

THROOP BOROUGH  
LACKAWANNA COUNTY  
PENNSYLVANIA

2021  
ZONING ORDINANCE

John R. Varaly, AICP  
Varaly Associates, LLC  
Professional Planning Consultants

50 FINN STREET  
WILKES-BARRE, PENNSYLVANIA 18705  
PHONE (570) 574-3061  
jvaraly@ptd.net

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**THROOP BOROUGH**  
**2021**  
**ZONING ORDINANCE**  
  
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SECTION 101      TITLE

**The official title of this Ordinance is: The Borough of Throop Zoning Ordinance.**

SECTION 102    INTERPRETATION AND CONFLICT

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

A.    PUBLIC PROVISIONS

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

B.    PRIVATE PROVISIONS

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

SECTION 103      PURPOSE:

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

- A.    To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as reservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

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

#### SECTION 104 COMMUNITY OBJECTIVES

The enactment of this Ordinance is intended to promote the public health, safety, morals, and welfare of the present and future residents of the Borough by providing Throop Borough with procedures which will assist in directing growth and development in accordance with stated goals and objectives of the Throop Borough Comprehensive Plan

#### SECTION 105 SEVERABILITY

If any article, section, subsection, paragraph sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

#### SECTION 106 REPEALER.

The Throop Borough Zoning Ordinance of 2000, as amended, is hereby repealed. All other ordinances, or parts thereof, which are inconsistent or in conflict with this Ordinance are also hereby repealed to the extent of any inconsistency or conflict.

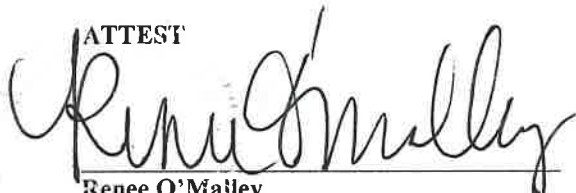
SECTION 107 EFFECTIVE DATE. This Ordinance shall become effective from the date of its approval and enactment, as set forth in Section 108.

#### SECTION 108 ENACTMENT

APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF  
THROOP ON THE 28<sup>th</sup> DAY OF JANUARY 2021

  
Richard Kucharski  
Council President

  
Joseph Tropiak  
Mayor

ATTEST  
  
Renee O'Malley  
Borough Secretary

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## **ARTICLE 2 DEFINITIONS**

### **SECTION 201 APPLICATION AND INTERPRETATION**

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

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

### **SECTION 202 TERMS OR WORDS NOT DEFINED**

When terms, phrases, or words are not defined, they shall have the meaning as defined in The Latest Illustrated Book of Development Definitions (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

#### **ABANDONMENT:**

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

#### **ABUTTING:**

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

#### **ACCESS:**

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

#### **ACCESSORY STRUCTURE:**

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

#### **ACCESSORY USE:**

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

#### **ADJOINING PROPERTY:**

A property having a contiguous property boundary with a separate property, including

properties with any amount of opposite front, rear or side yard areas that are separated by a right-of-way, alley, or easement.

**AGRICULTURE:**

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for farm homes and packing, treating or storing the product; provided, however, that the operation of any accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include commercial hog farms, fur farms, fertilizer plants or animal kennels

**ALTERATION:**

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

**ALTERATION, STRUCTURAL:**

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

**AMENDMENT:**

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

**ANIMAL HOSPITAL:**

A building or structure used for the treatment of domesticated animals by a veterinarian or other medical practitioner licensed by the state, with short-term boarding incidental to the treatment.

**ANIMAL KENNEL**

A place where more than three animals are kept, housed, boarded, bred or trained.

**APPLICANT:**

The person or entity filing an application under this Ordinance.

**AS-BUILT DRAWINGS:**

Construction plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location and design of all on-site improvements, which includes but is not limited to streets, structures, parking facilities, stormwater detention/retention areas, curbs, sidewalks and any other facilities approved for the subject development. As-Built Drawings shall be sealed by the engineer of record.

**ASPHALT, BATCH OR CONCRETE PLANT:**

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

**AUTOMOTIVE REPAIR GARAGE:**

A building where repairs, improvements and installation of parts and accessories for motor vehicles are conducted that involves work that is more intense in character than work permitted under the definition of "Gas Station, Limited-Service." An auto repair garage shall include, but

not be limited to, any use that involves any of the following work: both minor and major mechanical overhauling, paint, and body work. In addition, any use permitted under the definition of a "Gas Station, Limited-Service." is also permitted as part of an Automotive Repair Garage.

**AUTOMOTIVE SALES:**

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

**AUTOMOBILE WRECKING YARD (ALSO SEE JUNK YARD)**

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

**BASEMENT:**

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

**BED AND BREAKFAST:**

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

**BOROUGH:**

The Borough of Throop, Lackawanna County, Pennsylvania

**BUFFER AREA:**

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed to represent a solid fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. A Buffer Area shall not be occupied by any building, parking, outdoor storage or any use other than open space and approved vegetative plantings.

**BUILDING:**

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

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

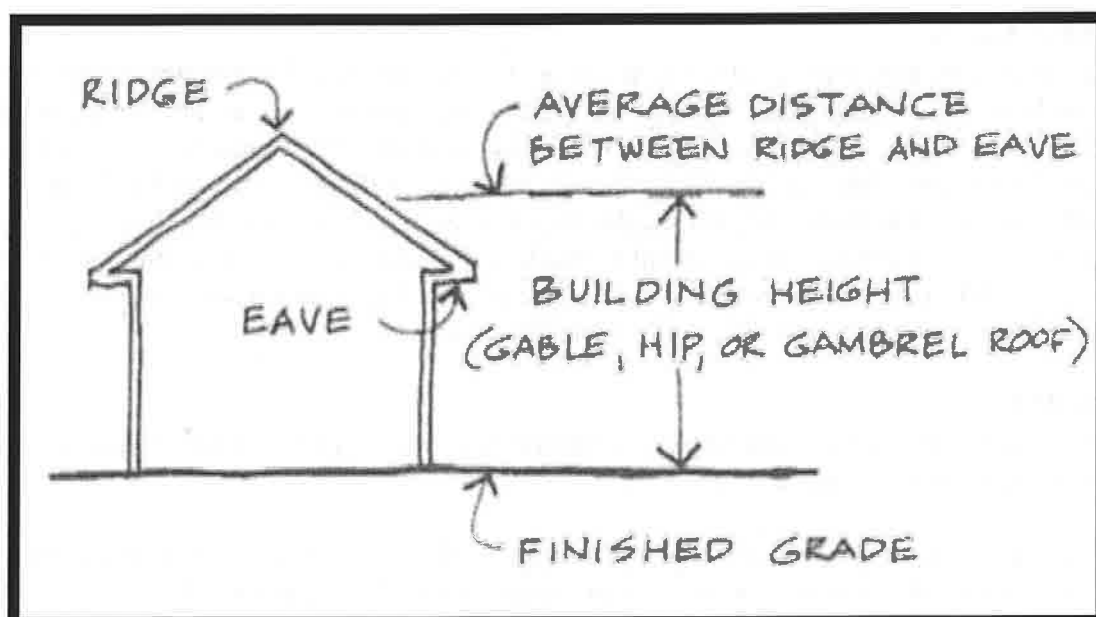
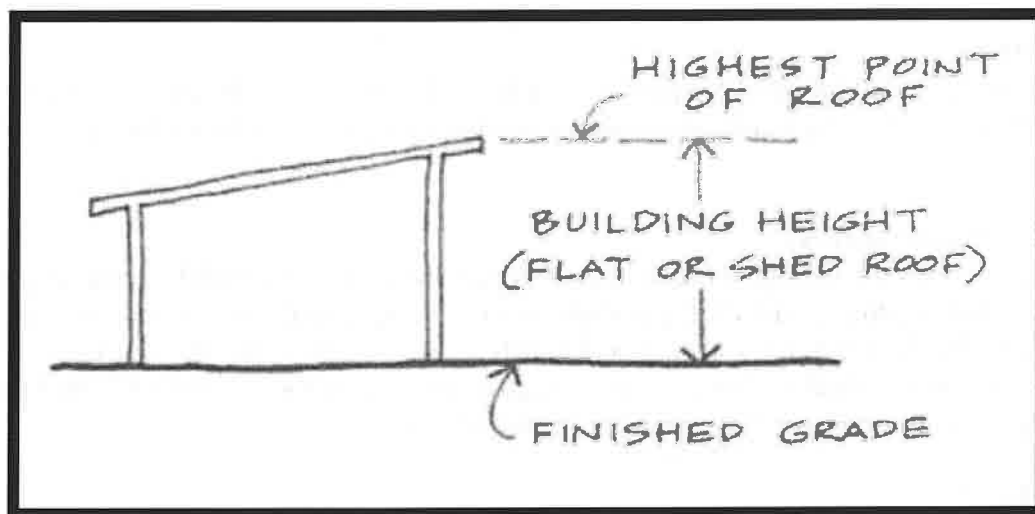
**Building Coverage:** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

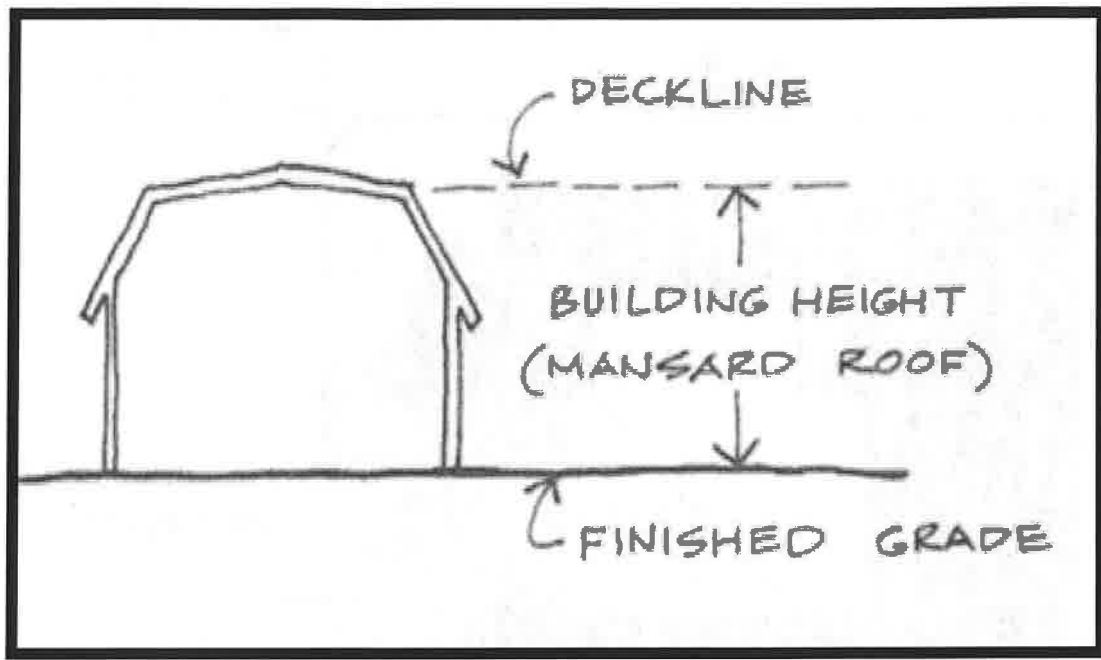
**Building Envelope:** An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setbacks requirements for a given zoning district establishes the building envelope.

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

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

### EXAMPLES OF MEASUREMENTS FOR HEIGHT OF BUILDINGS





**CAR WASH:**

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

**CARPORT:**

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

**CELLAR:**

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

**CEMETERY:**

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

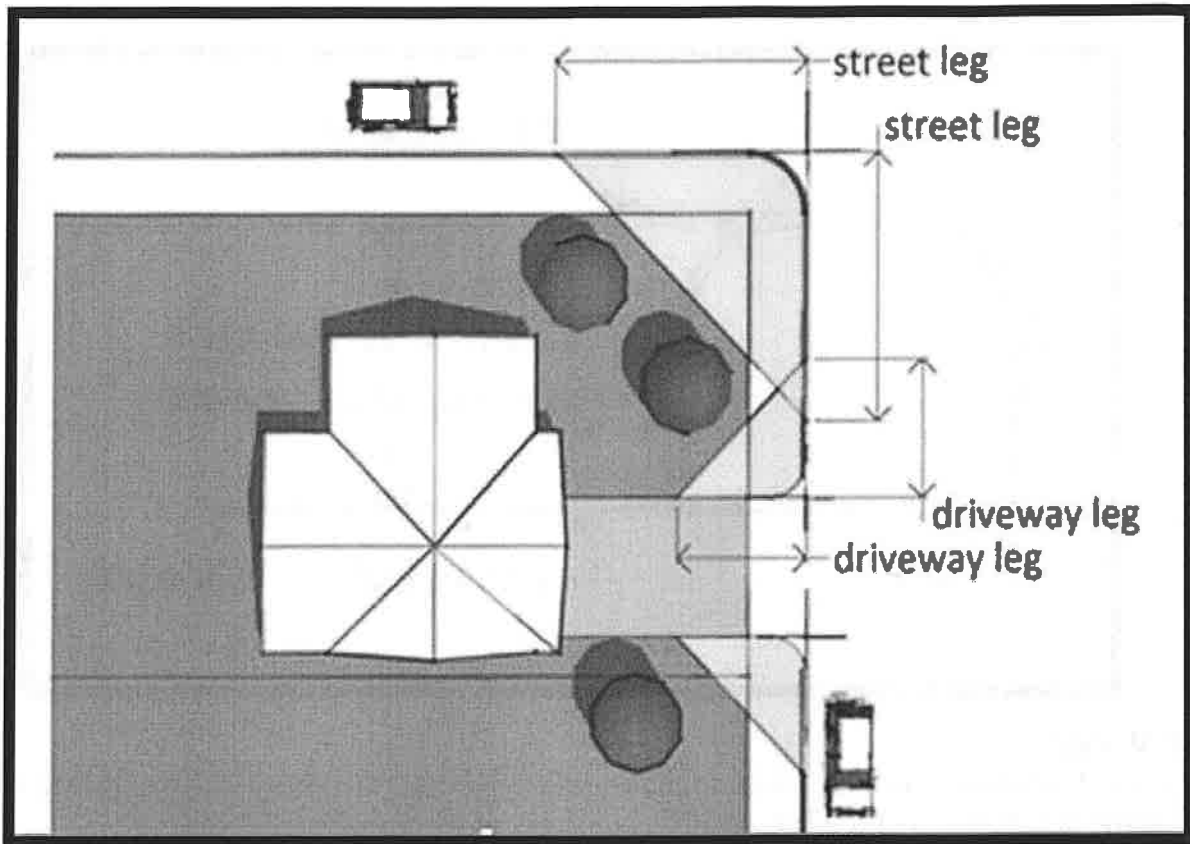
**CHANGE OF USE:**

Any use which differs from the last previously approved use of a building, structure or land.

