written approval. The Borough shall have the right to require terms in the governing documents and/or covenants that will insure that adequate funds will always be available and that the responsible parties and/or entity can act, in a timely manner, to correct regulatory violations and nuisance conditions with respect to such improvements and property and maintain and operate such improvements and property in compliance with the approved plans and all applicable regulations. The documents and/or covenant(s) shall also authorize, but not require, the Borough to correct regulatory violations and abate nuisances if the responsible parties and/or entity do not do so in a timely manner and, in such event, will give the Borough the right to recover the Borough's costs therefore as a municipal claim. The documents and/or covenant(s), as recorded, shall provided that the terms required by the Borough may not be amended without the Borough's prior approval by written resolution.

G. Each townhouse block shall comply with the following:

(1) The following minimum setbacks shall apply to each townhouse block:

(a) Thirty feet from the tract boundary.

(b) Twenty-seven feet from all existing, dedicated, public street, excluding any right-of-way.

(c) Twenty-two feet from any part of a public sidewalk which is adjacent to a street cartway.

(d) Twenty-three feet from the end line of any existing, dedicated, public street.

(e) Thirty feet, from side to side, between townhouse blocks which front in the same general direction, and 60 feet, from back to back, between townhouse blocks the backs of which generally face each other.

(2) Each townhouse shall comply with the following:

(a) No townhouse shall be part of a townhouse block that includes more than five townhouses.

(b) The minimum setback between patios and decks and the tract boundary shall be 20 feet.

(c) Each patio and deck for a townhouse shall be separated by a minimum of 30 feet from all patios and decks for townhouses in other townhouse blocks.

(d) The minimum width (from side to side) for each townhouse unit shall be 20 feet.

(e) Any stoops, steps, landing and/or porch located on the side of a townhouse (typically called an "end unit") on the end of a townhouse block shall extend not more than five feet into the minimum side setback

between townhouse blocks.

(f) If a lot is to be provided for the individual townhouses, the minimum lot size requirements of this chapter shall not apply to such lots.

(g) Each townhouse shall be connected to public water and sanitary sewer service.

H. Where there is condominium ownership of the dwelling units or common open space created as part of the development, a homeowners' association document shall be submitted and approved by the Borough in accordance with § 400-108E(5).

§ 400-109.1. Accessory Dwelling Unit (ADU).

A. This accessory use allows a smaller secondary dwelling unit within an existing residential dwelling or accessory structure on the same lot as the principal dwelling.

B. An accessory dwelling unit shall be permitted only within detached, semi-detached, or attached residential dwellings or their accessory structures.

C. The area and bulk regulations of the zoning district shall apply to the lot on which the accessory dwelling unit is located.

D. An accessory dwelling unit may be permitted on a nonconforming lot or within a nonconforming structure so long as doing so does not increase the nonconformity.

E. The accessory dwelling unit shall be permitted in one of the following configurations:

(1) Located in the existing principal dwelling and may be a conversion of existing floor area, such as a garage, basement, or upper story of the dwelling, and designed so that, to the greatest extent possible, the appearance of the principal dwelling remains that of a single residential dwelling. Entrances to the accessory dwelling unit shall be located to the rear or side of the building and shall meet Borough and state safety codes.

(2) Contained within an accessory structure on the same lot as the principal dwelling.

F. Either the principal dwelling or the accessory dwelling unit shall be occupied by the bona fide owner of the property on which both dwelling units are located.

G. The accessory dwelling unit shall be not more than 35% of the principal dwelling's total floor area or 1,200 square feet, whichever is greater, and shall have a minimum floor area of 350 square feet.

H. One off street parking space shall be provided for each accessory dwelling unit in addition to the parking requirements for the principal residential use, in accordance with Article XVII.

I. To ensure compliance with this chapter, site and architectural plans shall be submitted, accurately drawn to scale, displaying the location and size of the existing and proposed accessory dwelling unit, indicating both exterior and interior

modifications associated with the accessory dwelling unit, including its floor plan, egress, sewage disposal, water supply systems, and proposed parking.

J. All accessory dwelling units in the Borough shall be subject to the requirements of Article XX relating to use and occupancy permits; shall apply to the Borough for a sewer permit/extension prior to a new accessory dwelling unit being established in an accessory structure; and shall comply with the borough building code and all other applicable borough, county, and state codes and requirements.

K. A use and occupancy permit shall be required prior to the occupancy of an accessory dwelling unit. The permit form, as provided by the Borough, and accompanying required fee shall be submitted by the property owner. An application to renew the permit shall be submitted annually prior to the intended continuation of occupancy. It shall be unlawful for the accessory dwelling unit to be occupied beyond the operative period of a permit.

L. An accessory dwelling unit that is rented or leased shall obtain a rental license and comply with all the requirements of the Borough Rental Ordinance in accordance with Chapter 318 of the West Grove Borough code.

§400-109.2. Solar Energy Systems (SES).

A. Solar energy systems require all applicable permit prior to installation, including but not limited to verification that all installations are compliant with the borough building code (UCC).

B. Grid-connected solar energy systems shall comply with the interconnection requirements of the local electric utility. The owner of an SES shall provide the Borough written confirmation that the public utility company to which the SES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection prior to installation. Off-grid systems shall be exempt from this requirement.

C. Each SES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same. The SES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

D. Glare. SES shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways. Any glare produced visible beyond the property lines of the property upon which the solar energy system is located may be subject to the nuisance provisions of §400-71 of the borough zoning ordinance and any other borough code or ordinance related to glare.

E. Roof-mounted solar energy systems placed on either a principal or accessory structure, are subject to the following development standards:

(1) Height.

(a) On a pitched/sloped roof, solar energy systems shall be installed parallel to the roof surface and may not extend beyond the edge of the roof peak.

(b) On a flat roof, solar energy systems are permitted to exceed the zoning district height limits by a maximum of 8 feet.

(2) The system shall in no place hang off or extend beyond the edge of the roof.

(3) Emergency access. Roof-mounted solar energy systems shall comply with applicable state and local fire codes to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide areas for smoke ventilation, and provide emergency egress from the roof.

(4) Screening.

(a) Roof-mounted solar energy systems on a pitched/sloped roof mounted parallel to the roof are exempt from screening requirements.

(b) Roof-mounted solar energy systems mounted on a flat roof are required to be screened from ground level view via a parapet.

(c) Solar roof tiles that generate solar power but mimic conventional roofing materials are preferred if possible.

(5) Location. Where possible, roof-mounted panels should be located on the rear of buildings, on roof slopes that are not prominent, on flat roofs screened from view with a parapet, at the rear of properties, or in a similar unobtrusive location.

(6) Flat Roof mounted systems. Systems that include a solar array section that is larger than 150 square feet measured in length or width shall have additional intermediate pathways. An intermediate pathway not less than 36 inches wide separating the array shall be provided for every 150 square feet of array including offset modules or angled installations.

F. Ground-mounted solar energy systems (GMSES) are subject to the following development standards:

(1) Height. Maximum height shall be in accordance with Section §400-82.

(2) Setbacks. Setback shall be in accordance with Section §400-82.

(3) Screening. Ground-mounted solar energy systems are exempt from screening requirements.

(4) Placement.

(a) It is preferred that solar energy systems are placed on the roof of an existing principal or accessory structure where one exists prior to the approval of a ground-mounted solar energy system. The reasons why a roof mounted system cannot be accommodated instead of a ground mounted system shall be stated in the application for a ground mounted system.

(b) Ground-mounted solar energy systems shall be located in the side or rear yard of the property.

(c) Ground-mounted solar energy systems shall not be placed within any legal easement or right-of-way location, nor shall they be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(d) Off-street parking areas. GMSES may be constructed within the limits of an off-street parking lot or on a driveway as covered parking/canopies for vehicles over permitted impervious surfaces. The landscaping set forth in §400-73 of the Zoning Ordinance and with § 350-37 of Chapter 350, Subdivision and Land Development Ordinance, may be modified to the minimum extent necessary by the Borough Council if an applicant can demonstrate that the GMSES performance would be adversely impacted by the required interior landscaped plantings. GMSES shall not cover or negativity impact required landscaping, buffers, or stormwater management facilities. See Figure 18-6

(5) Lot coverage/impervious surface. Ground-mounted solar energy systems shall be considered impervious surfaces counting as a part of lot coverage and impervious surface requirements.

(6) All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

Figure 18-6



*Source: https://www.vanmeterinc.com/blog/guide-to-solar-carports



*Source: https://compasssolar.com/solar-canopy/

§ 400-109.3. Smoke Shop/Tobacco Store.

A. The sale of tobacco and/or tobacco products and vaping products shall be permitted as an accessory use to a Convenience Store by-right. However, where a use exceeds twenty (20) percent or more of its total display area for the sale of tobacco and/or tobacco products, and/or vaping products it shall be considered a tobacco store/smoke shop (principal use) for the purposes of this Chapter and subject to the applicable requirements.

B. Required Separation Distance. Where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use or where a smoke shop/tobacco store (principal use) is located, such use shall be located no closer than the distance listed below from any other smoke shop/tobacco store (principal use) or use where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use, or no closer to any other use indicated below, as measured from the property line. The measurement should be made between the nearest point of the property line for each use indicated above as follows:

(1) In the C-1 District: 100 feet between smoke shop/tobacco store uses or uses where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use or between a smoke shop/tobacco store use or use where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use and a residential use.

(2) In the C-2 District: 50 feet between smoke shop/tobacco store uses or uses where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use or between a smoke shop/tobacco store use or use where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use and a residential use.

(3) In the C-1 and C-2 Districts: 200 feet between a smoke shop/tobacco store use or use where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use and a day care, school, community center, library, park or recreational facility, religious institution, or medical facility.

C. Compliance. All smoke shops/tobacco stores (principal use) and uses where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use shall comply with all current Federal, Commonwealth, and local laws including, but not limited to the PA Clean Indoor Air Act of June 13, 2008, P.L. 182, No. 27, Sections 637.1-637.11.

D. For smoke shops/tobacco stores (principal use) and uses where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use, no sales may be solicited or conducted on the premises by minors.

E. All smoke shops/tobacco stores (principal use) and uses where the sale of tobacco and/or tobacco products and vaping products occurs as an accessory use shall provide and maintain a minimum of one garbage can per entryway, at locations as approved by the Zoning Officer.