**CHURCH: (SEE PLACE OF WORSHIP)**

**CLEAR SIGHT TRIANGLE:**

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



#### **COMMERCIAL USE:**

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

#### **COMMERCIAL COMMUNICATION ANTENNA:**

Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio services, or any wireless communication signals, including without rotation, omni-directional or whip antennas and directional or panel antennas owned and operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residences mounted satellite dishes or television antennas or amateur radio equipment, including without limitation, ham or citizen band radio antennas.

#### **COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:**

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna.

#### **COMMERCIAL COMMUNICATIONS FACILITY**

The components normally associated with the use and operation of a Commercial Communication Antenna including a Commercial Communication Tower and Commercial Communications Equipment Building.

#### **COMMERCIAL COMMUNICATION TOWER**

A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support a Commercial Communication Antenna.

**COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:**

The vertical distance measured from the ground to the highest point on a communications Tower, including antennas mounted on the tower.

**CONDOMINIUM:**

Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

**CONTINUING CARE FACILITY:**

An age restricted facility designed, operated and maintained to provide housing and a continuum of age-related care needs from independent living, assisted living, and skilled nursing care.

**CONTRACTOR'S STORAGE:**

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

**CONVENIENCE STORE:**

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

**CONVENIENCE STORE WITH GAS SALES:**

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

**DAY CARE FACILITIES:**

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

- A. Adult Day Care Center: A facility licensed by the state providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.
- B. Child Day Care Center: A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care home, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.
- C. Family Day Care Home: A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.
- D. Group Day Care Home: A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

**DECISION:**

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

**DEVELOPMENT:**

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

**DETENTION FACILITY:**

A publicly or quasi- publicly operated facility used to house and/or rehabilitate individuals detained, sentenced by, or under the jurisdiction of the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses and similar facilities.

**DETERMINATION:**

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

1. the governing body;
2. the zoning hearing board; or
3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

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

**DRIVE-IN COMMERCIAL USE:**

An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

**DRIVEWAY:**

A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having a frontage on the road.

**DWELLING:**

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

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family. A mobile home or similar manufactured housing unit which is permanently attached and anchored to a permanent foundation shall be deemed to be a single-family dwelling unit

- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. The term "Townhouse" is excluded under this term (See Definition of Townhouse)
- D. TOWNHOUSE: A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than six (6) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.
- E. MANUFACTURED HOME: A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections 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.

**DWELLING UNIT:**

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

**EARTH DISTURBANCE ACTIVITY:**

Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth. Any construction or activity resulting in an earth disturbance shall be subject to the governing regulations of the Throop Borough Storm Water Management Ordinance.

**EASEMENT:**

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

**EMERGENCY SERVICES FACILITY:**

A publicly owned building for the housing of fire, emergency medical or police equipment and for related activities.

**ENTERTAINMENT FACILITIES:**

Commercial establishments engaged in providing indoor entertainment for a fee or an admission charge, including but not necessarily limited to a movie theater, live theater performances, an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

**ENVIRONMENTAL IMPACT STATEMENT**

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

**EXCAVATION:**

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

**FACILITY:**

A structure or place which is built, installed, or established to serve a particular purpose or use.

**FAMILY:**

Any number of individuals related by blood, marriage or legal adoption, including foster children, occupying a dwelling unit as their domicile as a single nonprofit housekeeping unit. Unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first sentence of this definition.

A family does not include a group living in a rooming house or hotel, or fraternities, sororities, and clubs, halfway houses, or other forms of congregate living arrangements, including temporary or transitional housing except as otherwise provided herein.

**FENCE:**

A structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry. Hedges, shrubbery and/or similar vegetation shall not be deemed or considered to be a fence.

**FLOOD PLAIN MANAGEMENT ORDINANCE**

The governing Flood Plain Management Ordinance the Borough of Throop.

**FLOOR AREA, GROSS RESIDENTIAL:**

The interior floor area of a dwelling, including stairways, halls, and closets but not including basements, porches, garages, breezeways, or carports.

**FLOOR AREA, GROSS NONRESIDENTIAL:**

Unless specified otherwise, it represent the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic or basement storage space; (2) mechanical utility equipment areas; (3) stairs.

**FOOD PROCESSING ESTABLISHMENT:**

Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products

processing; (3) fats and oils products; (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and by-product processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

**FORESTRY:**

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

**FRONTAGE:**

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

**GARAGE, PRIVATE RESIDENTIAL:**

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

**GARDEN CENTER:**

A place of business where products and produce are sold to the general public. These centers may include a nursery and/or greenhouses, plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

**GAS STATION, LIMITED-SERVICE:**

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs, and maintenance, excluding those services provided under the definition of "Automotive Repair Garage."

**GLARE**

The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOVERNING BODY:**

The Borough Council of the Borough Throop, Lackawanna County Pennsylvania.

**GRADING:**

Any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

**GRAVEL (CRUSHED STONE):**

A surface that is considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

**GREENHOUSE:**

A building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not

necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

**GROUP RESIDENCE:**

A dwelling unit which is shared under congregate living arrangements by persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons of their licensed agents, a governmental agency or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting. The term "Group Residence" shall not include:

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

**HALFWAY HOUSE:**

A State licensed facility, representing transitional housing, to provide residence to a person who would otherwise be incarcerated in a prison, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society. For the purpose of this ordinance a convicted person shall include a person who has been released from a prison on parole or a person granted probation by a Court of jurisdiction.

**HAZARDOUS SUBSTANCES:**

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

- A. Cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating illness.
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- C. This definition shall be deemed to include substances that are radioactive material, medical waste, explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, corrosives, carcinogens, irritants, sensitizers, and other hazardous substances. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions.

**HAZARDOUS SUBSTANCE FACILITY:** A facility and/or use which utilizes, stores, transports and/or produces materials which are Hazardous Substances, as so defined by this ordinance.

**HIGHWAY OCCUPANCY PERMIT:**

A permit issued by the Pennsylvania Department of Transportation or any other level of government which authorizes access from a parcel of land onto a street or highway which is under its respective jurisdiction.

**HEALTH SPA:**

An indoor facility where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Said facility may also include game courts, swimming facilities, saunas and massage rooms

**HOME OFFICE:**

Residences of clergymen, architects, landscape architects, professional engineers, professional planners, registered land surveyors, lawyers, real estate agents, financial consultants, artists, teachers, musicians, or persons in other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises. The following uses and/or services, including those which are similar in nature, are excluded from the classification as a Home Office: hair stylists, barbers, massage parlors, tanning salons, health spas, beauty spas, nutrition and weight management services manicure and pedicure services, animal grooming services, body piercing and body painting services.

**HOME OCCUPATION:**

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

**HOTEL (SEE MOTEL):**

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

**HOOKAH:**

A waterpipe, or a similar single or multi-stemmed instrument for vaporizing and smoking flavored tobacco products.

**HOOKAH LOUNGE OR BAR:**

An establishment where patrons smoke tobacco products from a hookah.

**HUB HEIGHT:**

The distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

**IMPACT ANALYSIS:**

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

studies required by the Borough Council or the Zoning Hearing Board, as the case may be, under or within the context of the term "IMPACT ANALYSIS."

**IMPERVIOUS SURFACE OR COVERAGE:**

A permanent surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, parking lots, driveways, roofs, stone patios. See definition of "Gravel (Crushed Stone)" for when gravel classifies as impervious area.

**IMPERVIOUS MATERIAL:**

Any material and/or development that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land as further defined by the Throop Borough Stormwater Management Ordinance.

**IMPROVEMENTS:**

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

**INDUSTRY, HEAVY:**

A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions and having potential to produce noise, dust, glare, odors or vibration beyond its property line.

**INDUSTRY, LIGHT:**

Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories, or the like. Light industry must be capable of operation in such a manner to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Light industry shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal and/or any form of basic industrial processing, including but not limited to the use of hazardous materials.

**JUNKED VEHICLE:**

Any vehicle, including a trailer, which does not bear current license and inspection stickers or is incapable of being moved under its own power, or presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair to classify a vehicle to be a junked vehicle.

- a. rusted and/or jagged metal on or protruding from the body of a vehicle;
- b. deflated tires
- c. broken glass or windows on or in the vehicle;
- d. leaking of any fluids from the vehicle;
- e. unsecured and/or unlocked doors, hood or trunk;
- f. storage or placement of the vehicle on concrete blocks;
- g. harboring or rodents, insects or other pests.

**JUNKYARD: (SEE ALSO AUTOMOBILE WRECKING YARD):**

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

**LAND DEVELOPMENT**

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

- (A) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots containing two (2) or more occupants.
- (B) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (C) A subdivision of land.
- (D) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into more than three (3) residential units. Any conversion, described above that is intended to be a condominium, shall be exempt from classification as a land development.
- (F) The development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.

**LAND DISTURBANCE:**

Any activity, which exposes soils, alters topography and/or alters wooded vegetation, except for removal of a safety hazard, diseased trees, or invasive vegetation.

**LANDOWNER:**

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

**LAUNDROMAT, SELF-SERVICE:**

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

**LIBRARY:**

A nonprofit facility open to the general public in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

**LOT:**

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

**LOT AREA:**

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

**LOT AREA, GROSS:**

The area of land contained within the limits of the legally described property lines bounding the lot.

**LOT, CORNER:**

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

**LOT COVERAGE:**

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

**LOT, FRONTAGE:**

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

**LOT DEPTH:**

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

**LOT LINE:**

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

**LOT LINE, REAR:**

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

**LOT LINE, SIDE:**

Any lot line not a front or rear lot line.

**LOT OF RECORD:**

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

**LOT, THROUGH:**

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

**LOT WIDTH:**

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

**MACHINE SHOP:**

Any facility that uses machine tools, including but not limited to, lathes, milling machines, shapers, planers, drill presses, and jig borers for working with metals or other relatively hard materials, such as some polymers. Typically machine shops make and repair all types of metal objects, from machine tools dies, and molds to mass-produced parts such as screws, pistons, or gears.

**MANUFACTURED HOME:**

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. A manufactured housing unit which is attached and anchored to a permanent foundation shall be deemed to be a single-family dwelling unit.

**MANUFACTURED HOME PARK:**

A parcel or contiguous parcels of land, which has been planned and improved for the placement of two (2) or more manufactured homes.

**MANUFACTURED HOME SALES LOT:**

An open lot, used for the outdoor display and/or sales of manufactured housing that may also include recreation vehicles, or travel trailers.

**MASSAGE ESTABLISHMENT:**

An establishment or business operated by a medical practitioner, chiropractor or professional physical therapist licensed by the State which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy.

**MEDIATION:**

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

**MEDICAL CLINIC/CENTER:**

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by State-licensed physicians, dentist's chiropractors or other licensed medical specialists, in which said medical practitioners may or may not work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24-hour emergency service. The term "Medical Clinic/Center" shall not include any type of Substance Abuse Treatment Facility as so define in this Ordinance.

**MEDICAL MARIJUANA:**

Marijuana for certified medical use under the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016.

**MEDICAL MARIJUANA DISPENSARY:**

A person, including a partnership, association, corporation, trust, or other entity or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health to dispense medical marijuana, in accordance with the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016.

**MEDICAL MARIJUANA GROWER/PROCESSOR FACILITY:** An indoor facility operated by a legal entity which holds a permit from the State Department of Health to grow and process medical marijuana.

**METHADONE TREATMENT FACILITY:**

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

**MINERALS:**

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

**MINERAL EXTRACTION:**

The removal from the surface or beneath the surface of land bulk mineral resources such as culm sand, gravel, topsoil, limestone, sandstone, coal, oil, gas, shale and iron ore using machinery. This use includes stockpiling, but not the movement of and replacement of topsoil as part of construction activities.