F. For smoke shops/tobacco stores (principal use), persons under the age of 21 shall

not be permitted to enter the facility and businesses shall be responsible for verifying the age of consumers.

§ 400-109.4. Skill Games.

A. Not more than 5 skill games shall be permitted as an accessory use permitted by conditional use when authorized by Borough Council and subject to the requirements of Article XX. Where a use exceeds 5 skill games it shall be considered a Casino for the purposes of this Chapter and subject to the applicable requirements and considered as a principal use permitted by conditional use in the LI District when authorized by Borough Council and subject to the requirements of Article XX.

B. Installation of skill games shall comply with the borough building code (UCC) and subject to inspection and compliance by the borough zoning officer in addition to any other applicable codes (fire code, etc.).

ARTICLE XIX
Signs

§ 400-110. Purpose.

To meet the legitimate demands for signage in the Borough of West Grove without the intrusion and potential public safety problems caused by an unlimited type and quantity of signs, any sign erected or maintained after the effective date of this chapter shall conform to the regulations herein and the following goals:

A. To provide general standards for all signs within the Borough and specific standards for signs in various zoning districts and for various uses.

B. To establish procedures for the review and approval of sign permit applications.

C. To regulate the location, size, construction, alteration, use and maintenance of signs.

D. To protect the safety and general welfare of the community through the proper use, design and construction of signs for graphic and written communication purposes.

E. To promote the use of well-crafted signs in harmony with the scale and character of the Borough.

F. To manage the size, location, and number of signs to promote orderly signage and prevent visual blight that may negatively affect public safety in vehicular and pedestrian circulation.

G. To develop a consistent and appropriate level of signage for a small Borough to assist in economic development by providing clear signage for local businesses.

H. To develop signage appropriate for the Borough that will provide appropriate controls while incorporating flexibility for different types of signs appropriate for a borough.

§ 400-111. General regulations.

The following regulations shall be observed in all districts:

A. A sign permit in accordance with § 400-113 shall be obtained before erection, alteration or enlargement of any sign, sign structure or any portion thereof under these regulations except as hereinafter provided.

B. No sign shall be erected within a street right-of-way, except traffic signs and similar regulatory notices of a duly constituted governmental body unless otherwise specifically permitted herein. Where such signs are erected within the street right- of-way, the required sight distances shall be maintained.

C. No sign shall be placed in such a position that it will cause danger on a street by obscuring view and, in no case, except traffic signs, shall signs be placed within the required clear sight triangle in accordance with § 400-70.

D. No sign shall be placed where it obscures a motorist's view of traffic signals or traffic signs or interferes with or endangers the safety of vehicular traffic, bicyclists, or pedestrians.

E. No moving, flashing, or rotating signs which may distract motorists on Borough streets or adjacent highways shall be permitted.

F. No sign which emits smoke, visible vapors, particles, sound, or odor shall be permitted.

G. No sign shall be erected containing information which states or implies that a property may be used for any purpose other than the use or uses permitted for the property on which the sign is located.

H. No sign shall be erected advertising a business, articles, or merchandise for sale other than on the same premises, except for billboards where permitted in accordance with § 400-115G(6).

I. Every sign shall be constructed of a durable material and kept in good condition, repair, and safe from collapse.

J. No sign shall be attached to a utility pole or other public infrastructure or hung across a public street except as placed or permitted by the Borough.

K. No sign shall be painted on or affixed to a fence, utility pole or structure, or tree, shrub, rock, or natural object.

L. Signs shall not be mounted on roofs or extend above the roof line.

M. No sign together with any supporting framework shall extend to a height above the maximum building height permitted in a district.

N. The outdoor storage or parking of a vehicle on a property shall not be used as a sign for a business, home-based businesses, or any other use. No vehicle which contains advertising on its exterior shall park in a location visible from a public right-of-way continuously for more than two weeks.

O. All distances provided for in this article shall be measured along straight lines between signs from their near edge to the near edge of another sign or sign structure. This subsection shall apply in all cases, including locating new signs in relationship to current nonconforming signs.

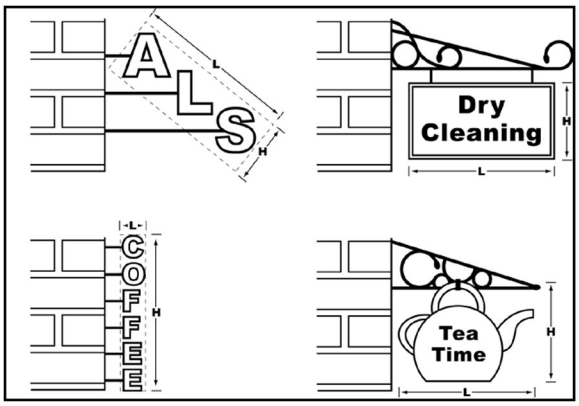
P. Sign area. For the purposes of calculating any sign area, the following shall apply:

(1) Sign area. See Figure 19-1.

(a) Sign area includes the face of a sign, including all letters, words, numbers, characters, designs, or symbols, together with background, whether open or enclosed, on which they are displayed, but not including the supporting framework and bracing or decorative trim which is incidental to the copy content of the display itself.

(b) Where a sign consists of individual letters, numbers, characters or symbols, the area of the sign shall be considered the smallest rectangle, square, circle or other geometric shape which encompasses all of the letters, numbers, characters or symbols.

Figure 19-1: Sign Area



(2) Double-faced signs. Double faced signs shall be permitted when in accordance with the following:

(a) In computing the area of a double face, only one side shall be considered, provided that both faces are identical and not greater than 18 inches apart.

(b) For "V" type signs not meeting the above requirement, both sides shall be considered in computing the sign area.

§ 400-112. Illumination standards and electronic message signs.

A. Illumination. The following regulations shall apply to signs when illumination is proposed:

(1) Signs shall be illuminated with steady, stationary, shielded light sources directed solely onto the signs without causing glare. There shall be no illumination of a flashing or intermittent type. Electronic message signs are permitted for all or a portion of a sign as permitted by § 400-112B below.

(2) Lighting of signs shall not shine directly upon adjacent properties nor within the normal line of vision of pedestrians or motorists using streets or sidewalks within public rights-of-way.

(3) Lighting shall be shielded so that the source of light shall not be visible from any point off the lot on which the sign is located, except for electronic message signs as permitted by this section.

(1) Internally illuminated signs shall be permitted through the use of either translucent materials or backlighting so long as the source of the lighting complies with all other requirements of this chapter. Illumination shall be permitted for individual or groups of letters on a sign face or individual internally illuminated letters or backlit letters, but backlighting of an entire sign face shall not be permitted. See examples provided in § 400-118.

(2) No sign may be erected with exposed electrical wires.

(3) Strings of bulbs are not permitted for the illumination of signs.

(4) No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for a traffic signal.

(5) Neon window signs may be permitted in cases where they are custom designed to be compatible with the building's historic and/or architectural character and exterior color.

(6) All signs shall comply with the applicable requirements of the UCC.

(7) In addition to the regulations of this section, illumination of signs shall comply with § 400-71 of Article XVI, General Regulations.

B. Electronic message signs. Such signs may be permitted for nonresidential uses and shall comply with all other requirements of this chapter and the following regulations:

(1) Displayed messages shall be visible for a minimum of six seconds (dwell time).

(2) A change in displayed message shall occur within one second.

(3) No visual scrolling, movement, fading, or dissolving is permitted and messages shall not overlap.

(4) The sign shall be equipped with automatic day/night dimming to reduce the illumination intensity of the sign from one hour after sunset to one hour prior to sunrise.

(5) The sign shall be equipped with an automatic shutoff in case of failure or error that would result in the sign projecting a full-intensity all-white image for an extended period of time.

(6) The use of animation, sound, and full-motion video is prohibited.

§ 400-113. Sign permits.

A. It shall be unlawful for any person, firm, or corporation to erect, alter, or relocate any sign within the Borough without first obtaining a sign permit, unless the sign is specifically exempt from the permit requirements under § 400-113B and C below, in accordance with the following:

(1) Applications for sign permits may be obtained from the Borough and shall be filed on forms furnished by the Borough and shall be accompanied by detailed plans and specifications and such other information deemed necessary by the Zoning Officer to determine the location and details of sign construction.

(2) Permit fees shall be collected prior to the issuance of a permit. Permit fees shall be as designated by the West Grove Borough Council by resolution.

(3) The Borough Zoning Officer shall approve or deny applications for sign

approval permits within 15 working days from the date of the filing of the complete application with the required fee. If an application is denied, the applicant shall receive notification in writing stating the reason for denial along with the specific provision or provisions of this chapter that were not met by the application.

B. Maintenance of or changes to signs. The following shall not require a permit:

(1) Regular maintenance of the sign, including electrical, repainting or cleaning.

(2) The repair of the sign that in no way changes the sign from the original approved application.

(3) Minor changes to a sign, such as changes to the information on or text of a sign, deemed by the Borough Zoning Officer to be insignificant to the sign. Changes to the size, shape, location, structure, or mounting do not constitute minor changes and shall require the submission of a sign permit.

C. Signs not requiring a permit. No permit shall be required for the following signs. These signs shall conform to all other regulations set forth herein:

(1) Traffic direction signs.

(2) Traffic signs.

(3) Address signs.

(4) Trespassing signs.

(5) Real estate signs.

(6) Temporary professional signs.

(7) Portable signs.

(8) Election signs.

(9) Home-based business signs.

(10) Legal notices.

(11) Personal Expression Signs.

D. All signs requiring a permit shall be subject to inspection by the Zoning Officer. No work shall be done other than as specifically shown on an approved sign permit or as permitted by § 400-113B.

§ 400-114. Signs permitted by zoning district.

A. Signs permitted in Residential Zoning Districts:

(1) Address signs.

(2) Identification signs.

(3) Traffic direction signs.

(4) Traffic signs.

(5) Freestanding ground signs.

(6) Home-based business signs.

(7) Temporary sign types:

(a) Real estate signs.

(b) Election signs.

(c) Temporary new construction signs.

(d) Temporary professional signs.

(e) Trespassing signs.

(f) Garage sale/yard sale signs.

(g) Personal Expression Sign.

(h) Legal notices as required by this chapter and/or any other official legal action.

B. Signs permitted in Nonresidential Zoning Districts.

(1) The following signs shall be permitted in the C-1 and E&P District:

(a) All signs permitted in Residential Districts in § 400-114A.

(b) Awning signs.

(c) Wall signs.

(d) Projecting signs.

(e) Window signs.

(f) Temporary signs.

[1] Temporary window signs.

[2] Portable signs.

(2) The following signs shall be permitted in the C-2 and C-4 Districts: All signs permitted in the C-1 District in § 400-114B(1), in addition to freestanding pole signs.

(3) The following signs shall be permitted in the Limited Industrial Zoning District (LI): All signs permitted in the C-2 and C-4 Districts in § 400-114B(2).

(4) Number of signs permitted.

(a) There shall be a maximum of one permanent sign permitted per lot for a

nonresidential use in a Residential Zoning District in addition to one home based business sign where permitted.

(b) In the C-1, C-2, C-4, E&P Overlay, and LI Districts, a maximum of two permanent signs shall be permitted per lot provided that the signs are not of the same type, except where there is more than one street frontage, more than one use per building, or more than one principal structure on a lot, additional signs may be permitted in accordance with § 400-115G and the following shall apply:

[1] Lots which front on more than one public street are permitted two permanent signs per street frontage provided that two of the same type of sign are not permitted on the same street frontage.

[2] Where is more than one use per structure, additional sign size or number of signs may be permitted in accordance with §400-115G.

[3] Where there is more than one principal structure on a lot, each structure is permitted two signs per structure, unless there is more than one use per structure additional sign size or number of signs provided in §400-115.G shall apply to each structure individually.

(c) Address signs shall be exempt in counting the number of permanent signs permitted per address.

§ 400-115. Sign classification, size and district applicability.

Signs shall be permitted as designated in § 400-114, as follows:

A. Address signs. A sign limited to the provision of the official numerical identification address of the property on which it is located.

(1) One sign shall be permitted per official address for a property. Where more than one address is located on a property, each address may have one sign or all of the address signs may be placed on one sign totaling the combined sign area for all of the applicable uses.

(2) Dimensional requirements. Sign area shall not exceed two square feet.

B. Traffic signs. A sign including but limited to those regulating traffic, naming roads, describing conditions, or providing directions, which are officially erected by the Commonwealth of Pennsylvania or the Borough of West Grove, or other official agency with jurisdiction.

C. Traffic direction signs. A sign which is designed and erected solely for the purpose of traffic or pedestrian direction for visitors on a property, including but not limited to exit and entrance signs, circulation direction, safety or warning signs, and information or public services signs such as those advertising the availability of rest rooms, telephone or similar public conveniences, but shall not be used for advertisement.

(1) Signs shall be on the same lot as the use to which the sign relates.

(2) Signs are limited to appropriate information such as that listed in § 400-115C above, the definitions herein and in Article II, and shall not contain any advertising.

(3) Dimensional requirements. Sign area shall not exceed four square feet.

D. Identification signs. A sign which displays the name of a particular noncommercial or nonindustrial development, building, or use, such as an institutional use, place of worship, educational use, or residential development.

(1) One freestanding ground sign for each street frontage or at each access to a use, subdivision, development, or complex shall be permitted which may indicate the name and address, provided the sign shall not exceed 15 square feet.

(2) Multifamily uses may have, in addition to or in replacement of signs in § 400-115D(1) above, one development identification sign mounted as a wall sign that shall not exceed nine square feet, on a multifamily building for identification purposes displaying the name and/or address of the building.

E. Home-based business signs. A sign used to indicate a home-based business where permitted as an accessory use to a residential dwelling in a residential district.

(1) One sign per use shall be permitted in all residential districts.

(2) Dimensional requirements:

(a) No-impact home-based business. Sign area shall not exceed two square feet.

(b) Intensive home-based business. Sign area shall not exceed six square feet.

(3) Signs shall be a minimum of five feet from any lot line or street cartway (edge of pavement).

F. Temporary signs. A sign that is not permanently affixed to the ground or a structure and/or which is intended to be displayed for a limited time. Temporary signs typically are mounted in a standard metal or wire frame with legs that may be pressed into the ground. Such signs may include specific types of temporary signs or temporary signs to be placed at the property owners' discretion for personal expression or interest.

(1) General regulations.

(a) Temporary signs shall be placed a minimum of five feet from any lot line or street cartway (edge of pavement).

(b) Signs shall be removed immediately upon completion of the active work or any special event.

(c) Temporary signs shall be firmly anchored into or secured to the ground either by posts to be pressed into the ground or other similar method, but shall not be permanently affixed.

(2) Real estate signs. A temporary sign which advertises the sale, rental, or lease of the property on which it is placed.

(a) Not more than one real estate signs shall be permitted for each street a lot fronts upon.

(b) Dimensional requirements. Sign area shall not exceed six square feet.

(c) All such signs shall be removed within five business days of the date of settlement or execution of a lease for the premises.

(3) Garage sale/yard sale signs. A temporary sign which directs attention to the sale of personal goods on the premises on which the sign is located.

(a) Signs may be placed not more than seven days prior to the sale and shall be removed before the end of the day of the sale.

(b) Dimensional requirements. Sign area shall not exceed six square feet.

(c) No off-premises signs shall be permitted.

(4) Trespassing signs. A temporary sign indicating the private nature or ownership of a property, a road or driveway, or restricting or prohibiting access, hunting, fishing, or some other activity. Sign area shall not exceed two square feet.

(5) Temporary professional signs. A temporary sign of a contractor, architect, mechanic, artisan, or similar profession displayed on a temporary basis on the premises at which the services are being performed.

(a) Signs shall be erected only on the premises where such work is being performed.

(b) Not more than one such sign per contractor shall be placed on a premises.

(c) Dimensional requirements. Sign area shall not exceed six square feet.

(d) Such signs shall be removed upon the completion of active work.

(6) Temporary new construction signs. A temporary sign indicating that the premise is in the process of being subdivided and/or developed for the construction of dwellings or other buildings and/or uses that may include the name of the subdivision, development, or developer.

(a) One temporary ground sign shall be permitted for each street the subdivision, development, or property fronts upon.

(b) Dimensional requirements. Sign area shall not exceed 15 square feet.

(c) Such signs shall be removed within five days after dedication of streets to the Borough or upon substantial improvement of the project.

(7) Portable signs. A temporary sign that is not fixed, attached, or anchored in a permanent position, that is capable of being readily moved or relocated, including but not limited to sandwich boards, placards, or other similar signs

mounted on a frame or chassis on wheels or supported by legs but not pressed or extended into the ground or other surface.

(a) Portable signs shall be placed on the same lot as the use for which the sign is associated.

(b) The sign area of a portable sign shall not exceed nine square feet and shall not exceed four feet in height.

(c) Not more than two such signs shall be placed on a premises.

(d) Signs shall be located a minimum of one foot from any lot line or street cartway (edge of pavement) and provide a clear path when located on a sidewalk to accommodate Americans With Disabilities (ADA) Act requirements.

(e) Portable signs shall comply with all other applicable regulations of this chapter, and shall not be placed to impede pedestrian traffic or constitute a hazard to or impede pedestrians or automobile circulation.

(f) Such signs shall be permitted to be placed for viewing during the regular business hours of the associated use, and shall be removed from public view and placed indoors or in a secure location when the associated business is closed.

(g) Portable signs shall be weighted, temporarily secured, or strategically placed to avoid being blown over or carried off the premises by high winds or water.

(8) Election signs. A temporary sign pertaining to an individual seeking election or appointment to a public office, or a forthcoming public election or referendum.

(a) Signs shall be approved by the property owner on which the signs are placed.

(b) Such signs may be placed 30 days prior to and shall be removed within five days after the event or election for which the sign is intended has occurred.

(c) Dimensional requirements. Sign area shall not exceed six square feet.

(d) Election signs may be permitted within a road right-of-way provided:

[1] Such signs shall not be less than five feet from either the outer edge of the road cartway (edge of pavement) or the curb, if there is a curb.

[2] The location of such signs shall not create a hazard or impede required sight distances.

(9) Personal Expression Sign. A temporary on-premise sign that expresses an opinion, interest, position, view, or other noncommercial message of occupant or owner of a property.

(a) Dimensional requirements. Sign area shall not exceed six square feet.

(b) In addition to specific temporary sign types listed under this § 400-115F, temporary signs shall be permitted for each use and shall be approved by the owner of the property on which the signs are placed at the owner's discretion. Not more than one personal expression sign shall be permitted on a lot at any given time.

(c) Personal Expression signs may be permitted within a road right-of-way provided:

[1] Such signs shall not be less than five feet from either the outer edge of the road cartway (edge of pavement) or the curb, if there is a curb.

[2] The location of such signs shall not create a hazard or impede required sight distances.

(10) Temporary window signs. See § 400-115G(4)(b).

G. Nonresidential Signs. A sign used to advertise for and attract attention to a permitted use on the same premises. Such signs normally include the identifying name, type of business, and trademark of the establishment. The following signs are permitted for nonresidential uses in the Borough in accordance with the following provisions and § 400-114:

(1) Wall-mounted signs. A sign attached, applied, or mounted to a building in a plane parallel to the face of said wall and mounted at a distance not greater than 10 inches measured perpendicular from the wall to which the sign is attached, applied or mounted. No wall sign shall project more than 18 inches from the face of the wall it is mounted upon.

(a) Sign area. A sign mounted on a building shall not exceed 20% of the wall area to which it is attached or painted or 20 square feet, whichever is less.

(b) Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately and the sign area for each shall apply only to the wall the sign is mounted upon.

(c) Wall signs may be applied in one of the following ways depending on the number of uses in a structure or the number of structures on a lot as follows:

[1] Multiple uses, one sign. Where more than one use is permitted in a single structure, particularly where there are different uses on different floors (vertically), the sign may indicate the presence of all uses in the structure. An additional five square feet may be added to the sign for each additional use above the base sign area for the first use; however, no sign shall exceed 35 square feet. See Figure 19-2.

Figure 19-2: Multiple Uses, One Sign



[2] Multiple uses; multiple signs. If more than one use is carried on in a single structure, particularly side by side horizontally, or where there are attached structures with a contiguous facade where tenants have individual exterior entrance(s), each use with an individual exterior entrance may have its own wall sign. The sign size for each use shall be calculated upon the individual building frontage for each tenant which shall be the discernible architecturally designed wall that contains that tenant's main entrance for use by the general public, calculated by the width between the exterior walls of that use within the structure. See Figure 19-3.