**MIXED USE STRUCTURE:**

A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

**MOTEL (SEE ALSO HOTEL):**

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

**MUNICIPALLY OWNED BUILDINGS:**

A building or structure providing a municipal service or function that is owned and operated by the Borough of Throop.

**MUNICIPALITY:**

Throop Borough, Lackawanna County, Pennsylvania.

**NO IMPACT HOME BASED BUSINESS:**

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

**NONCONFORMING LOT:**

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

**NONCONFORMING STRUCTURE:**

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

**NONCONFORMING USE:**

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

**NONPROFIT SOCIAL HALL AND CIVIC ORGANIZATIONS**

Buildings or facilities, normally owned and/or operated by a nonprofit or civic organization used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. Said facilities shall not be operated in a manner in which it could also be classified as a Sexual Oriented Business as so defined by this Ordinance.

**NURSING HOME**

A long-term health care facility licensed by the Pennsylvania Department of Health that offers 24-hour room and board and health care services, including basic and skilled nursing care.

**OFFICES:****PROFESSIONAL OFFICE:**

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

**SERVICE OFFICE:**

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

**OUTDOOR STORAGE, INCLUDING IT AS A PRINCIPAL USE**

The placing, storing or keeping, in an unenclosed area, goods, materials, merchandise, equipment or vehicles which are related to the operation of a commercial use, excluding the storage of solid waste, hazardous substances, refuse, junk and junked vehicles.

**OUTDOOR WOOD-FIRED BOILER:**

A fuel-burning device designed: (1) to burn clean wood or other approved solid fuels; (2) by the manufacturer specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals (e.g., garages); and (3) to heat building space and/or water via distribution, typically through pipes of a fluid heated in the device,

typically water or a water/antifreeze mixture. Outdoor wood-fired boilers are also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, etc.

**PARKING SPACE:**

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

**PASSIVE SOLAR ENERGY:**

Energy used to convert sunlight into usable heat, cause air-movement for ventilation or cooling, or store heat for future use.

**PATIO:**

A level surfaced area directly adjacent to a principal building constructed above the existing grade which has an average elevation of not more than 30 inches, and without walls or a roof.

**PATIO (COVERED):**

A roofed structure, which may be attached to the principal structure, open on three or more sides, excluding screening designed for outdoor recreational use. When attached to the principal structure setback requirements applicable to the principal structure shall apply.

**PERMITTED USE:**

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

**PERSONAL CARE HOME:**

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

**PERMANENT FOUNDATION:**

A support for a building or structure, reaching below the frost line, consisting of a full poured concrete or masonry foundation or any other type which is permitted under the design standards of the Pennsylvania Uniform Construction Code, on which the building or structure is anchored and is intended to remain indefinitely.

**PERSONAL SERVICES:**

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, hair stylists, barbers, tanning salons, beauty spas, manicure and pedicure services, animal grooming services and similar services.

**PHOTOCOPY SERVICE:**

A business that reproduces drawings, plans, maps, or other copy by means of blueprinting or photocopying.

**PLACE OF WORSHIP:**

A building or portion thereof used for religious services either on a permanent or periodic basis, including churches, synagogues, mosques and similar edifices.

**PLANNING COMMISSION:**

The Planning Commission of Throop Borough

**PRINCIPAL USE:**

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

**PUBLIC:**

Anything owned or operated by any department or branch of the federal government, state government, county government or municipal government.

**PUBLIC BUILDING AND/OR FACILITY:**

Any building and/or facility held, used or controlled exclusively for public purposes by any department or branch of government; federal, state, county, or municipal.

**PUBLIC HEARING:**

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

**PUBLIC MEETING:**

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

**PUBLIC NOTICE:**

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

**PUBLIC UTILITIES FACILITIES (ESSENTIAL):**

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

**PUBLIC UTILITY TRANSMISSION TOWER:**

A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

**RECREATIONAL FACILITIES, COMMERCIAL:**

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

**RECREATIONAL FACILITIES, PRIVATE:**

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

**RECREATIONAL FACILITIES, PUBLIC:**

Recreational facilities operated by a governmental entity and open to the general public.

**RECYCLING COLLECTION CENTER:**

A facility which is limited to the collection, separating and processing of used material prior to shipment to others who will use those materials to manufacture new products. Hazardous or toxic substances shall not be accepted, located and or stored at such a facility. This definition shall not include a junkyard.

**REPORT:**

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

**RESTAURANT:**

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

**RETAIL SALE ESTABLISHMENTS:**

An establishment selling products as opposed to services or entertainment to the general public, including, but not limited to, examples such as an antique shop; appliance store; artist, music, and automotive parts store; beverage packaging store; building or plumbing supplies; crafts and hobby supplies; clothing store; dairy products store; dry goods and variety stores; florist; garden supplies; hardware store; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography store; pet store; pharmacy; specialty gifts; sporting goods store; and other establishments selling related products

**RETAIL ESTABLISHMENT, LARGE:**

A building and/or use of property, whether located in a single building or combination of buildings which has a gross floor area in excess of 30,000 square feet in the aggregate. The term gross floor within the context of this definition shall include both indoor and outdoor space, utilized for the retail display and sale of goods. Warehousing and Distribution facilities shall not be excluded from this definition.

**RIGHT-OF-WAY:**

A defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, which usually include cartways, shoulders, and sidewalks.

**RIPARIAN LAND:**

Land that is traversed or bounded by a natural watercourse.

**ROOMING HOUSE:**

A residential structure or portion thereof which contains rooms which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. Any of the following features for a residential use shall be deemed to constitute a Rooming House:

- (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or
- (2) includes any building or part of any building in which one or more persons share bathroom and toilet facilities and/or cooking facilities with other occupants of the building.
- (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not "related" to the owner of record of the property. Individual leases shall be deemed to have a dwelling unit classified as a boarding house

The term "Rooming House" shall specifically exclude the following terms:

:

Dwelling	Dwelling Unit
Motel and/or Hotel	Group Residence
Dormitory	Bed and Breakfast Facility
Short-Term Home Rental	Short-Term Transient Rental
Any Type of Transitional Housing	

**ROOMING UNIT:**

A room or rooms, in a Rooming House, forming a single habitable unit intended for living quarters but lacking separate bathroom and toilet facilities and/or cooking facilities for exclusive use by the occupant or occupants of the rooming unit.

**SATELLITE DISH ANTENNA:**

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations. TVROs (television reception only satellite dish antennas), and satellite microwave antennas. A satellite dish antenna that does not exceed three (3) feet in diameter and is attached to a building shall be exempt from securing zoning approval.

**SCHOOL:**

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

**SCREENING:**

The method by which a view of one site from another adjacent site is shielded, concealed,

or hidden. Screening techniques include fences, wall, hedges, berms, or other features.

**SEATING CAPACITY:**

The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not affixed, the seating capacity shall be determined by the applicable standards of the most recent Pennsylvania Uniform Construction Code.

**SELF-STORAGE FACILITY:**

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

**SETBACK:**

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

**SEXUALLY ORIENTED USES:**

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

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

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

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

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

**SHOPPING CENTER:**

A grouping of retail business and service uses on a single site with shared or common space including but not limited to parking and access.

**SHORT-TERM HOME RENTAL:**

Any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days on more than one occasion to someone other than a family member of the landowner where the landowner resides in the dwelling unit during the rental, or more than a total of 183 days per year. The term does not include a hotel, motel or short-term transient rental.

**SHORT-TERM TRANSIENT RENTAL:** Any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days where the landowner does not reside in the dwelling unit during any rental, or resides in the dwelling unit less than a total of 183 days per year. The term does not include a hotel, motel or short-term rental.

**SIGN:**

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

**SITE:**

A plot or parcel of land or combination of contiguous lots or parcels of land.

**SITE PLAN:**

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

**SOIL EROSION AND SEDIMENTATION CONTROL PLAN:**

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

**SOLAR ENERGY SYSTEM, ACCESSORY (ASES:)**

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

**SOLAR ENERGY SYSTEM, PRINCIPAL (PSES:)**

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

**SOLAR ARRAY:**

A grouping of multiple solar modules with purpose of harvesting solar energy.

**SOLAR CELL:**

The smallest basic solar electric device which generates electricity when exposed to light.

**SOLAR EASEMENT:** - A right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

**SOLAR ENERGY:**

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

**SOLAR MODULE:**

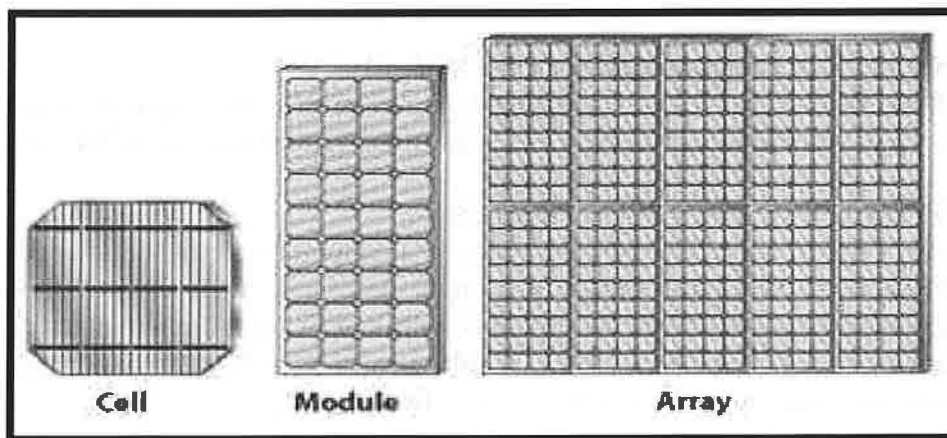
A grouping of solar cells with the purpose of harvesting solar energy.

**SOLAR PANEL:**

That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

**SOLAR RELATED EQUIPMENT:**

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



**SOLID WASTE OR WASTE:**

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

**SOLID WASTE FACILITY:**

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

**SPECIAL EXCEPTION:**

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

**STORMWATER MANAGEMENT ORDINANCE:**

The governing Stormwater Management Ordinance for Throop Borough.

**STORY:**

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

**STREET:**

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

**STRUCTURE:**

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

**SUBDIVISION:**

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

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE:**

The official and most recent version of the Throop Borough Subdivision and Land Development Ordinance, as amended.

**SUBSTANCE ABUSE TREATMENT:**

Term "Substance Abuse Treatment" shall refer to a process approved and regulated by the Pennsylvania Department of Drug and Alcohol Programs provided at a Substance Abuse

Treatment Facility with the intended purpose of the cessation of a person's use of addictive substances, such as drugs or alcohol.

**SUBSTANCE ABUSE TREATMENT FACILITY:**

A facility licensed by the Pennsylvania Department of Drug and Alcohol Programs which specializes in the evaluation and treatment of drug addiction and alcoholism. The services available at such a facility can be residential treatment, partial hospitalization treatment or outpatient treatment. For the purpose of this Ordinance a Substance Abuse Treatment Facility shall include the following terms as so defined within this Ordinance:

A Substance Abuse Detoxification Treatment Facility:

A Non-Hospital Drug Free Residential Substance Abuse Treatment Facility

A Partial Hospitalization Treatment Facility

**Substance Abuse Detoxification Treatment Facility:**

A facility licensed by the Pennsylvania Department of Drug and Alcohol Programs, which includes the overnight stay of patients, for the provision of medically supervised detoxification and treatment of persons who have been medically diagnosed as having a dependency on a controlled substance including but not limited to drugs and alcohol.

**Non-Hospital Drug Free Residential Substance Abuse Treatment Facility:**

A facility licensed by the Pennsylvania Department of Drug and Alcohol Programs, representing transitional housing, which includes the overnight stay of patients, which may include psychological, social, and behavioral, counseling and supportive services designed to assist a person being treated for a substance abuse disorder to allow their gradual reentry into the community. No Substance Abuse Detoxification Treatment shall be provided at this facility.

**Partial Hospitalization Substance Abuse Treatment Facility**

A facility licensed by the Pennsylvania Department of Drug and Alcohol Programs, to provide persons with a substance abuse disorder who do not require 24-hour inpatient care, with a short-term intensive outpatient program for stabilization who do not require 24-hour inpatient care. No overnight stay of patients shall be permitted at such a facility.

**SWIMMING POOL, PRIVATE NONCOMMERCIAL:**

A water-filled enclosure, having a depth of eighteen (18) inches or greater, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon.

**TATTOO PARLOR/BODY-PIERCING STUDIO:**

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

- (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- (2) creation of an opening in the body of a person for the purpose of inserting jewelry or

other decoration.

**TAVERN**

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

**TRANSITIONAL HOUSING:**

Temporary housing for persons who may or may not have traditional or permanent housing but are capable of living independently within a reasonable period of time. Such housing is designed to facilitate persons eligible for such housing into independent living arrangements outside the structure used to provide temporary housing. Examples of transitional housing include but may not be limited to housing for persons recovering from a substance abuse addiction, persons released from judicial incarceration, persons who are homeless

**TRUCKING FACILITY:**

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

**TRUCK REPAIR & STORAGE:**

A building and/or land used primarily for the maintenance and storage of large commercial vehicles.

**TURBINE HEIGHT:**

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

**USE:**

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

**VARIANCE:**

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1410 of this Ordinance.

**WAREHOUSING AND DISTRIBUTION:**

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive. This term does not include trucking facilities.

**WATERCOURSE:**

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

**WETLANDS:**

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including

swamps, marshes, bogs and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

**WELDING SHOP:**

The use of land, or building, or structure where pieces of metal are welded.

**WIND ENERGY CONVERSION SYSTEM ("WECS"):**

A machine designed for the purpose of converting wind energy into electrical energy. (Commonly known as "wind turbine" or "windmill"). The term WECS shall be used interchangeably with the terms "wind turbine" or "windmill," with said terms having the same meaning as a WIND ENERGY CONVERSION SYSTEM ("WECS")

**WIND ENERGY FACILITY:**

An electric generating facility, whose main purpose is to supply electricity, consisting, of one or more Wind Turbines

**WIND ENERGY CONVERSION SYSTEM (SMALL) - ("Small WECS"):**

A wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for on-site use, which is intended to primarily reduce consumption of utility power at that location and not for resale.

**WIND TURBINE:**

A wind energy conversion system that converts wind energy into electricity through the use of wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any. *See Exhibit A on Page 2-32 for Diagram.*

**YARD:**

An open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance. *See Exhibit B on Page 2-33 and 2-34 for Diagram of Yard Areas.*

**YARD, FRONT:**

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

**YARD, REAR:**

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

**YARD, SIDE:**

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

**YARD, REQUIRED SETBACK:**

The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as otherwise provided for in this Zoning Ordinance.

*See Exhibit D on Page 2-35*

**ZONING DISTRICT:**

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

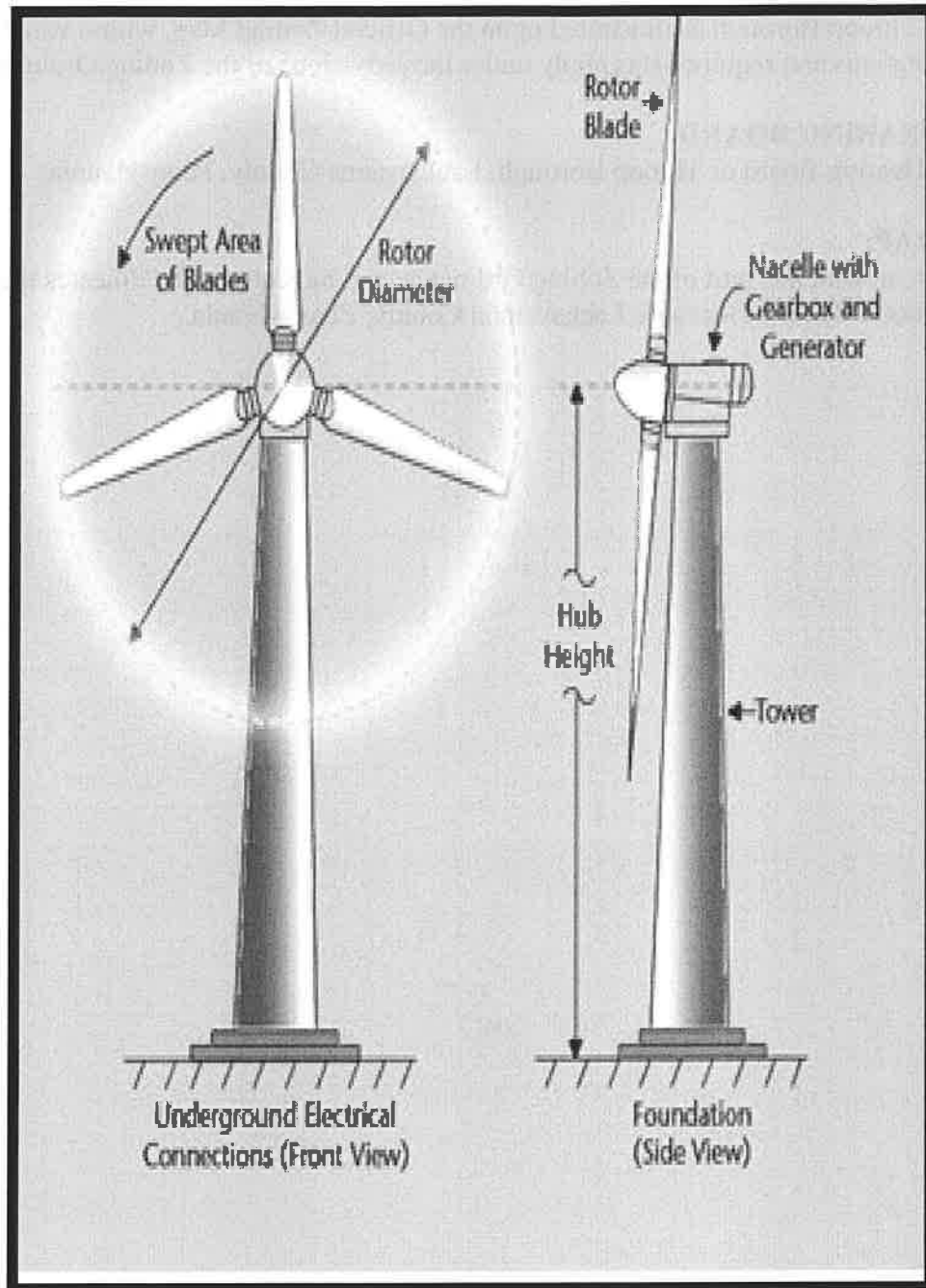
**ZONING HEARING BOARD:**

The Zoning Hearing Board of Throop Borough, Lackawanna County, Pennsylvania.

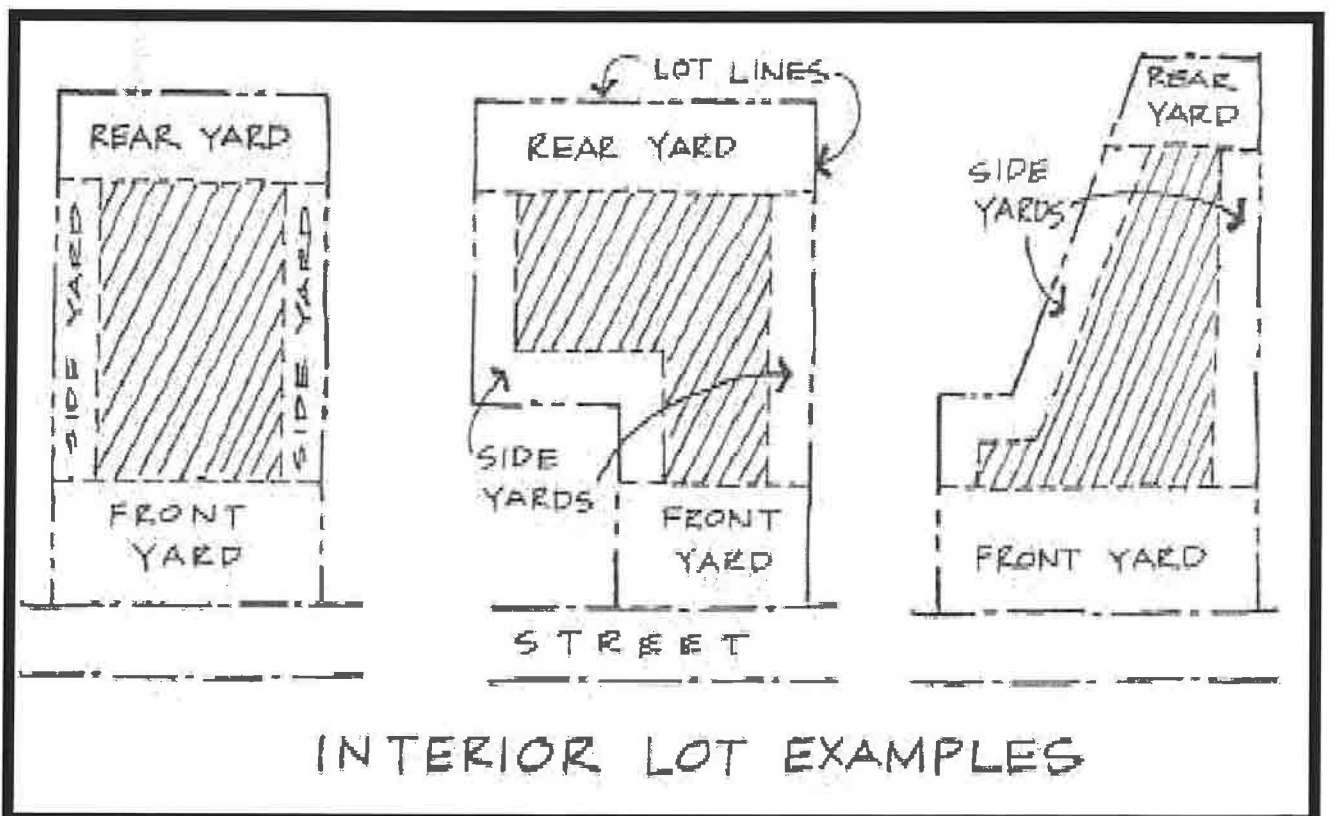
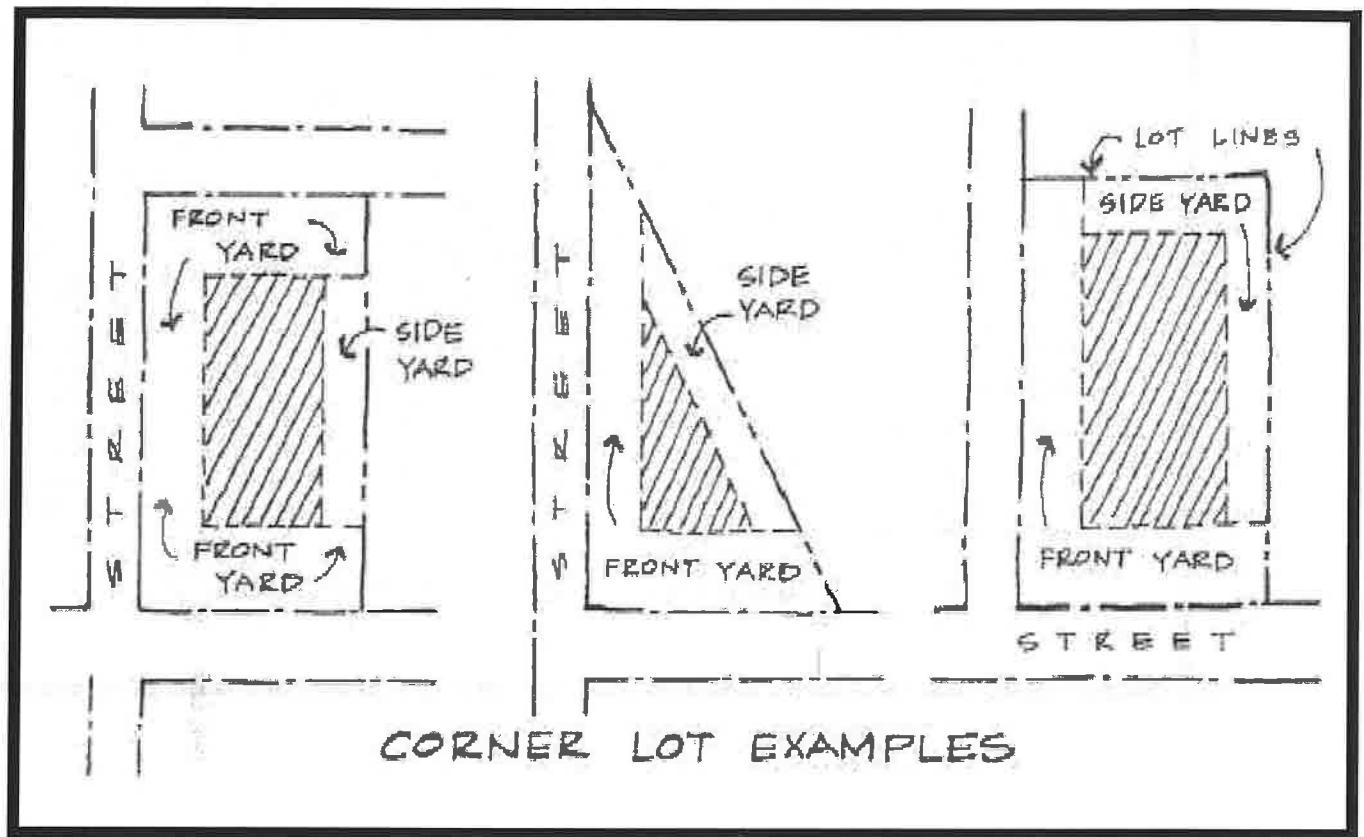
**ZONING MAP:**