[3] Where there is more than one structure on a lot, the number of wall signs permitted shall apply to each structure individually.

Figure 19-3: Multiple Uses, Multiple Signs



(2) Freestanding signs: a permanent, detached sign not attached to any building, erected as signage for the associated use or uses on the same parcel within the limits of the front yard of the property to which they pertain.

(a) Sign area and number of signs. Freestanding signs shall not exceed 12 square feet and the sign face shall not exceed four feet in height or five feet in width, except where more than one use is carried on in a single structure or on a lot, the sign may indicate the presence of all uses in the structure or on the lot. Individual signs for each use in a single structure or on a lot shall not be permitted where there is more than one use. Where more than one use exists in a structure or on a lot, an additional five square feet may be added to the sign for each additional use; however, no sign shall exceed 35 square feet.

(b) Type. Two types of freestanding signs are permitted as follows. Where both ground signs and pole signs are permitted for the same use, only one of either type of sign shall be permitted for each street frontage:

[1] Ground sign: a freestanding sign, other than a pole sign, placed directly on the ground with no gaps or space between the ground and the sign, and permanently attached thereto, without supports or pylons, independent from any building or structure.

[a] Ground signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign to the ground.

[b] Ground signs shall not exceed four feet in height to the top of the sign from the average ground level at the base of the sign.

[2] Pole sign: a freestanding sign, other than a ground sign, including any sign supported by poles, uprights, or braces placed upon, or in, or supported by the ground independent from any building or structure.

[a] Pole signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign to the ground by one or more poles, posts, or other similar structure.

[b] Pole signs shall not exceed 10 feet in height to the top of the sign.

[c] The height of pole signs shall be measured from the average ground level at the base of the sign to the highest point of the sign structure.

(3) Projecting signs: a sign projected perpendicularly from the face of the building it is mounted upon.

(a) Sign area and number of signs. Signs shall have a maximum area of 12 square feet for a single use. Where more than one use is carried on in a single structure, a projecting sign may indicate the presence of all uses in the structure. An additional five square feet may be added to the sign for each additional use; however, a projecting sign shall not exceed 27 square feet.

Individual projecting signs for each use within a single structure shall not be permitted.

(b) The total area of a three-dimensional sign shall be determined by enclosing the largest cross section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed 12 square feet, except where there is more than one use additional area may be permitted in accordance with § 400-115G(3)(a) above.

(c) The supporting framework shall be in proportion to the size of such sign.

(d) Projecting signs shall have a minimum clearance of eight feet above grade when located adjacent to or projecting over a sidewalk and/or right- of-way.

(4) Window signs: a sign which is visible to persons in vehicles or to pedestrians on adjoining property or public sidewalks, and located on the outside or inside of a window in a building or structure, to direct attention to a use conducted in or product sold in the structure. For purposes of this definition, "window" means any translucent and/or transparent surface in a building or structure.

(a) Permanent window signs: a permanent sign affixed to, etched or painted upon the interior or exterior surface of a window or otherwise displayed through or upon a window, including permanent signs hung directly inside or mounted onto a window pane.

(b) Temporary window signs: a temporary sign that may be placed on a window or door or is visible to persons in vehicles or to pedestrians that may be temporarily affixed by suction cups, adhesives, wires, or hung from the ceiling, placed on a window sill, or any other temporary method of placement but not permanently painted, affixed, or otherwise placed.

(c) Sign area: a maximum of 25% of the total window area may be covered by a combination of permanent window signs and temporary window signs.

(5) Awning signs: a sign painted, stitched, or otherwise attached to the cover of an architectural projection from a wall over a window or entrance.

(a) Such sign shall be limited to establishment name, logo, and street number.

(b) Such sign shall be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.

(c) Letters shall not exceed 18 inches in height.

(d) A minimum of eight feet above sidewalk level shall be permitted for pedestrian clearance.

(e) Awning signs shall be permitted on the first (ground level) floor and shall not be permitted on the upper floor of any structure.

(6) Billboard signs: a sign used to direct attention to a business, commodity, service or entertainment not conducted, sold or offered upon the premises where such sign is located.

(a) Location. Billboards may be permitted by conditional use in the C-2 and LI zoning districts when authorized by the Borough Council, subject to Article XX.

(b) Dimensional requirements. Sign area shall not exceed 300 square feet and in no case shall the face of the billboard exceed 20 feet in height or 30 feet in length.

(c) Billboards shall in no case exceed 35 feet in height.

(d) Billboards shall have a separation distance of a minimum of 100 feet from any other billboard.

(e) No billboards shall be located within 100 feet of any property line or any other structure.

(f) Such signs may be externally lit, but shall comply with the lighting provisions of this chapter and shall comply with the IESNA (Illuminating Engineering Society of North America) recommended practices and criteria contained in the IESNA Lighting Handbook, including but not limited to "full-cutoff" fixtures. All lighting fixtures shall be aimed to illuminate the advertising copy only and so as to not project or reflect light onto a neighboring use or property.

(g) Billboards may be an electronic message sign, in which case they shall also meet the applicable regulations in §400-112.

(h) Billboards shall meet all other applicable state and federal regulations including but not limited to the Pennsylvania Outdoor Advertising Control Act of December 15, 1971, P.L. 596, No. 160.

(i) Billboards shall not be attached or affixed to the any part of any building.

§ 400-116. Construction, maintenance, removal and abandoned signs.

A. Construction, maintenance, and removal.

(1) No sign shall be maintained within the Borough, except for legal nonconforming signs as permitted by this chapter, that is in violation of this chapter, determined to be a nuisance, in such a state of disrepair as to have the appearance of complete neglect or which is rotting or falling down, or is illegible or has loose parts separated from original fastenings.

(2) If a sign is determined to be in violation of this chapter in accordance with § 400-116A(1) above, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that the issue with the sign shall be corrected or the sign shall be removed by the Borough after 10 working days of receipt of such notice at the expense of the owner of the

property on which it is located.

(3) In the event of immediate danger, the Borough may remove a sign upon posting of the site and the issuance of certified written notice to the owner.

(4) All new signs shall comply with the provisions of this chapter.

B. Abandoned signs. A sign and shall be considered abandoned:

(1) When a sign is associated with an abandoned use.

(2) When a sign remains after the termination of a business. A business is presumed to have ceased operation if it is closed to the public for 30 consecutive days. Seasonal businesses are exempt from this determination.

(3) Abandonment shall be determined by the Zoning Officer. Upon determination that a sign is abandoned, the right to maintain and use such sign shall terminate immediately and the Zoning Officer shall issue an enforcement notice requiring the sign to be removed within 30 days. If the owner does not cause the sign to be removed within 30 days of receipt of such notice, after the initial 30 days expire, the Borough shall remove the sign at the expense of the owner of the property.

C. Signs within a street right-of-way. Signs placed within the street right-of-way, except as permitted pursuant to §400-111B or as otherwise permitted by this chapter, may be removed by the Borough without notice.

§ 400-117. Nonconforming sign standards.

See § 400-146 in Article XXII, Nonconformities.

§ 400-118. Sign definitions and illustrations.

A. The following shall not be defined as signs under this Chapter:

(1) Any surface not exceeding one square foot in area that is required by a federal, state, county, or by the United States Post Office to identity a property by number, post box number or name(s) of occupants of the property.

(2) Flags and insignia of any municipal, state, or federal government.

(3) Legal notices, identification information, or wayfinding information provided by governmental or legislative authorities.

(4) Integral, decorative, or architectural features of buildings.

(5) Actual produce and merchandise displayed for sale that appear in store windows.

(6) Grave markers of all types.

(7) Memorial markers.

B. In addition to the definition of "Sign" in Article II and definitions otherwise incorporated within the sections of this article, the following additional definitions

and illustrations apply to this chapter:

ABANDONED SIGN — A sign erected on, or related to, the use of a property which becomes vacant and unoccupied for more than one year, or any sign which relates to a time, event, or purpose which has been completed or terminated.

DIGITAL SIGN — A sign that utilizes light-emitting diodes (LEDs), LCD, plasma, or similar electric methods to create an image display area.

DOUBLE-FACED SIGN — A sign which displays an identical message, information, or advertising on both faces of the sign.

DWELL TIME – The time a message on an electronic message sign (digital) sign remains static prior to a change in the message.

ELECTRONIC MESSAGE SIGN — A digital sign or portion of a sign displaying a changeable message rearranged electrically without physically altering the face or surface of such signs.

ILLUMINATED SIGN — A sign designed to project or reflect artificial light from an internal or external source. Illumination may occur through an external source which may directly or indirectly illuminate a sign, an internal source which may provide illumination through transparent or translucent materials or digitally

NONCONFORMING SIGN — A sign that does not conform to the zoning requirements at the time of enactment of this chapter, or as a result of subsequent amendments thereto where such sign was lawfully in existence prior to the enactment of such ordinance or amendment or as a result of action by the Zoning Hearing Board.

PERMANENT SIGN — A sign that is intended for long-term use attached to a building, structure or the ground through mounting, bolting, concrete footings, or other similar means that enable the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign.

C. Illustrations of sign types. The following illustrations provide examples for each sign type but shall not be used directly for the regulation of each sign in terms of size, shape, color or other criteria:

Address Sign



Awning Sign



Billboard





Digital/Electronic Message Sign



Freestanding Ground Sign





Freestanding Pole Sign



Garage Sale/Yard Sale Sign



Home-Based Businesses Sign



Identification Sign



Illuminated Signs, Permitted



Illuminated Signs, Not Permitted



Multiple Use Sign (Wall, projecting, Freestanding Ground, Freestanding Pole)



Political Signs



Portable Sign



Projecting Sign



Real Estate Signs





Temporary Signs, All Other Undefined



Temporary New Construction Signs



Temporary Professional Signs



Traffic Direction Signs





Traffic Signs



Trespassing Signs



Wall Sign



Window Signs, Permanent



Window Signs, Temporary



ARTICLE XX
Administration and Enforcement

§ 400-119. Purpose and application.

A. The purpose of this article is to outline procedures for the administration and enforcement of the Zoning Ordinance. It does not include the process necessary to subdivide property, which is contained in Chapter 350, Subdivision and Land Development. The procedures for securing zoning permits, building permits, sign permits, use and occupancy permits and the duties and responsibilities of the Zoning Officer/Building Inspector are outlined in this article. The article also establishes a fine for the violation of any aspect of this chapter, fees associated with this article, and the process for conditional uses.

B. Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used or occupied, except in conformity with the regulations established in this chapter for the district in which such land, building or structure is located.

C. In cases of mixed occupancy, the regulations for each use shall apply to the portion of the building or land so used.

§ 400-120. Zoning Officer.

For the administration and enforcement of this chapter and any amendments thereto, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed by Borough Council. The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate, to the satisfaction of the Borough, a working knowledge of municipal zoning. The Zoning Officer shall administer and enforce the Zoning Ordinance, and any amendments thereto, in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of such which does not conform to this chapter. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment. The duties of the Zoning Officer shall include but not be limited to the following:

A. To receive and review all applications for permits, including but not limited to building, zoning, sign, special exceptions, variances, conditional uses, and use and occupancy permits and any other requests on matters relative to the administration of this chapter, and forward them to the appropriate approving body when necessary.

B. To issue permits that are in accordance with the provisions of this chapter or upon written order and only after such uses or buildings and structures permitted in conjunction therewith are reviewed, ordered and approved by the Zoning Hearing Board or the Borough Council, as applicable, or as directed by a competent court of jurisdiction, subject to such conditions or stipulations contained in any such order.

C. To keep a complete official record and file of all business and activities, including complaints of a violation of any of the provisions of this chapter and applications

for permits with accompanying plans and documents, and any action taken thereon.

D. To conduct inspections or investigations to determine compliance or noncompliance with the provisions of this chapter.

E. To report violations of the chapter to the Borough Council and to issue stop, cease-and-desist orders and to require, in writing, correction of all conditions found to be in violation of the provisions of this chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this chapter, when approved by Borough Council. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of violation of this chapter.

F. To gather and present any facts, records or other information to the Borough Council or Zoning Hearing Board when requested to do so.

G. Review applications for appeals from alleged error of the Zoning Officer and forward comments to the Zoning Hearing Board when requested.

H. To issue letters of interpretation for structures and uses potentially located within the Flood Hazard District in Article XV, as determined by examination of the Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA).

I. To maintain or cause to have maintained an Official Borough Zoning Map showing the current zoning classification of all land in the Borough.

§ 400-121. Duties of Zoning Officer/Building Inspector.

The duties of the Zoning Officer/Building Inspector shall be as follows:

A. To receive applications for building permits, certificates of occupancy and any other requests on matters relative to the Uniform Construction Code (UCC).

B. To issue building permits and certificates of occupancy for construction and uses that are in accordance with the provisions of the UCC, this chapter, and any other applicable ordinances.

C. To maintain a complete record of all applications and plans for permits and the action taken on each.

D. To notify, in writing, the appropriate person or persons when any violation of the UCC, this chapter, and any other applicable ordinances have occurred, indicating the nature of the violation and ordering its discontinuance or correction.

E. To gather and present any facts, records or other information to the Zoning Officer/ Building Inspector, Borough Council, or Zoning Hearing Board when requested to do so.

§ 400-122. Enforcement.

A. Enforcement notice.

(1) Where the Borough believes there is cause to believe there has been a violation of this Zoning Ordinance or amendments thereto, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided hereunder.

(2) Such notice shall be required, in writing, noting all conditions found to be in violation of the provisions of this chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations, and/or the owner of record of the parcel on which the violation has occurred in addition to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of violation of this chapter.

(3) An enforcement notice shall state at least the following:

(a) The name of the owner of record and any other person against whom the Borough intends to take action.

(b) The location of the property in violation.

(c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.

(d) The date before which the steps for compliance must be commenced and the date before which compliance must be achieved.

(e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in Article XXI of this chapter.

(f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions as described within this section.

B. Cause of action. In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any part of this chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

C. Enforcement remedies.

(1) The Magisterial District Judge shall have initial jurisdiction over proceedings brought under this section.

(2) Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than $500 plus all court costs, including reasonable attorneys' fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that the violation continues shall constitute a separate violation, unless the Magisterial District Judge, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination of a violation by the Magisterial District Judge, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorneys' fees collected for the violation of this Zoning Ordinance shall be paid over to the Borough.

(3) The Court of Common Pleas, upon petition, may grant an order of stay, upon the showing of just cause, tolling the per diem fine pending final adjudication of the violation and judgment.

(4) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough of West Grove the right to commence any action for enforcement pursuant to this section.

§ 400-123. Permits required.

A. Zoning permit. A zoning permit shall be required prior to any of the following, to establish compliance with the regulations of this chapter:

(1) All construction as mandated by the UCC and all other applicable Borough codes and ordinances.

(2) The erection of or structural alteration or addition to any building, structure, sign or portion thereof.

(3) The use of or changing the use of a building or land.

(4) The change or expansion of a nonconforming use and/or structure.

(5) The addition of an accessory use, including but not limited to a home-based business to an existing residential principal use or conducted as part of a new residential use.

(6) The demolition of any building.

B. Building permit.

(1) A building permit shall be required prior to the following:

(a) All new construction in excess of the amount as stated in the Borough fee schedule.

(b) The erection, addition, alteration, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, expansion, or demolition of any building or structure or portion thereof until a permit has been duly issued therefor.

(2) Applications for building permits shall be accompanied by proof of an approved zoning permit or in conjunction with a zoning permit in accordance with § 400-123A, where applicable, before the permit shall be accepted for review by the Borough.

(3) All applications for a building permit shall comply with the requirements of the Borough Building Code, which is the Uniform Construction Code (UCC).

C. Sign permit. A sign permit shall be required prior to the erection, alteration, enlargement, or relocation of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement, or relocation of any sign, sign structure, or any portion thereof until a permit, if required, has been duly issued, and that all requirements of Article XIX, Signs, are met.

D. Use and occupancy certificate. It shall be unlawful for any person to use or occupy any building, structure or land until a certificate of occupancy has been duly issued. Certificates for use and occupancy shall be in accordance with the requirements of the UCC and this or any other applicable ordinance and shall be required prior to any of the following:

(1) Use or occupancy of any building or other structure hereinafter erected, altered or enlarged for which a building permit is required.

(2) Change in use of any building or structure.

(3) Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use of occupancy permit.

(4) Change in use or extension of a nonconforming use. It shall be unlawful for any persons to use or occupy any building or other structure or land until a use and occupancy permit, if required, has been duly issued therefor.

§ 400-124. Application for permits.

A. Applications.

(1) Applications for permits shall be made to the Zoning Officer/Building Inspector, as applicable, in writing on such forms provided by the Borough, by

the owner or lessee of any building, structure or land, or an authorized representative. Applications shall include a description of the proposed work and/or use and occupancy of a building, structure or land, and any additional plans, documents and information as may be necessary or required to ascertain compliance with this chapter, and any other applicable ordinance or code.

(2) Applications found to be incomplete shall not be accepted or processed and the applicant shall be informed of such insufficiency within 15 business days from the submission of a permit application to the Borough.

B. Zoning permit. The application shall be accompanied by plot plans in duplicate drawn to scale showing the actual dimensions and shape of the lot to be built upon and the size, location and dimensions of all existing and proposed buildings, structures or uses, as applicable.

C. Building permit. The application shall be accompanied by plot plans in duplicate drawn to scale in sufficient clarity that the Zoning Officer/Building Inspector can clearly determine the information being displayed including accurately showing the exact size, location, and dimensions of any existing or proposed buildings or other structures on the lot in question and upon abutting land within 50 feet of the side and rear lines of such lot.

D. Sign permit. The application shall be accompanied by plot plans in duplicate drawn to scale showing the lot and the size and location of all buildings or structures on the premises in question, and the dimensions and location of the proposed sign on the property. A drawing, figure, or picture of the proposed sign shall be required showing dimensions, mounting hardware, illumination, and other details as may be necessary to ascertain compliance with this chapter.

E. Use and occupancy certificate. No application is required and certificates shall be granted in accordance with § 400-125D below.

§ 400-125. Issuance of permits.

Upon receipt of an application, the Zoning Officer/Building Inspector shall review it to determine compliance with this chapter, the Building Code (UCC), and any other applicable ordinances or permits in addition to inspecting the premises as necessary. With the exception of use and occupancy permits as set forth below, within 15 days after receipt of a complete application, the Borough shall either approve or disapprove the application accordingly. If the application is disapproved, the Borough shall provide to the applicant, in writing, the reasons for the disapproval and shall inform the applicant of the right to appeal the decision to the Zoning Hearing Board and/or the UCC Appeals Board, as applicable.

A. Zoning permit.

(1) Upon approval of a complete application and the payment of the fee as required by § 400-124 and § 400-126, the Zoning Officer shall issue a zoning permit. The zoning permit shall be issued for zoning only; a building permit shall be required prior to commencing any construction, where applicable.

(2) A zoning permit shall be conspicuously posted on the affected tract or

parcel(s) of land after approval while proposed work is undertaken, prior to the establishment of a new use, or when change in use of land or a building occurs.

(3) A zoning permit shall expire if work or a change in use is not commenced within one year from the date of the permit, and a new permit shall be required before such work or change of use commences; provided, however, that the Zoning Officer may extend the zoning permit for one additional six-month period if the applicant is actively engaged in completing the project.

(4) The zoning permittee shall be authorized to proceed with the work as described on the approved application after obtaining a building permit if required by this chapter. The Zoning Officer shall revoke any permit or approval issued under the provisions of this chapter in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with the information contained in the zoning permit application or with the provisions of this or any other applicable ordinance.

B. Building permit.

(1) Upon approval of a complete application and the payment of the fee, as required by § 400-124 and §400-126, the Zoning Officer/Building Inspector shall issue a building permit placard, which shall be visibly posted on the premises during the entire time the proposed work is being undertaken.

(2) A building permit shall expire one year from the date of issuance, provided that it may be extended at the discretion of the Zoning Officer/Building Inspector for one six-month period.

(3) The building permit holder shall be authorized to proceed with the work as described on the approved application. The Zoning Officer/Building Inspector shall revoke any permit or approval issued under the provisions of this chapter in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with the information contained in the building permit application or with the UCC or the provisions of this or any other applicable ordinance.

(4) Upon completion of the erection, addition to, or alteration of any building, structure, or portion thereof, authorized by any building permit obtained in compliance with this chapter and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion.

C. Sign permit.

(1) Upon approval of a complete application and the payment of the fee as required by § 400-124 and §400-126, the Zoning Officer shall issue a sign permit.