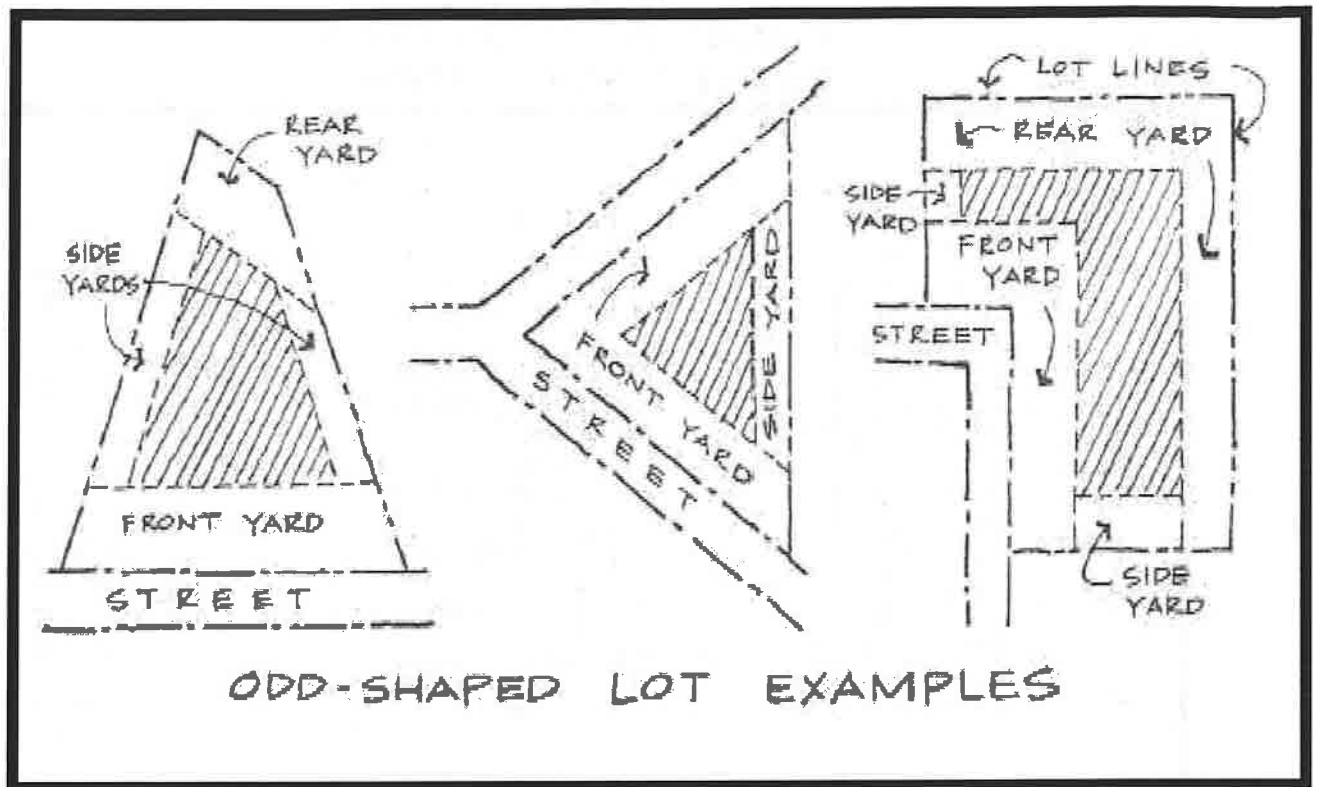
The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Throop Borough, Lackawanna County, Pennsylvania.

# EXHIBIT A WIND TURBINE DIAGRAM



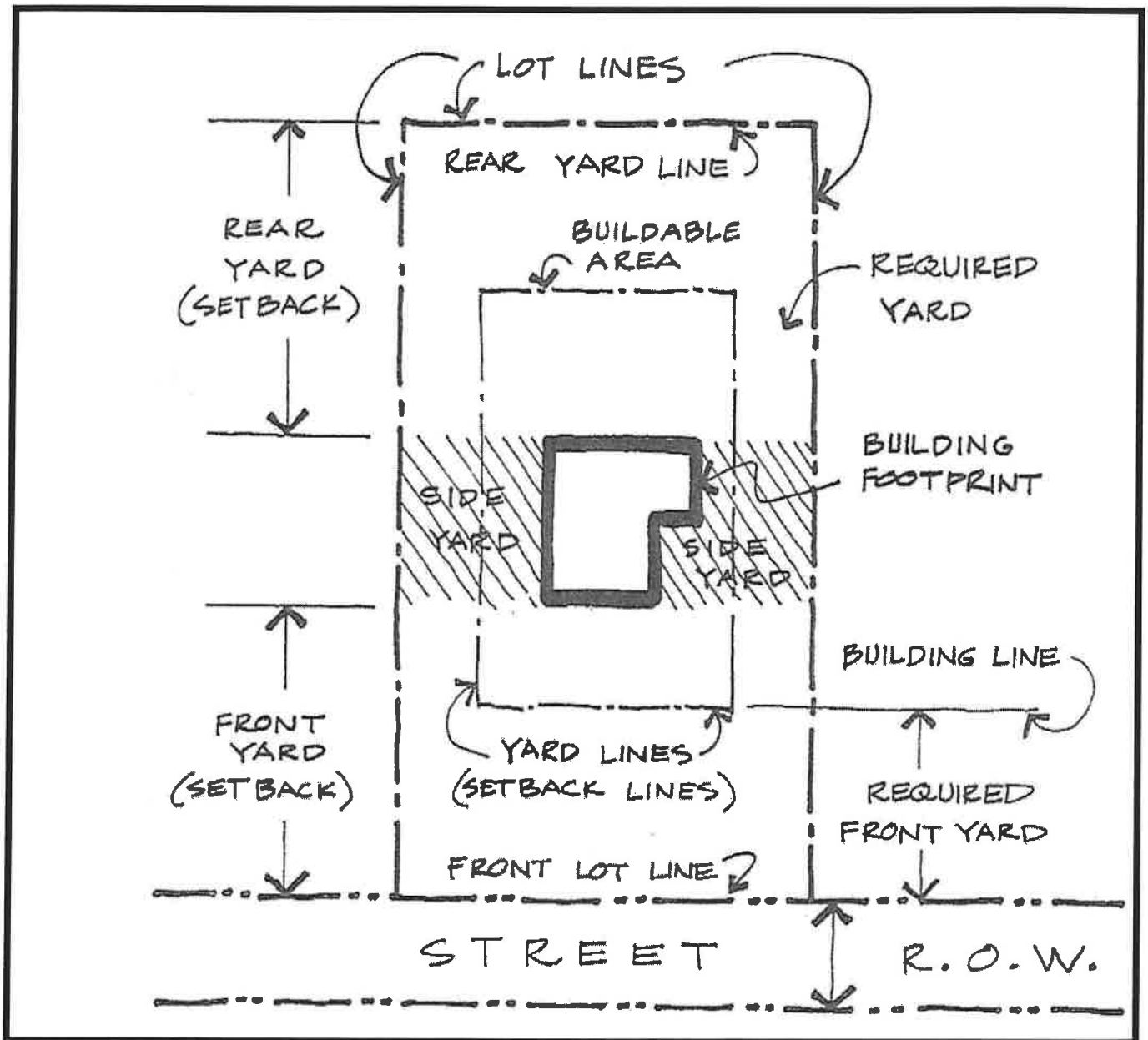
**EXHIBIT B**  
**DIAGRAMS OF YARD AREAS**  
**BY LOT CONGIGURATION**





**EXHIBIT D**

**REQUIRED YARD SETBACKS**



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## **ARTICLE 3 GENERAL REGULATIONS**

### **SECTION 301    COMPLIANCE REQUIRED**

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, altered converted or moved, unless in compliance with all applicable provisions and regulations of this Ordinance.

### **SECTION 302    REQUIRED ACCESS**

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

### **SECTION 303    ACCESSORY STRUCTURES**

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

#### **303.1   TYPES OF RESIDENTIAL ACCESSORY STRUCTURES:**

For residential lots, permitted accessory structures shall include but not be limited to noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos, noncommercial satellite antenna dishes, solar panels or a minor solar energy system, standalone noncommercial windmill, outdoor wood burning furnaces and other similar accessory uses.

#### **303.2   UNATTACHED RESIDENTIAL ACCESSORY STRUCTURES**

- A.    **Residential Accessory Structures:** When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:
1.    The maximum height shall not exceed twenty (20) feet.
  2.    Unless stated otherwise, an accessory structure shall not be located less than (5) feet from a side lot line or rear lot line or 10 feet when bordering a street or alley. (See Section 306 for Swimming Pools)
  3.    The maximum gross floor area of any accessory structure shall not exceed the 750 square feet, for a lot which has a gross lot area of less than 10,000 square feet. In no case however shall the maximum square foot area of any accessory structure, other than a swimming pool, exceed the square foot area of the footprint of the principal use.
  4.    In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming

use, but shall be subject to all other applicable regulations contained within this Ordinance.

**B. Nonresidential Accessory Structures**

1. When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback and side yard requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than twenty (20) feet from any rear yard lot line.
2. An unattached accessory structure to a nonresidential principal use and/or structure which is classified as a special exception use, shall be exempt from the otherwise applicable special exception use regulations when the proposed construction, establishment or use of the accessory structure does not exceeds seven hundred fifty (750) square feet of gross floor area and complies with the required setback distances set forth above under Item 1.

**303.3 OUTDOOR WOOD-FIRED BOILER**

An Outdoor Wood-Fired Boiler, as defined in Article 2, shall be deemed to be an accessory residential structure permitted as a special exception use, thereby requiring approval from the Zoning Hearing Board under Section 1410.2 and subject to the supplemental standards as set forth in Section 801.41 of this Ordinance. An Outdoor Wood-Fired Boiler shall only be used and/or connected as a heating source to a residential structure.

**303.4 WIND ENERGY CONVERSION SYSTEM (SMALL)**

A free-standing Small Wind Energy Conversion System, as defined in Article 2, shall be deemed to be an accessory structure permitted as a special exception use, thereby requiring approval from the Zoning Hearing Board under Section 1410.2 and subject to the supplemental standards as set forth in Section 801.58 of this Ordinance.

A roof mounted Small Wind Energy Conversion System shall be permitted by right in all zoning districts, subject to not exceeding the maximum height requirement for the District in which it is located.

**303.5 SOLAR ENERGY SYSTEMS, ACCESSORY (ASES)**

A free-standing Accessory Solar Energy System shall be deemed to be an accessory structure permitted as a special exception use in all zoning districts, thereby requiring approval from the Zoning Hearing Board a under Section 1410.2 and subject to the supplemental standards as set forth in Section 801.51 of this Ordinance.

A roof mounted Accessory Solar Energy System shall be permitted by right in all zoning districts, subject to not exceeding the maximum height requirement for the District in which it is located.

### 303.6      INSTALLATION AND USE OF ACCESSORY STRUCTURES

Accessory structures, including any related equipment, as applicable, shall be installed and used in accordance with the manufacturer's written recommendations.

### SECTION 304 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located. This provision shall apply to both accessory and principal structures. See Article 2 Exhibit B, Diagrams of Yard Areas.

### SECTION 305 NONCOMMERCIAL SATELLITE DISH ANTENNA

A freestanding non-commercial satellite dish or standard antenna including amateur television and radio antennas, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located. The supplemental provisions under Section 801.44 of this Ordinance shall apply.

A Noncommercial Satellite Dish Antenna when attached to a structure, with a diameter not greater than 30 inches, shall be exempt from securing zoning approval, subject to not exceeding the height limitation for the Zoning District in which it is located.

### SECTION 306 PRIVATE NONCOMMERCIAL SWIMMING POOLS

A private noncommercial swimming pool capable of containing water to a depth of eighteen (18) inches or greater shall be permitted as an accessory use in any zone subject to the following:

#### 306.1    Yard Area and Setback Requirements

A private swimming pool shall be located in either a side yard or rear yard with a minimum side yard and rear yard setback of not less than ten (10) feet as measured from the water's edge and less than ten (10) feet from a principal structure. Decks or similar structures attached or abutting a swimming pool shall also be subject to aforementioned required setback distances.

#### 306.2    In-Ground Pools

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less four (4) feet in height, but not greater than six (6) feet in height, which includes a gate secured with a lock. The required fencing for an in-ground pool must be installed upon the completion of the excavation work for said pool. Said pool may not be filled until the required permanent fencing is installed.

### 306.3 Above Ground Pools

#### A. Pools with Exterior Supports

An above ground pool which is manufactured, designed and erected with supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less four (4) feet in height, but not greater than six (6) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 306.2 or in lieu of a fence, a barrier not less four (4) feet in height, but not greater than six (6) feet in height. Said barrier may include the pool wall and any extension thereto which equals six (6) feet in height. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall require a side yard and/or rear yard setback of not less than ten (10) feet.

#### B. Inflatable Pools without Exterior Supports

An above ground pool which may be inflated and used without supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less four (4) feet in height, but not greater than six (6) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 306.2.

### SECTION 307 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot which does not exceed one acre in size and held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining ten (10%) percent or less of the lot so divided.

### SECTION 308 PROJECTIONS INTO REQUIRED YARDS

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

- A. Terraces or Patios: provided that such terraces or patios are located in the rear yard or side yard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- B. Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, windowsills, stairways, balconies, canopies or other similar architectural features provided that any of the aforementioned features do not extend more than three (3) feet into any required setback.
- C. Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or side yard, and do not exceed four and one-half (4½) feet in depth and five (5) feet in length as extended from the principal structure.

- D. Handicapped Ramps: The installation of a handicapped ramp in any zone, designed to provide access to handicapped persons, shall be exempt from meeting any applicable front yard or rear yard setback requirements, but shall have a minimum side yard setback of not less than five (5) feet.
- E. Retaining walls shall be set back not less than five (5) feet from any adjacent right-of-way.
- F. No projections shall be permitted within and/or over a public right-of-way.

## SECTION 309 LIMITED EXEMPTIONS FROM YARD REQUIREMENTS:

### 309.1 EXISTING STRUCTURES

In all zoning districts any area of an existing structure already under roof can be enclosed and shall be exempt from meeting the front, side and/or rear yard requirements for enclosing the structure subject to not exceeding the extent of the existing roof and or footprint of the structure.

### 309.2 EXEMPTIONS UNDER PROPOSED SUBDIVISIONS

Any structure, proposed to subdivided, containing two or more units, residential or nonresidential, shall be exempted from the governing side yard setback requirements under the Zoning Ordinance relative only to interior side yards where such units are physically connected. When a side yard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval shall exempt the property from requiring and/or securing an interior side yard variance from the Zoning Hearing Board.

## SECTION 310 SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS

Any structural portion of a residential building, such as a deck, patio, porch or similar feature which is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.
- C. The structural replacement shall be at the exact same location and structural replacement shall be the same size and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed zoning permit application, along with any other information deemed necessary by the Zoning Officer to process the application.

## SECTION 311 LAND DEVELOPMENT APPROVAL REQUIRED:

In addition to zoning approval, the improvement of one or more contiguous lots, involving 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 tenants, in addition to the applicable provisions of this Ordinance, shall also be governed by the applicable provisions of the Throop Borough Subdivision and Land Development Ordinance.

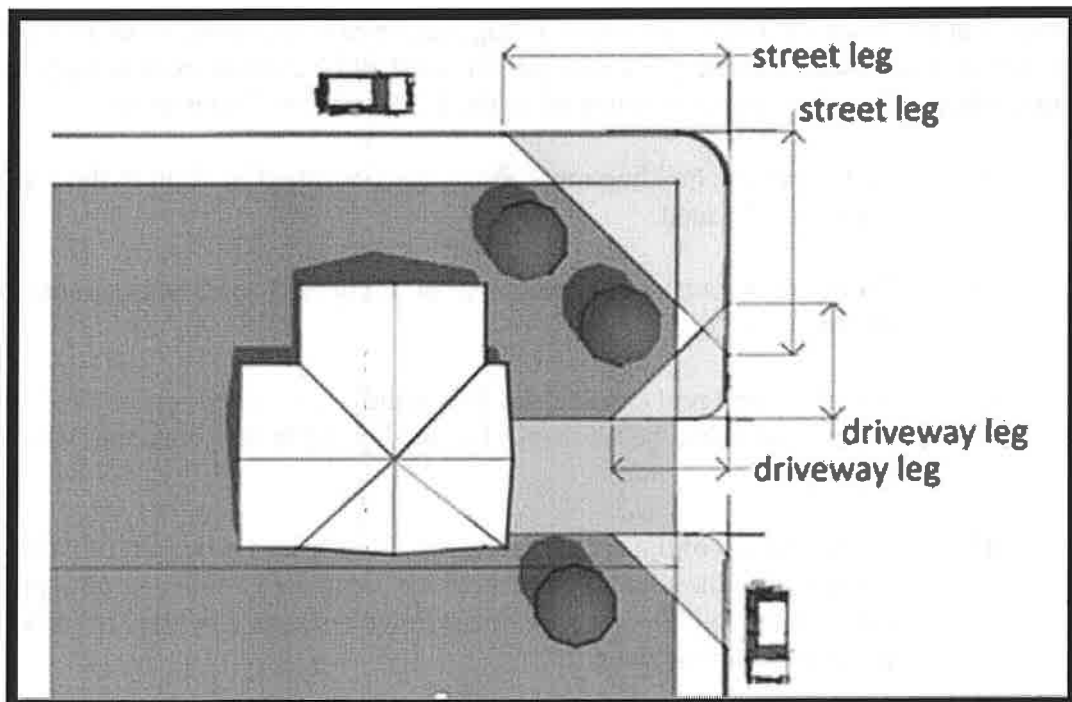
## SECTION 312 EXEMPTIONS FROM HEIGHT REQUIREMENTS:

Height limitations in this Ordinance as so specified for each Zoning District shall not apply to church spires, belfries, cupolas and domes, monuments, water towers, wind energy conversion systems, commercial communication towers, chimneys, smokestacks, flag poles, radio towers, masts and aerials, accessory mechanical appurtenances usually located above the roof level or to parapet walls extending not more than four (4) feet above the roof line of the principal building, but may be subject any supplemental height regulation associated with a specific use.

## SECTION 313 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

### 313.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half ( $2\frac{1}{2}$ ) feet, excluding street signs, utility poles or traffic signs, shall be erected, planted and/or maintained within the triangle formed by a line projected between two points measured at a minimum distance of thirty (30) feet from the intersection of the side yard lot lines of the property which abut the public right-of-way.



### 313.2. PRIVATE DRIVEWAYS

No visual obstruction including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half (2½) feet, shall be erected or maintained within the triangles formed by a line projected between two points measured at a minimum distance of ten (10) feet from the outer edge of each side of the driveway in each direction to a depth of ten (10) feet along the centerline of the driveway.

## SECTION 314 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed. Height measurements for compliance with this Section shall be based upon the ground elevation directly below the fence. There is no required minimum setback distance for a fence or a wall, excluding a retaining wall (See Section 308(E)). The property owner shall bear sole responsibility for the location and accuracy of property boundaries. No portion of a fence, including posts and/or structural supports shall extend beyond the property boundary, including but not limited to subsurface footers. In the case of a wall, no portion of a wall including any required footers and/or foundation shall extend beyond the property boundary.

### 314.1 RESIDENTIAL

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

#### A. FRONT YARD

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

#### B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height.

#### C. FENCING FOR LOTS ON CORNER PROPERTIES

On a corner lot, the front yard area for the principal structure shall be based upon the mailing address for the subject property as established by the U.S. Postal System. Other yard areas having road frontage shall be deemed to be side yard and shall be subject to compliance with Section 313 and with all other applicable regulations this Ordinance.

#### D. MATERIALS

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

#### 314.2 NONRESIDENTIAL

Fences to be constructed within any commercial, industrial or other nonresidential zoning district shall not exceed six (6) feet in height above the adjacent ground level. The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

#### 314.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of six (6) feet in height, designed as an enclosure to a public park, a public playground or similar public outdoor recreational facility.

#### 314.4 RETAINING WALLS

Any retaining wall which equals or exceeds three (3) in height shall require review by the Borough's Engineer prior to the issuance of a zoning permit or building permit. The applicant shall be responsible for the submission of the drawings which provide the proposed design and construction of the retaining wall. The applicant shall be responsible for all engineering costs incurred by Throop Borough for the review of the drawings.

#### SECTION 315 PUBLIC UTILITIES

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

#### SECTION 316 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Borough's Act 537 Sewage Facility Plan, including but not limited to mandatory connection to public sewers.

#### SECTION 317 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, shall require a Highway Occupancy Permit from PennDOT

#### SECTION 318 STORMWATER MANAGEMENT

Any proposed development or use of property which results and/or requires a land disturbance shall be undertaken in compliance with all applicable Ordinances of Throop Borough governing required stormwater management practices.

#### SECTION 319 FLOOD PLAIN MANAGEMENT ORDINANCE

Any improvements to structures or land located within a flood prone area as established by

FEMA shall be in compliance with all applicable provisions and regulations of both this Ordinance and with all applicable Ordinances of Throop Borough regulating the use and/or development of properties located within a flood prone area.

#### SECTION 320 RIPARIAN BUFFER

Excluding stormwater detention facilities, floodproofing structures and/or similar devices, a minimum setback of fifty (50) feet from any Watercourse, (as defined in Article 2) shall be required in all Zoning Districts for any form of development and/or improvements.

#### SECTION 321 OUTDOOR LIGHTING

All outdoor lighting on private or public residential, commercial, industrial, recreational or institutional property shall be directed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property (nuisance glare).

#### SECTION 322 SUPPLEMENTAL REQUIREMENTS

A use, provided for under any Zoning District within this Ordinance, shall, in addition to all other applicable provisions of this Ordinance, shall also be governed by supplemental regulations applicable to such use contained within Article 8 (Supplemental Regulations) of this Ordinance.

#### SECTION 323 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Borough Council to hear and decide such request as a conditional use. The Borough Council shall have the authority to permit the use or deny the use in accordance with the standards governing conditional use applications. The proposed use may be permitted if only if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a conditional use as contained in Article 7 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

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**ARTICLE 4**  
**ZONING MAP AND ZONING DISTRICTS**

SECTION 401 OFFICIAL ZONING MAP

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

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

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

SECTION 403 INTERPRETATION OF BOUNDARIES

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

403.1 ZONING HEARING BOARD

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

403.2 GUIDELINES

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

## SECTION 404 CLASSES OF ZONING DISTRICTS

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

E-1	ENVIRONMENTAL CONSERVATION DISTRICT
R-1	LOW DENSITY RESIDENTIAL DISTRICT
R-2	MEDIUM DENSITY RESIDENTIAL DISTRICT
C-1	NEIGHBORHOOD COMMERCIAL DISTRICT
C-2	HIGHWAY COMMERCIAL DISTRICT
C-3	GENERAL COMMERCIAL DISTRICT
MU	MIXED USE DISTRICT
I-1	LIGHT INDUSTRIAL DISTRICT
I-2	HEAVY INDUSTRIAL DISTRICT

## ARTICLE 5 ZONING DISTRICT REGULATIONS

### **SECTION 501**

#### **PERMITTED USES, CONDITIONAL USES, SPECIAL EXCEPTION USES AND NON-PERMITTED USES.**

- (1) **Permitted Uses.** The letter "P" designated under any of the zoning districts in the Use Table of this Ordinance indicates a permitted use in that district, which use is permitted by right within that zoning district, thereby not requiring approval of the Borough Council or Zoning Hearing Board approval, but only a determination by the Zoning Officer.
- (2) **Conditional Uses.** The letters "C" designated under any of the zoning districts in the Use Table of this Ordinance indicates a conditional use in that district, which use requires the Borough Council approval. The Borough Council may either approve or deny a conditional use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring a conditional use approval.
- (3) **Special Exception Uses.** The letters "SE" designated under any of the zoning districts in the Use Table of this Ordinance indicates a special exception use in that district, which use requires Zoning Hearing Board approval. The Zoning Hearing Board may either approve or deny a special exception use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
- (4) **Non-Permitted Uses.** The letter "N" designated under any of the zoning districts in the Use Table of this Ordinance indicates a use not permitted in that particular district.

#### **Symbol Key**

P- Permitted Use

SE- Special Exception

C – Conditional Use

N- Non-Permitted Use

### **SECTION 502**

## THROOP BOROUGH RESIDENTIAL USE TABLE

### ZONING DISTRICTS

TYPES OF LAND USES									
RESIDENTIAL USES <sup>1</sup>	R-1	R-2	E-1	MU	C-1	C-2	C-3	I-1	1-2
Single-Family Dwelling Units	P	P	P	P	N	N	N	N	N
Two-Family Dwelling Units	N	P	N	P	N	N	N	N	N
Multi Family Dwelling Units	N	SE	N	P	N	N	N	N	N
Townhouses	N	SE	SE	P	N	N	N	N	N

<b>RESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>E-1</b>	<b>MU</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>1-2</b>
Mobile Home on Permanent Foundation	P	P	P	N	N	N	N	N	N
Manufactured Home Park	N	N	N	N	N	C	N	N	N
Short-Term Home Rental	N	SE	N	N	SE	SE	SE	N	N
Short-Term Transient Rental	N	N	N	N	SE	SE	SE	N	N
Rooming House	N	N	N	SE	N	N	SE	N	N
Bed and Breakfast	N	N	N	SE	SE	SE	SE	N	N
Personal-Care Home	N	N	N	SE	N	SE	SE	N	N
Recreational Facilities, Public	P	P	P	P	P	P	P	N	N
No Impact Home Based Business	P	P	P	P	P	P	P	N	N
Home Office	P	P	P	P	P	P	P	N	N
Home Occupation	SE	SE	SE	SE	SE	SE	SE	N	N
Group Residence	N	N	N	P	SE	N	N	N	N
Half-Way House	N	N	N	N	N	N	C	N	N
Dwellings Permitted on Upper Floors of Commercial Uses	N	N	N	SE	P	P	P	N	N
Accessory Residential Structures	P	P	P	P	P	P	P	N	N

<sup>1</sup> Uses may be subject to supplemental regulations contained in Article 3, Article 7 and/or Article 8.