(2) A sign permit shall expire one year from the date of issuance, provided that it may be extended at the discretion of the Zoning Officer for one six-month

period.

(3) The sign permit holder shall be authorized to proceed with the work as described on the approved application. The Zoning Officer shall revoke any permit or approval issued under the provisions of this chapter in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with the information contained in the sign permit application or with the UCC or the provisions of this or any other applicable ordinance.

D. Use and occupancy certificate.

(1) A use and occupancy certificate, in addition to the payment of the fee prior to or concurrently with an application for a building permit, shall not be issued until completion of the construction work authorized by the approved zoning and/or building permit. Upon notification by the applicant that the construction work has been completed, the Zoning Officer/Building Inspector shall inspect the property and either issue or deny the use and occupancy certificate.

(2) It shall be the duty of the applicant for a zoning and/or building permit to secure the issuance of the required use and occupancy permit, by giving notice of completion as aforesaid, notwithstanding the fact that the applicant may be constructing the building structure, addition, or alteration for the use of another, and further to notify such proposed occupant of the requirements of this section prior to transfer of ownership or commencement of leasehold of the property.

§ 400-126. Fees.

Fees for permits and other fees required in the administration of this chapter shall be paid in advance at the time of application and in an amount as set forth in a schedule of fees adopted by resolution of the West Grove Borough Council from time to time.

§ 400-127. Conditional use.

A. Intent and general requirements.

(1) This section provides for certain uses to be permitted within the Borough as conditional uses. These uses may not be appropriate at every location within a zoning district, and accordingly, Borough Council has established standards and procedures by which to evaluate and decide upon conditional use applications. It is intended that these uses, which have the potential for substantial impact upon the community, shall comply with the regulations hereinafter set forth. Borough Council shall have the power to approve conditional uses.

(2) The tract of land under application for conditional use approval shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract and shall be under unified control. If the ownership of the entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of all of the said owners. Approval of the

conditional uses shall include a requirement, with the agreement of the applicant or applicants, that the tract shall be developed under single direction in accordance with the approval of conditional use.

B. Conditional use application.

(1) Applications for conditional use. Applications for conditional use shall be filed with the Borough on such forms prescribed for that purpose. No application shall be accepted prior to the receipt of the requisite fee paid by the applicant to the Borough.

(2) Administrative review process.

(a) The Zoning Officer shall review the application to determine if it is complete, and act on such determination within five days of receipt of the application. If the application is determined to be complete, the Zoning Officer shall submit the application to the Borough Manager for processing to Borough Council. If the application is deficient in any required component, the Zoning Officer shall notify the applicant in writing of the deficiencies. If such identified deficiencies are not remedied by the applicant within 30 days in the form of a resubmitted application rectifying said identified deficiencies, this shall constitute sufficient grounds for denial by the Borough Council of the application at the subsequent public hearing should the Council to deem such deficiencies to be substantially at variance with the requirements of this or other applicable Borough ordinances.

(b) If a plan or application is resubmitted after a prior submission due to substantial changes or denial in accordance with § 400-127B(2)(a) above, then the resubmission shall be considered as a new submission in accordance with § 400-127B(2)(a) above and the timing requirements of this article.

C. Procedures for conditional uses.

(1) Upon receipt of a complete conditional use application, the Borough Council shall schedule a public hearing on the application. The hearing shall be conducted by the Borough Council or the Council may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Borough Council. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Borough Council and accept the decision or findings of the hearing officer as final.

(2) The first hearing before the Borough Council shall be commenced within 60 days from the date of determination that the application is complete, unless the applicant has agreed in writing to an extension of time. Such hearing shall be in accordance with the following procedures:

(a) Notification of the public hearing shall be published in a newspaper(s) of

general circulation in the Borough indicating the time, place, and nature of the public hearing. Such notice shall be published once a week for two successive weeks prior to the date fixed for the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing, in accordance with requirements of the Municipalities Planning Code.[3] Public notice of said public hearing shall be conspicuously posted on the affected tract or parcel(s) of land at least one week prior to the hearing, in conjunction with written notice to all adjacent property owners. Proof of proper notification shall be required as a precondition before any formal action on the application.

(b) The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Borough Council, and any other persons, including civic or community organizations, permitted to appear by the Borough Council or Hearing Officer. The Borough Council, or Hearing Officer, as the case may be, shall have the power to require that all persons who wish to be considered parties must enter appearances in writing on forms provided by the Borough for that purpose.

(c) The President or Acting President of Borough Council, or Hearing Officer, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents required by the parties.

(d) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(e) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the Borough Council.

(f) The Borough Council or Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough. The cost of the original transcript shall be paid in full by the Borough if the transcript is ordered by the Borough, or shall be paid in full by the person appealing from the decision of the Borough if such appeal is made. The cost of additional copies shall be paid by the person requesting such copy or copies.

(g) The Borough Council or Hearing Officer shall not communicate, directly or indirectly, with any party or his or her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from the Borough Solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the

commencement of hearings with any party or his or her representative unless all parties are given an opportunity to be present.

(h) Each subsequent hearing before the Borough Council or Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to in writing by the applicant, or is otherwise on the record of the proceedings.

(i) An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon request of the applicant, the Borough Council or Hearing Officer shall assure that the applicant receives at least seven hours of hearing within the 100 days, including the first hearing. Persons opposed to the application shall completed the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief.

(j) An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Borough Council, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of additional hearings for rebuttal.

(k) Borough Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the Borough Council. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision. The date for the Borough Council's decision may be extended by the applicant either on the record or in writing addressed to the Borough Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based upon this chapter, the Municipalities Planning Code, or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

(l) Where the Borough Council fails to render a decision within 45 days or fails to commence the required hearing with 60 days from the day of the applicant's request for a hearing, or fails to complete the hearing no later than 100 days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas, 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. Where a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as herein above provided, the Borough Council shall give

public notice of said decision with 10 days from the last day the Borough Council could have met to render a decision in the same manner as required by the public notice requirements of this section. If the Borough Council shall fail to provide such notice, the applicant may do so.

(m) Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

(n) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant and the parties that were seen before the Borough Council personally or mailed to them no later than the day following the date of the decision. If, after the conclusion of the public hearing(s), the application is amended or revised, the Borough Council shall hold such one or more public hearings thereon as may be necessary, and shall issue a new decision thereon in conformance with the procedure established in this section.

(o) Appeals from a determination of the Borough Council pursuant to any conditional use application shall be only as prescribed within such times permitted by the applicable provisions of the Municipalities Planning Code, as amended.

(3) In granting a conditional use approval, the Borough Council may attach such additional reasonable conditions and safeguards as it deems necessary and appropriate to ensure compliance with the provisions of this chapter and to protect the health, safety, and general welfare of the community. The conditions of approval may include, but are not limited to, specific modifications to area and bulk requirements as might otherwise be applicable, provisions for additional utility or traffic safety measures, securing additional easements or property to assure proper site design, or modification to the applicable design standards.

(4) Nothing in this section shall be construed to relieve the applicant for a conditional use approval from obtaining other required approvals mandated by the Borough Zoning Ordinance and Chapter 350, Subdivision and Land Development, and any other applicable Borough, state and federal regulations.

(5) When Borough Council approves the conditional use application, such approved plan shall accompany any application for subdivision of land or land development as prescribed by Chapter 350, Subdivision and Land Development, in addition to the requirements normally required and any application for a building permit.

(6) Any grant of conditional use approval shall be deemed null and void one year from the date of such approval, if within that period, no application is made for a building permit, a use and occupancy permit, or a subdivision or land development approval, as appropriate, unless the Borough Council shall grant an extension upon application for an additional six-month period.

(7) Notwithstanding the requirements in §400-127.C.1-6 above, the Board will grant reasonable accommodations and permit reasonable modifications where

requested by or on behalf of disabled persons. A "reasonable accommodation" is a change in rules, policies, practices or services to enable a person with a disability to use and enjoy a dwelling unit or common space. A "reasonable modification" is a structural modification that is made to allow persons with disabilities the full enjoyment of housing and related facilities. Accommodations or modifications need not be made where to do so would fundamentally alter the programs or create an undue financial and administrative burden.

D. Review standards for conditional use approval. In granting or denying an application for conditional use, the Borough Council shall evaluate and decide requests based on the degree of compliance with the following conditions, in addition to such other requirements and standards as may be required by law and other provisions of this chapter. The applicant shall be responsible for demonstrating compliance with standards and criteria required for conditional use approval. In addition, the Borough Council may impose such conditions of approval, in addition to those required, as may be necessary to ensure compliance with any or all of the following standards as well as compliance with any other relevant ordinances, regulations and codes. The applicant shall be responsible for demonstrating compliance with the additional standards and criteria required for conditional use approval.

(1) The proposed use is consistent with the purposes of this chapter, the purposes of the zoning district in which it is located, the policies of the West Grove Borough Comprehensive Plan, and shall meet all of the specific standards and regulations for eligibility which appear in the section of this chapter authorizing the proposed conditional use, as well as the requirements of Chapter 350, Subdivision and Land Development, and any other applicable ordinance, code and/or regulations.

(2) The size, scope, extent and character of the conditional use requested is consistent with the West Grove Borough Comprehensive Plan and promotes the harmonious and orderly development or redevelopment of the zoning district involved.

(3) The proposed use constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property and of the character of the neighborhood.

(4) The proposed use will provide safe and adequate access to streets, existing and proposed, and will not result in excessive traffic volumes or will make any improvements needed to guarantee compatibility with adjacent streets and public services.

(5) The interior traffic circulation for the proposed use and access to rights-of-way shall provide safe and convenient circulation and access for all users including vehicular and pedestrian modes. Emergency design considerations will be addressed in the proposed plan.

(6) Major street frontage will be developed so as to limit the total number of access points and encourage the frontage of buildings on roads perpendicular to the major street or highway or encourage parking behind buildings while orienting setbacks closer to the street.

(7) The proposed use reflects an environmentally sensitive approach to land planning and design, will be sited in a manner sensitive to existing site conditions including streams, vegetation, and other natural resources, and is consistent with the standards in Article XV, (NR) Natural Resource Protection.

(8) The proposed use is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, recreational opportunities, open space, and public schools.

(9) Sanitation and public safety provisions shall be adequate and a certificate of adequacy of sewage and water facilities from a governmental health agency shall be provided where required or deemed necessary.