### **SECTION 503**

## **THROOP BOROUGH NONRESIDENTIAL USE TABLE**

### **ZONING DISTRICTS**

<b>NONRESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>	<b>MU</b>
Agriculture Use	N	N	N	N	N	N	N	P	N
Animal Cemetery	N	N	N	N	SE	N	N	SE	N
Animal Hospital	N	N	N	P	P	P	N	N	N
Animal Kennel	N	N	N	N	N	N	N	SE	N
Artist and Hobby Supplies (sale of)	N	N	P	P	P	P	N	N	P
Asphalt, Batch or Concrete Plant	N	N	N	N	N	N	C	N	N
Automotive Repair Garage	N	N	N	N	P	P	P	N	N
Automotive Sales	N	N	SE	P	P	P	N	N	N
Automotive Supplies (sale of)	N	N	P	P	P	P	N	N	P
Automotive Wrecking Yard	N	N	N	N	N	N	C	N	N
Banks & Similar Financial Services	N	N	P	P	P	N	N	N	P
Bakery	N	N	P	P	P	P	N	N	N
Beauty and Barber Shops	N	N	P	P	P	N	N	N	P
Bulk Fuel Storage Facility	N	N	N	N	N	SE	SE	N	N
Car Wash and Auto Detailing	N	N	N	P	P	P	P	N	N
Cemetery	N	N	N	N	N	N	N	P	N
Clothing and Clothing Accessories (sale of)	N	N	P	P	P	N	N	N	P

<b>NONRESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>	<b>MU</b>
Commercial Communications Facility	N	N	N	N	N	C	C	C	N
Commercial Communications Antenna (attached to an existing building)	N	N	SE	SE	SE	P	P	P	P
Commercial Communications Antenna (attached to an existing Public Utility Transmission Tower)	N	N	P	P	P	P	P	P	P
Commercial Greenhouses and Nurseries	N	N	N	P	P	P	N	SE	N
Continuing Care Facility	N	N	N	P	P	N	N	N	P
Contractors Storage Yards	N	N	N	N	P	P	P	N	N
Convenience Store	N	N	P	P	P	P	P	P	P
Convenience Stores with Gas Sales	N	N	SE	P	P	P	P	N	N
Day Care Facilities	N	N	SE	P	P	N	N	N	P
Detention Facility	N	N	N	N	N	N	N	C	N
Drive Through Commercial Uses	N	N	P	P	P	P	P	P	P
Emergency Services Facility	N	N	P	P	P	P	P	P	P
Entertainment Facilities	N	N	SE	P	P	N	N	N	P
Equipment Sales and Repairs	N	N	SE	P	P	P	P	N	P
Excavation of Minerals	N	N	N	N	N	C	C	C	N
Food Processing Establishment	N	N	N	N	N	P	P	N	N
Food Products (sale of) includes grocery stores	N	N	P	P	P	P	N	N	P
Forestry (as defined in Article 2)	N	N	P	P	P	P	P	P	P
Furniture or Office Supplies and Equipment	N	N	P	P	P	N	N	N	P
Garden Center	N	N	N	P	P	P	N	P	N
Gas Station, Limited-Service	N	N	P	P	P	P	P	N	N
Greenhouse	N	N	N	P	P	N	N	P	N
Halfway House	N	N	N	N	N	C	N	N	N
Hazardous Substance Facility	N	N	N	N	N	N	C	N	N
Health Spa	N	N	SE	P	P	N	N	N	P
Home Improvements Store	N	N	SE	P	P	P	P	N	P
Hookah Lounge or Bar	N	N	N	SE	SE	N	N	N	N
Hotels and Motels	N	N	N	C	C	N	N	N	N
Hospital	N	N	N	N	N	N	N	N	C
Household Goods and Appliances	N	N	P	P	P	P	P	P	P
Industry, Heavy	N	N	N	N	N	N	C	N	N
Industry, Light	N	N	N	N	SE	P	P	N	N
Junk Yards	N	N	N	N	N	N	C	N	N
Laundromat, Self-Service	N	N	SE	P	P	P	N	N	N
Library	N	N	SE	P	P	N	N	N	P
Machine Shop	N	N	N	N	N	P	P	N	N
Municipally Owned Building	N	N	P	P	P	P	P	P	P

<b>NONRESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>	<b>MU</b>
Manufactured Home Sales Lot	N	N	N	P	P	P	N	N	N
Massage Establishment by Medical Practitioner	N	N	SE	P	P	N	N	N	P
Medical Clinic/Center	N	N	SE	P	P	N	N	N	P
Medical Marijuana Growing Facility	N	N	N	N	N	P	P	N	N
Medical Marijuana Dispensary	N	N	N	P	P	P	N	N	P
Methadone Treatment Facility	N	N	N	N	N	C	N	N	N
Mineral Extraction	N	N	N	N	N	N	C	C	N
Mixed Use Structure	N	N	P	P	N	N	N	N	P
Mortuaries and Crematories	N	N	N	P	P	N	N	C	N
Newspapers, Books and Stationery Supplies	N	N	P	P	P	P	N	N	P
Nonprofit Social Hall and Civic Organizations	N	N	N	P	P	N	N	N	N
Nursing Home	N	N	P	P	P	N	N	N	P
Outdoor Storage as a principal use	N	N	N	N	P	P	P	N	N
Personal Services	N	N	P	P	P	N	N	N	P
Pharmaceutical Products (sale of)	N	N	P	P	P	N	N	N	P
Photocopying Services	N	N	P	P	P	N	N	N	P
Photographic Studios & Commercial Photography	N	N	P	P	P	N	N	N	P
Place of Worship	N	N	SE	SE	SE	N	N	SE	SE
Professional Offices	N	N	P	P	P	P	P	N	P
Public Building and/or Facility	N	N	P	P	P	P	P	P	P
Public Utility Facilities, Essential	N	N	SE	SE	SE	SE	SE	SE	SE
Recreational Facilities, Commercial	N	N	N	SE	SE	SE	N	N	N
Recreational Facilities, Private	N	N	N	N	N	SE	N	N	N
Recreational Facilities, Public	N	N	P	P	P	P	P	P	P
Recycling Collection Center	N	N	N	N	N	C	C	N	N
Repair Services, Miscellaneous	N	N	P	P	P	P	P	N	P
Restaurants	N	N	P	P	P	N	N	N	P
Retail Sale Establishments (as defined in Article 2)	N	N	P	P	P	P	P	N	P
Retail Establishment, Large (as defined in Article 2)	N	N	N	SE	P	P	N	N	N
School	N	N	SE	SE	SE	SE	N	N	SE
Self-Storage Facility	N	N	N	P	P	P	P	P	N
Service Offices	N	N	P	P	P	P	P	P	P
Sexually Oriented Uses as defined in Article 2	N	N	N	N	N	C	C	N	N
Shopping Center	N	N	N	P	P	P	N	N	N
Solar Energy System, Principal	N	N	N	N	N	N	N	C	N
Solar Energy System, Accessory (ASES)	P	P	P	P	P	P	P	P	P

<b>NONRESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>	<b>MU</b>
Solid Waste Facility, Including Solid Waste Transfer Facility and Solid Waste-To-Energy Facility	N	N	N	N	N	N	P	N	N
Sporting Goods (sale of)	N	N	P	P	P	P	N	N	N
Substance Abuse Detoxification Treatment Facility	N	N	N	N	N	C	N	N	N
Substance Abuse Treatment Facility, Non-Hospital Drug Free Residential	N	N	N	N	N	C	N	N	N
Substance Abuse Treatment Facility, Partial Hospitalization Treatment Facility	N	N	N	N	N	C	N	N	N
Tattoo Parlor/Body-Piercing Studio	N	N	P	P	P	N	N	N	P
Taverns	N	N	P	P	P	P	N	N	P
Trucking Facility	N	N	N	N	N	C	C	N	N
Truck Repair & Storage	N	N	N	N	N	P	P	N	N
Variety and Sundry Goods (sale of)	N	N	P	P	P	N	N	N	P
Warehouse and Distribution Facilities	N	N	N	N	P	P	P	N	N
Welding Shop	N	N	N	N	N	C	C	N	N
Wind Energy Facility	N	N	N	N	N	N	N	C	N
Wind Energy Conversion System (Small)	N	N	N	N	N	SE	SE	SE	N
Accessory Nonresidential Structures <sup>1</sup>	N	N	P	P	P	P	P	P	P

<sup>1</sup> Uses may be subject to supplemental regulations contained in Article 3, Article 7 and/or Article 8.

<b>MISCELLANEOUS NONRESIDENTIAL USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>	<b>MU</b>
Any nonresidential use permitted by right or by special exception excluding agricultural uses, and forestry shall be deemed a conditional use if it involves either of the following:									
(a) the initial or cumulative earth disturbance activity or use of property which equals or exceeds 80,000 square feet of surface area. OR	N	N	C	C	C	C	C	C	C
(b) the initial or cumulative construction, placement or installation of a building, structure and/or development which equals or exceeds 30,000 square feet.	N	N	C	C	C	C	C	C	C

<sup>1</sup> Uses may be subject to supplemental regulations contained in Article 3, Article 7 and/or Article 8.

<b>OTHER MISCELLANEOUS USES <sup>1</sup></b>	<b>R-1</b>	<b>R-2</b>	<b>E-1</b>	<b>MU</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>1-2</b>
Any use which utilizes and/or stores any hazardous substance. (as defined in Article 2)	N	N	N	N	N	N	N	N	C
Forestry	P	P	P	P	P	P	P	P	P
Outdoor Wood-Fired Boilers	N	N	SE	N	N	N	N	N	SE
Wind Energy Conversion System (Small)	N	N	SE	N	N	N	N	SE	SE
Solar Energy System, Accessory (ASES)	SE	SE	P	P	P	P	P	P	P
Satellite Dish Antenna (Noncommercial)	P	P	P	P	P	P	P	P	P

<sup>1</sup> Uses may be subject to supplemental regulations contained in Article 3, Article 7 and/or Article 8.

## THROOP BOROUGH AREA, BULK AND DENSITY REGULATIONS<sup>1</sup>

	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>MU</b>	<b>E-1</b>	<b>I-1</b>	<b>1-2</b>
Minimum Lot Size	15,000 SF	7,500 SF	7,000 SF	40,000 SF	2 acres	7,500 FT	2 acres	20,000 SF	40,000 SF
Minimum Lot Area Per Dwelling Unit	15,000 SF	1 family - 7,500 SF 2 family -3,750 SF Multifamily 3,000 SF				1 family - 7,500 SF 2 family -3,750 SF Multifamily 3,000 SF	80,000 SF		
<b>Minimum Yards Setback Distances</b>									
Front	25 FT	10 FT	0 FT ZERO	100 FT	150 FT	20 FT	100 FT	50 FT	75 FT
Rear	30 FT.	20 FT.	20 FT	50 FT.	100 FT	20 FT	100 FT	50 FT	100 FT
Side (per side)	20 FT	10 FT	5 FT	40 FT	50 FT	10 ft.	75 FT	50 FT	100 FT
Minimum Lot Frontage	80 FT.	1 family - 40 FT. 2 family - 60 FT Multifamily - 75 SF	40 FT	100 FT.	200 FT.	1 family - 40FT 2 family - 60 FT Multifamily - 75 FT	150 FT	100 FT	100 FT
Minimum Lot Depth	125 FT	100 FT.	100 FT	200 FT	300 FT	100 FT	300 FT	150 FT	200 FT
Maximum Lot Coverage by Structures	25%	35%	50%	40%	40%	35%	20%	25%	20%
Maximum Total Impervious Surface	30%	45%	80%	70%	70%	45%	25%	40%	35%
<b>Maximum Building Height</b>									
Stories	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	3	3
Feet	35 FT	35 FT	35 FT	35 FT.	35 FT	35 FT	35 FT	40 FT	40 ft.

1. Except as otherwise provided by supplemental provisions, and/or other requirements contained in this Ordinance.

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## **ARTICLE 6 SPECIAL EXCEPTIONS**

### **SECTION 601      PURPOSE**

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

### **SECTION 602      GENERAL PROVISIONS**

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 14. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in Section 1410.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, including but not limited to Supplemental Standards as set forth in Article 8 of this Ordinance, other ordinances of Luzerne Borough and any applicable State and/or Federal regulations.

### **SECTION 603      PLANS, INFORMATION AND PROCEDURES FOR A SPECIAL EXCEPTION USE**

Uses classified as a special exception shall be required to file a Zoning Permit Application, an Application for Hearing before the Zoning Hearing Board, a copy of the deed to the property that includes the Property Identification Number, of the subject parcel and a site plan drawn at a scale of not greater than:

One (1) inch equals fifty (50) feet for uses/developments located upon properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for uses/developments located upon properties having dimensions of two (2) acres or less.

Such plan shall, at minimum include:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
5. All streets, both public and private within one hundred (100) feet of the site, including

right-of-way and cartway widths.

6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within one hundred (100) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the most recent boundaries of any FEMA designated 100 Year Flood Plain or flood prone areas of the Borough.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
10. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with the Borough Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
  - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
  - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
  - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

11. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Lackawanna County Conservation District.
12. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
13. The applicant shall supply any other information required by the Throop Borough Zoning Hearing Board for determining the conformance of the special exception use with the applicable regulations for that particular use.

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

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## **ARTICLE 7**

### **CONDITIONAL USES**

#### SECTION 701      PURPOSE

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

#### SECTION 702      GENERAL PROVISIONS

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

#### SECTION 703      PLANS, INFORMATION AND PROCEDURES FOR CONDITIONAL USES

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

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than:

One (1) inch equals fifty (50) feet for properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for properties being two (2) acres or less.

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Borough.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Lackawanna County Recorder of Deeds.
11. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
12. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with any applicable Borough Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
  - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
  - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
  - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

13. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Lackawanna County Conservation District.

14. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
  15. The applicant shall supply any other information required by the Throop Borough Council for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council shall submit the application for the proposed conditional use to the Borough Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.
  - C. The public hearing shall be held and conducted in accordance with the same procedural guidelines, which govern the Zoning Hearing Board under Article 14 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
  - D. The Borough Council shall convene a public hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) daytime period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
  - E. The Borough Council shall render a final decision on a conditional use application, within forty-five (45) days following the conclusion of the last public hearing. If the Borough Council fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.