(10) Conditions may be imposed on the grant of the request necessary to insure that the general purpose and intent of this chapter is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

(11) If the development is to be carried out in successive stages, each stage shall be so planned that the condition and intent of this chapter shall be fully complied with at the completion stage.

(12) If containing more than one building, the development should consist of a harmonious grouping of buildings or other structures.

(13) Proposed new construction and proposed change in use of existing buildings should be compatible with and in keeping with the existing character of the neighborhood.

(14) The proposed use should be developed using effective stormwater management techniques and soil erosion and sedimentation control techniques and in all cases shall be in accordance with Chapter 342, Stormwater Management, of the Code of the Borough of West Grove.

§ 400-128. Municipal liability.

The granting of any permit under this chapter shall create no liability upon, nor a cause of action against, any Borough official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.

§ 400-129. Appeals.

Any person aggrieved by any decision of the Board, or any officer of the Borough may,

within 30 days after entry of the decision of the Board, as provided in 42 Pa.C.S.A. §5572 or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given, as set forth in § 400-134, appeal to the Court of Common Pleas of Chester County by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, specifying the grounds upon which such person relies.

ARTICLE XXI
Zoning Hearing Board

§ 400-130. Purpose and jurisdiction.

A. The purpose of this article is to establish regulations to govern the establishment, functions, and procedures of the Zoning Hearing Board, hereinafter called "Board" in this article.

B. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters based on Act 247, the Pennsylvania Municipalities Planning Code (MPC), as amended.

(1) Substantive challenges to the validity of this chapter or Zoning Map, except those brought before the Borough Council pursuant to Sections 609.1 and 916.1(a)(2) of the Municipalities Planning Code.

(2) Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit, or failure to act on the application therefore, or the issuance of any cease-and-desist order.

(3) Appeals from a determination by the Borough Engineer or Zoning Officer with reference to the administration of any floodplain ordinance or standards within this chapter.

(4) Applications for variances from the terms of the Zoning Ordinance, pursuant to § 400-135 or pursuant to Section 910.2 of the Municipalities Planning Code.

(5) Applications for special exceptions under the Zoning Ordinance pursuant to § 400-136 or pursuant to Section 912.1 of the Municipalities Planning Code.

(6) Appeals from the Borough Zoning Officer's determination under Section 916.2 of the Municipalities Planning Code.

(7) Appeals from the determination of the Borough Zoning Officer or Engineer in the administration of this chapter or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development, not involving applications under Article V or Article VII of the Municipalities Planning Code.

§ 400-131. Establishment and membership.

A. There shall be a Zoning Hearing Board, which shall consist of three members who shall be residents of the Borough appointed by resolution of the Borough Council.

B. The terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year.

C. The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

D. Members of the Zoning Hearing Board shall hold no other elected or appointed

office in the Borough nor shall any member be an employee of the Borough.

E. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council, which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

F. The Borough Council may appoint by resolution at least one but no more than three residents of the Borough to serve as alternate members of the Board. The term of office of the alternate member shall be three years, and the alternate member shall hold no other office in the Borough. When seated pursuant to the provisions of § 400-132, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter, and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the Borough or be an employee of the Borough. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of said Board nor be compensated pursuant to § 400-133, unless designated as a voting alternate member pursuant to § 400-132.

§ 400-132. Organization of Zoning Hearing Board (Board).

A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.

B. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in § 400-134.

C. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the commonwealth.

D. The Board shall keep full public records of its business, which shall be the property of the Borough, and shall submit a report of its activities to the Borough Council once a year.

E. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed, until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this article shall be made on a case-by-case basis in rotation to declining seniority among all alternates.

§ 400-133. Expenditures for services; fees.

A. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other

technical and clerical services. Stenographer fees shall be borne in accordance with § 400-134H.

B. Members of the Board, including alternate members when designated, may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.

C. The applicant, before the Board shall deposit, with the Borough Secretary, at the time the application is filed, a sum of money, to pay the costs of the hearing, which sum shall be set, from time to time, by Borough Council, by resolution. Funds deposited in excess of the actual cost of the requested hearing shall be returned to the applicant upon completion of the proceedings. In the event that the costs of the hearing exceed the funds deposited, the applicant shall pay the Borough Secretary an amount equal to such excess costs as authorized by the Pennsylvania Municipalities Planning Code.

D. The Borough Council may prescribe reasonable fees with respect to hearings, in accordance with § 400-134, before the Board. Fees for said hearings may include compensation for the secretary and members of the Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

§ 400-134. Hearings.

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

A. Notice. The Board shall fix a reasonable time and place for public hearings and shall give notice thereof as follows:

(1) By publishing a notice thereof in a newspaper of general circulation in the Borough once a week for two successive weeks, not less than seven days, nor more than 30 days prior to the hearing.

(2) By mailing a notice thereof to the Zoning Officer, the Borough Secretary, each member of the Borough Council, the Chester County Planning Commission, the applicant, and to every person or organization who shall have registered with the Board for the purpose of receiving such notices.

(3) The Board shall so order, by mailing or delivering a notice thereof to the owner, if their residence is known, or to the occupier of every lot on the same street within 500 feet of the lot or building in question and of every lot not on the same street within 500 feet of the said lot or building, provided that failure to give notice as required by this subsection shall not invalidate any action taken by the Board.

(4) The notice herein required shall state the location of the lot or building, the general nature of the question involved, the name of the applicant, tax parcel number, and the date, time, and location of the hearing. In addition thereto, the notice may note that a copy of the application, including plans and proposed amendments may be examined by the public at the Borough Hall during

regular business hours.

(5) Written notice of said hearing shall be conspicuously posted on the affected tract of land a minimum of one week prior to the hearing.

B. The first hearing before the Board or Hearing Officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of their case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicants case-in-chief. An applicant may, upon request, be granted additional hearings to complete their case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

C. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties, prior to the decision of the hearing, may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

D. The parties to the hearing shall be the Borough, any person who is entitled to notice under § 400-134A, any person affected by the application who has made timely appearance of record before the Board and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

E. The Chairman or acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for the stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be

paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

I. The Board or the hearing officer shall not communicate, directly, or indirectly, with any party or their representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or their representative unless all parties are given an opportunity to be present.

J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for; make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any act, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that their decision or findings are final, the Board shall make their report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under this chapter or otherwise, where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same, or fails to commence, conduct, or complete the required hearing as herein provided, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day the Board could have met to render a decision, as provided § 400-134A. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

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

§ 400-135. Variances.

The Board shall hear requests for variances where it is alleged that the provisions of

the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided the following findings are made where relevant in a given case:

A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the appellant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the ordinance in issue.

F. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

G. Notwithstanding the variance requirements in § 400-135A through F above, the Board will grant reasonable accommodations and permit reasonable modifications where requested by or on behalf of disabled persons. A "reasonable accommodation" is a change in rules, policies, practices or services to enable a person with a disability to use and enjoy a dwelling unit or common space. A "reasonable modification" is a structural modification that is made to allow persons with disabilities the full enjoyment of housing and related facilities. Accommodations or modifications need not be made where to do so would fundamentally alter the programs or create an undue financial and administrative burden.

§ 400-136. Special exceptions.

Where this chapter has stated special exceptions to be granted or denied by the Board pursuant to expressed standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with the following standards and criteria:

A. Assure itself that the size, scope, extent and character of the proposed change is consistent with the spirit, purpose and intent of the Zoning Ordinance, promotes the harmonious and orderly development of the zoning district involved, and will not adversely affect the health, safety, or welfare of the Borough or its residents.

B. Determine that the proposed change will not substantially injure or detract from the use of the neighborhood property or from the character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.

C. Consider the effect of the proposed change upon the logical, efficient, and economical extension of public services, and facilities such as public water, sewers, police and fire protection, and public schools, and assure adequate arrangements for sanitation in specific instances.

D. Be guided in its study, review and recommendations by sound standards or subdivision practice where applicable.

E. Guide the development of roadway frontage insofar as possible so as to limit the total number of access points and encourage access onto alleys or minor roads perpendicular to major roads, through routes, or business corridors.

F. Consider the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon traffic, and assure adequate access arrangements in order to protect major roadways from undue congestion and hazard.

G. Ensure the proposed use is suitable with respect to automobile and pedestrian traffic and roadways in the area and provides for adequate access and off-street parking arrangements in order to protect major roads from undue congestion and hazard.

H. Ascertain the adequacy of sanitation and public safety provisions, where applicable, and require a certificate of adequacy of sewage and water facilities from the Board of Health or the appropriate governmental health agency in any case required herein or deemed advisable.

I. Require that all parking, loading, access or service areas shall be adequately illuminated at night while in use, and that such lighting, including sign lighting, shall be arranged so as to protect roadways and neighboring properties from direct glare or hazardous interference of any kind in accordance with Article XVII for off-street parking and loading and Article XVI for lighting requirements.

J. Impose such conditions, in addition to those required, as are necessary to assure that the general purpose and intent of the Zoning Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, aesthetics, landscaping, effect on natural resources, hours of operation, lighting, numbers of persons involved, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

K. Weigh each case on its own merits, separately, based upon pertinent information present or known to the Board, and without regard to any previous cases.

L. Notwithstanding the special exception requirements in § 400-136A through K above, the Board will grant reasonable accommodations and permit reasonable modifications where requested by or on behalf of disabled persons. A "reasonable

accommodation" is a change in rules, policies, practices or services to enable a person with a disability to use and enjoy a dwelling unit or common space. A "reasonable modification" is a structural modification that is made to allow persons with disabilities the full enjoyment of housing and related facilities. Accommodations or modifications need not be made where to do so would fundamentally alter the programs or create an undue financial and administrative burden.

§ 400-137. Time limitations.

The time limitations for raising certain proceedings with the Board shall be the following:

A. No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that they had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to their interest after such approval, they shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a the as a tentative plan pursuant Section 709 of the Municipalities Planning Code, or from an adverse decision by the Borough Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Municipalities Planning Code, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.

B. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of determination is issued.

§ 400-138. Stay of proceedings.

Upon filing of any proceeding referred to in § 400-141 and during its pendency before the Board all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. Procedures shall be in accordance with Section 915.1 of the Municipalities Planning Code.

§ 400-139. Parties appellant before Board.

Appeals under § 400-141, other than applications for special exceptions or variances,

may be filed with the Board in writing by any officer or agency of the Borough, the landowner affected, or any person aggrieved. Request for a variance under § 400-135 and for special exception under § 400-136 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§ 400-140. Expiration of variance and special exceptions.

A. Unless otherwise specified by the Board, a special exception, special relief or variance shall expire within one year from the date of authorization if the applicant fails to obtain the appropriate permit or fails to file for an extension as per § 400-140B below.

B. An applicant may request an extension of time in writing for a period not to exceed six months, citing the reasons for which the extension is necessary, subject to the approval of the Board. Such applications for extension must occur before the expiration of the initial authorization.

§ 400-141. Appeals to Zoning Hearing Board.

A. A landowner affected or any person aggrieved by any decision of the Board or any officer of the Borough may file an appeal under § 400-130B(1), (2), (3), (4), (7), (8) of this article with the Board in writing specifying the grounds thereof within the time required by the Municipalities Planning Code, or as provided by the rules of the Board.

B. Appeals regarding § 400-66, Flood Hazard District. [In accordance with the Federal Emergency Management Agency (FEMA).] Where the following conflicts with other applicable requirements of this article, the following shall apply:

   (1) Any person aggrieved by an action or decision of the Zoning Officer concerning the administration of the provisions of § 400-66 may appeal to the Board. Such appeal must be filed, in writing, within 30 days after the decision of action of the Zoning Officer.

   (2) Upon receipt of such appeal, the Board shall set a time and place, within not less than 10 or more than 30 days, for the purpose of consideration the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

   (3) Any person aggrieved by any decision of the Board may seek relief therefor by appeal to Court, as provided by the laws of the commonwealth, including the Pennsylvania Flood Plain Management Act.

§ 400-142. Appeals to court.

Any person aggrieved by any decision of the Board or any officer of the Borough may, within 30 days after entry of the decision of the Board as provided in 42 Pa.C.S.A. § 5572, or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in § 400-134, appeal to the Court of Common Pleas of Chester County by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, specifying the grounds upon which such person relies.

ARTICLE XXII
Nonconformities

§ 400-143. Applicability and continuation.

Any lawful structure, use, lot, or sign, or any lawful use of a structure or a lot, legally existing on the effective date of this chapter, which does not conform with the provisions of this chapter, shall be considered a lawful nonconforming structure, use, lot, or sign and may be continued, except as otherwise herein provided or may be transferred, and the new owner may continue the nonconformity, subject to the provisions of this chapter.

§ 400-144. Nonconforming structures and uses.

A. Extension.

(1) Any lawful nonconforming use of a portion of a structure may be extended throughout the structure.

(2) Any lawful nonconforming structure or any conforming structure of which a lawful nonconforming use is made may be extended upon the lot occupied by such structure and held in single and separate ownership on the effective date of this chapter, provided that the extension conforms with the applicable area and bulk requirements for the zoning district in which it is located.

(3) Use of land. Any lawful nonconforming use of a lot exclusive of structures and the use contained therein may be extended upon the lot upon which it exists at the time of the effective date of this chapter, but such extension shall conform to area and bulk requirements for the zoning district in which it is located and to the design standards of this chapter.

(4) The extension of a nonconforming structure or use on a lot shall be limited to the lot that was in existence on the effective date of this Chapter. Lots shall not be merged to allow for the extension of a nonconforming use or structure.

(5) A nonconforming structure or use shall not be expanded to displace conforming structures or uses.

B. Change.

(1) Any lawful nonconforming use of a structure or a lot may be changed to another nonconforming use of substantially the same character or of a similar or lesser impact than the use it is to replace when authorized by the Zoning Hearing Board as a special exception, and for such purpose, a structure may be extended on the same lot in accordance with § 400-144.A. In evaluating relative impact, the Zoning Hearing Board shall take into consideration issues including but not limited to: potential traffic generation; nuisance characteristics such as emission of noise, dust, odor, glare, and smoke; fire hazards; and hours and manner of operation.

(2) Whenever the nonconforming use of a structure or a lot has been changed to a use of greater conformity or a conforming use, such conforming use shall not

thereafter be changed to a nonconforming use or use of less conformity.

C. Restoration. Any lawful nonconforming structure or use which has been involuntarily destroyed by fire, explosion, windstorm, or other similar cause where more than 75 percent of the nonconforming structure or use was destroyed, or legally condemned, may be reconstructed in the same location provided that:

(1) The reconstructed structure or use shall not exceed the height, area, volume, or setbacks of the damaged or destroyed structure or use.

(2) Reconstruction shall begin within one year from the date of damage or destruction and shall be carried on without interruption.

D. Discontinuance or abandonment.

(1) If a lawful nonconforming use of a structure or lot is discontinued or abandoned for a continuous period of one year or more, subsequent use of such structure or use shall be in conformity with the provisions of this chapter.

(2) The same nonconforming structure or use shall be permitted, provided the request for the nonconforming structure or use is filed within the one-year period and thereafter approved and the permit application for such approved nonconforming structure or use is filed within 30 days after the decision of the Borough.

(3) Voluntary demolition. Where a nonconforming structure or use is voluntarily demolished or destroyed, except for its reconstruction, repair, rehabilitation, or modernization, the nonconforming structure or use shall be deemed to have been discontinued and any structure or use thereafter shall be conforming with the provisions of this Chapter.

§ 400-145. Lots nonconforming as to area and width regulations; lots of unusual dimensions.

A. A structure may be erected or altered, or a use may be permitted on any lot held at the effective date of this chapter in single and separate ownership which is not of the required minimum area, or width, or is of such unusual dimensions that the owner would have difficulty in providing the required minimum setbacks for the district in which such lot is situated, provided a special exception is authorized by the Zoning Hearing Board, and provided further that the applicant does not own or control other adjoining property that, when combined, would be sufficient to enable them to comply with the provisions of this chapter, as amended. In considering a special exception to permit erection or alteration of a structure or a permitted use on a lot nonconforming as to area and bulk requirements, the Zoning Hearing Board shall impose the following additional requirements:

(1) That the use of the lot shall be required to conform to the permitted uses in the district in which such lot lies.

(2) That the building height shall be restricted to that specified for other buildings

or structures within the district in which the lot lies.

(3) That the design standards imposed for structures or uses within the district in which the lot lies shall be applied but may be modified to provide the minimum relief necessary to allow the use or structure being proposed.

(4) Impose such conditions as are necessary to assure compliance with the general purpose and intent of the Zoning Ordinance.

B. In any district in which single-family dwellings are permitted, notwithstanding the area limitation imposed by other provisions of this chapter, a single-family dwelling and customary accessory structures may be erected on any single lot of record in existence at the effective date of adoption or amendment of this chapter, without Zoning Hearing Board action, provided that such lot must be in single and separate ownership.

§ 400-146. Nonconforming signs.

A. Any sign, signboard, billboard, or advertising device existing at the time of the passage of this chapter that does not conform with the regulations of the district in which it is located shall be considered a legal nonconforming sign and may be used in its existing location, provided it is maintained in good condition and repair at all times, but shall not be increased in size.

B. Nonconforming signs once removed shall be replaced only with conforming signs; however, a nonconforming sign may be moved, provided that moving such sign would eliminate the nonconformity.

C. Legal nonconforming signs may be repainted or, after issue of a permit, repaired or modernized, provided that such repaired or modernized sign does not exceed the dimensions of the existing sign.

D. The message of a nonconforming sign may be changed, as long as it does not create any new nonconformity.

E. Whenever any use of land, building or other structure ceases as prescribed by § 400-144D, all signs accessory to such use shall be removed within 30 days from the date such use terminates.

F. Restoration. Any sign which has been involuntarily destroyed by fire, explosion, windstorm, or other similar active cause, or legally condemned, shall be replaced with a conforming sign.

ARTICLE XXIII
Amendments

§ 400-147. Power of amendment.

Borough Council may from time to time amend, supplement, change, modify or repeal this chapter including the Zoning Map, by proceeding in the manner prescribed in this article and the Municipalities Planning Code.

§ 400-148. Public hearing and notice.

A. Before voting on the enactment of a zoning amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice if applicable per 53 P.S. § 10109, and § 107, 609, and 610 of the Municipalities Planning Code.

   (1) Where the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tracts to notify potentially interested citizens. The affected tract or area shall be posted a minimum of one week prior to the date of the hearing.

   (2) In addition to the requirement that notice be posted under § 400-148A(1), above, where the proposed amendment involves a Zoning Map change, notice of the public hearing shall be mailed by the Borough a minimum of 30 days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Borough. The notice shall include the location, date, and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. When a rezoning constitutes a comprehensive rezoning, mailing is not required in accordance with the Municipalities Planning Code.

B. Full opportunity to be heard shall be given to any citizen and all parties in interest attending such hearing.

C. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, and mailed notice and electronic notice, if applicable, before proceeding to vote on the amendment.

D. A minimum of 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County Planning Commission for recommendations.

E. Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Commission.

§ 400-149. Citizen's petition.

Whenever the owners of 50% or more of the area in any district shall present to Borough Council a petition, duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of any of the regulations or restrictions

prescribed by this chapter for their district, or a change or modification of the Zoning Map for their district, it shall be the duty of Borough Council to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed in § 400-148 above.

§ 400-150. Applicability of ordinance amendments.

When an application for a special exception has been filed with the Zoning Hearing Board and the subject matter of such application would ultimately constitute either a land development or subdivision as defined herein, no change or amendment of the zoning or other land use ordinance shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinance or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of this chapter as they stood at the time the application was duly filed before the Zoning Hearing Board. If either land development or subdivision plan is filed within said period, such plan shall be subject to the provisions of Chapter 350, Subdivision and Land Development, specifically to time limitations which shall commence as of the date of filing such land development or subdivision plan.

§ 400-151. Curative amendment procedures.

A. Landowner curative amendments. A landowner who desires to challenge, on substantive grounds, the validity of this chapter or the Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he/she has an interest, may submit a curative amendment to the Borough Council with a written request that his/her challenge and proposed amendment be heard and decided as provided in § 916.1 of the Municipalities Planning Code. The procedure for landowner curative amendments shall be in accordance with § 609.1 of the Municipalities Planning Code.

B. Borough curative amendments. If the Borough Council determines that this Zoning Ordinance or any portion thereof or amendment thereto is substantially invalid, it shall have the right to prepare a curative amendment in accordance with the procedures set forth in § 609.2 of the Municipalities Planning Code.