If the Borough Council s fails to conduct or complete the required hearing as provided for under Section 1406 (D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

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

- F. The Borough Council may grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the

type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

#### SECTION 704      GENERAL STANDARDS

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

- A. The proposed use shall demonstrate its consistency with the Community Development Objectives of the Borough's Comprehensive Plan
- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
- D. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
- E. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- F. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located, nor hinder any existing uses and/or activities.
- G. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
- H. The submission of any reports and/or studies, required by the Borough Council within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Borough Council, in requiring such reports and/or studies.
- I. The proposed use and/or development shall not be injurious to the public interest.

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

In addition to all other requirements, an Environmental Impact Analysis, as defined in Article 2 shall be required for any use/development which is classified as a conditional use. The Borough Council at its sole discretion, may exempt a use from the submission of an Environmental Impact Analysis, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant natural and social environment which addresses the basis for the requested exemption. The purpose of the Environmental Impact Analysis is to disclose the consequences of a proposed action upon the natural environment of the Borough. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the aesthetic quality of life throughout Throop Borough and its environs. An Environmental Impact Analysis shall require a site plan which illustrates the applicable information for following items and/or a written response to the following items for said proposed use/development which is classified as a Conditional Use.

Expert Credentials. The qualifications of experts who provide information or testimony regarding compliance with technical standards of this Section shall be provided to the Borough Council. The Borough Council shall have the authority to determine the credibility of the testimony and reports of various experts and may weigh the value of the testimony and reports as a result.

705.01.      SOIL TYPES

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

705.02      SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling downstream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Lackawanna County Conservation District.
- g. A storm water management plan which shall be developed in coordination with the soil's erosion and sedimentation plan.

705.03      GROUND COVER INCLUDING TREES

- a.      Extent of existing impervious ground cover on the site.
- b.      Extent of proposed impervious ground cover on the site.
- c.      Extent of existing and type of vegetative cover on the site, including mature stands of trees of native vegetation.
- d.      Extent of proposed and type of vegetative cover on the site.
- e.      Area and extent of vegetative cover on the site to be removed on the site including mature stands of trees of native vegetation. Development activities that include removal of trees or vegetation that equal or exceed five (5) acres shall be require the submission of a Forestry Management Plan prepared by a qualified forester or forest technician, with a four-year degree from and accredited college.

705.04      TOPOGRAPHY

- a.      Maximum existing elevation of site.
- b.      Minimum existing elevation of site.
- c.      Maximum proposed elevation of site (if subject to any proposed alteration).
- d.      Minimum proposed elevation of site (if subject to any proposed alteration).
- e.      Description of the topography of the site and all proposed changes in topography.

705.05      GROUND WATER

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

705.06      WATER SUPPLY

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

705.07      SEWAGE SYSTEM

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

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

705.08      SOLID WASTE

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

705.09      AIR QUALITY

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

705.10      NOISE

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

705.11      WILDLIFE AND WILDLIFE HABITAT

- a. A written pre-construction inventory of wildlife and wildlife habitats on the proposed site and environs.
- b. A written assessment of direct and indirect impacts to wildlife and wildlife habitats.
- c. A description of the impacts on the environment and mitigating measures shall be provided for the following:
  - Existing plant species and effects thereon.
  - Existing animal species and effects thereon.
  - Existing wild fowl and other birds and effects thereon.

705.12      IMPACT OF PROPOSED USE/DEVELOPMENT

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

- a.      Existing plant species and effects thereon.
- b.      Existing animal species and effects thereon.
- c.      Existing wild fowl and other birds and effects thereon.
- d.      Effects of drainage and runoff.
- e.      Effects on ground water quality.
- f.      Effects on surface water quality.
- g.      Effects on air quality.
- h.      Effects on noise levels.
- i.      Alternatives to proposed use/development, consistent with the zoning of the site.
- k.      Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

705.13      IMPACT UPON CRITICAL AREAS

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

705.14      OTHER GOVERNMENTAL JURISDICTION

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

705.14      REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT ANALYSIS

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

- C. The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Analysis.
- D. In the event that any information, data, and/or "Impact Analysis" indicate a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A written plan addressing proposed mitigation measures shall be submitted by the applicant. A determination of a potential adverse impact which may result based upon the Environmental Impact Analysis or the Borough Council's review of the same shall constitute sufficient basis for the denial of a conditional use permit.

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**ARTICLE 8**  
**SUPPLEMENTAL REGULATIONS**

**SECTION 801 PURPOSE AND INTENT**

Certain uses of land and/or buildings, as specified herein, whether permitted by right or special exception, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

**801.01        AGRICULTURAL USES**

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture and the necessary accessory uses for farm homes and packing, treating or storing the product; provided, however, that the operation of any accessory uses shall be secondary to that of normal agricultural activities. Animal and/or poultry husbandry, including the raising or keeping of livestock or poultry shall require a minimum lot size of not less than five acres. Any operation regulated under the Pennsylvania Nutrient Management Act shall provide evidence that the use will comply with the applicable provisions of the Act

**801.02        ANIMAL KENNELS**

Any buildings, runways, fenced enclosures, and similar structures shall be located not less than 100 feet from all property and street lines. Where the property abuts a zoning district having residences as a principal permitted use, all buildings runways, fenced enclosures, and similar structures shall be located not less than 200 feet from such property lines.

**801.03        ANIMAL HOSPITAL/ VETERINARIAN CLINIC**

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

**801.04        APARTMENT BUILDING**

The maximum building for an apartment building height shall not exceed be three stories or 40 feet. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 30%. A lot area of 3,000 square feet shall be required for each dwelling unit. A minimum lot width of not less than 150 feet shall be required for apartment building. Fire escapes, when required, shall be located in the rear of the building and shall not be located on any side of the building that faces a street. Service entrances, trash and garbage storage areas shall be enclosed, and screened from public view by a solid fence six (6') feet in height.

**801.05        AUTOMOBILE RELATED ACTIVITIES**

- A.    **Automotive Repair Garage:** Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. All paint work shall be performed within a building, with a

ventilation system that directs fumes away from adjacent properties and buildings. Temporary outdoor parking of vehicles intended to be replaced is permitted in the side or rear yard areas only, and those vehicles shall be licensed and inspected at all times. Only vehicles to be repaired on the premises or picked up by the vehicle owner may be stored in the yard area. Storage of vehicles shall be permitted for no longer than 30 days. Service bays shall face the front yard property line whenever possible. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

- B. Automotive Sales: The outdoor display of new or used automobiles, boats, recreational vehicles, motorcycles, manufactured homes or mobile homes shall meet the required principal building setback requirements. Where an automotive sales use abuts a rear or side lot line of any district having residences as a principal permitted use, a solid wall or substantial, attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.
- C. Automotive Wrecking Yard: Also See Junkyard
- D. Car Wash: Appropriate drainage facilities for washing activities shall be provided wherein water from the car wash will not flow onto sidewalks, streets or adjoining properties. The site shall be sufficiently large to accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence six (6') feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by a solid fence, not less than six (6) feet in height. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.
- E. Gas Station, Limited-Service, Gas Stations (Also Includes Convenience Stores with Gasoline Sales): Where such use abuts on the rear or side lot line of a district having residences as a principal permitted use or a property being used for residential purposes, the following requirements shall apply to the side and rear yard property boundaries:
  - 1. Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the property from adjoining properties.

2. Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.
3. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height.
4. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty-five (25) feet from the right-of-way line of the adjoining street. All repair services, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare.
5. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.06      BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Canopies over drive-through areas shall meet all yard setback requirements. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.07      BED AND BREAKFAST

A Bed and Breakfast shall be within an owner-occupied dwelling which are rented on a nightly basis for periods of normally not more than a week. There shall not be separate cooking facilities in any guestrooms. Dining and other facilities shall not be open to the public but shall be exclusively for the use of the residents and registered guests. Two off street parking spaces shall be provided for each rental unit.

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

The exterior of the building shall not be changed in any way that would decrease its residential appearance and character, except for needed modifications for historic restoration, handicapped access or fire safety. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.08 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than ten (10) acres. Storage tanks shall be located not less than one thousand (1,000') feet from any property line and shall be not less than two thousand (2,000') feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located five hundred fifty (500') feet from all property lines. The property shall be fenced with an eight (8') feet high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five (5') feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

#### 801.09 CEMETERIES.

The minimum lot area shall be five (5) acres, which may be on the same lot as a permitted place of worship. All structures, graves or places of permanent burial shall be set back not less than 50 feet from all property lines and street lines and shall not be located within any 100-year flood plain. The cemetery shall be enclosed by a fence, wall or shrubbery at least three feet in height. The interior roads shall have a minimum width of 12 feet and shall be properly maintained with either gravel or paving. The applicant and/or owner must provide sufficient proof that an appropriate financial system is in place or will be implemented to guarantee perpetual maintenance of the cemetery.

#### 801.10 COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BUILDING OR STRUCTURE)

A Commercial Communication Antenna when attached to an existing building or structure shall require approval as a conditional use and shall be subject to the following requirements:

- (1) Commercial Communications Antenna shall not be located or permitted on any building or structure located within a Residential Zoning District.
- (2) A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
- (3) A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antennas.
- (4) The applicant shall provide a copy of its current Federal Communication Commission license.
- (5) The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not

exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.

- (6) The applicant shall provide evidence of agreements and/or easements necessary to provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.
- (7) The applicant shall provide A Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence.
- (8) An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Throop Borough with a copy of the notice to the FCC of intent to cease operations. The six-month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

#### 801.11 COMMERCIAL COMMUNICATION ANTENNAS (CO-LOCATION)

The placement of a Commercial Communication Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be permitted by right in all nonresidential zoning districts. Said antenna shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Throop Borough with a copy of the notice to the FCC of intent to cease operations. The six-month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

#### 801.12 COMMERCIAL COMMUNICATIONS FACILITY

Commercial Communication Facilities shall be subject to the following requirements.

##### A. COMMERCIAL COMMUNICATIONS ANTENNA

- (1) Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application.
- (2) The applicant shall provide a copy of its current Federal Communication Commission license.

##### B. COMMERCIAL COMMUNICATION TOWER

- (1) A written statement and graphic depiction that describes and depicts the proposed Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;
- (2) The submission of not less than three color photos, no smaller than 8 inches by 10 inches, taken from locations within a three (3) mile radius of the

proposed site of a Communications Tower, as selected by Throop Borough and computer enhanced to simulate the as-built appearance of the Tower as it would appear from these locations.

- (3) Certification and documentation from a Pennsylvania registered professional engineer that the proposed Tower will be designed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Pennsylvania Uniform Construction Code and other applicable regulations.
- (4) The name, address, and emergency telephone number for operator of the Tower;
- (5) The applicant shall demonstrate, using technological evidence, that the Tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
- (6) All new Towers shall be engineered and constructed to accommodate at least one (1) other user.
- (7) Unless required by the FAA, no Tower may use artificial or strobe lighting. The tower shall be a brownish color (whether painted brown or caused by oxidation or otherwise to lessen its visual impact) up to the height of the tallest nearby trees. Above that height, it shall be painted silver or another color that will minimize its visual impact.
- (8) A Tower shall be setback from all property lines a distance that is not less than one hundred and twenty (120%) percent of the height of the Tower as measured in linear feet.
- (9) An applicant proposing the construction of a Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half ( $1/2$ ) mile radius of the proposed Tower site be contacted. The applicant shall supply supporting documentation for not selecting an alternate location.
- (10) All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure.
- (11) No signs shall be mounted on a Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Tower and a 24-hour emergency telephone number.

C. COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

A Commercial Communications Equipment Building shall meet the governing setback distances applicable to the district in which it is located.

D. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A tower shall be removed from the site within six (6) months of its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the tower and restoring the site:

- (1) The anticipated and/or estimated life of the project;
- (2) The estimated decommissioning costs in current dollars;
- (3) The method and schedule for updating the costs of decommissioning and restoration;
- (4) The method of ensuring that funds will be available for decommissioning and restoration;
- (5) The anticipated manner in which the project will be decommissioned, and the site restored.
- (6) The applicant shall provide an appropriate and adequate demolition bond for purposes of removing the tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
- (7) The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

E. INSURANCE REQUIREMENTS

The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence covering the Commercial Communications Facility.

801.13 CONTINUING CARE/ASSISTED LIVING FACILITIES, NURSING HOMES OR PERSONAL CARE CENTERS

The minimum lot size shall be one acre. All buildings shall be located not less than 50 feet from any property line or street line. A minimum of 20% of the lot shall designed, developed,

used, and maintained for outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and/or pedestrian walkways. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.14 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where such use abuts any R District, the following requirements shall apply to the side and rear yard property boundaries:

- Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the storage areas from adjoining properties.
- Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

#### 801.15 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All day care facilities shall have an outdoor recreation area which shall be completely enclosed with a fence six (6') feet in height.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.

- E. One off-street parking space shall be required for each employee.
- F. One off-street parking space shall be required for each vehicle used by the establishment for the purpose of transporting persons attending the facility.
- H. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.16 DETENTION FACILITY

The minimum lot size shall be 20 acres, all buildings must be setback not less than 500 feet from a property line. Where the detention facility abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than ten feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer area of not less than 300 feet in width must be landscaped and maintained in good condition at all times. No structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer area. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped, and the entire site maintained in good condition. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.17 DRIVE THROUGH FACILITIES.

Any use providing a drive-through (i.e., bank eating establishment, etc.) shall comply with the following requirements:

- A. The drive through lane or aisle shall be designed with adequate space for a minimum of four waiting vehicles per lane or aisle. There shall be a maximum of one lane or aisle per drive through window.
- B. Each drive through lane or aisle shall be clearly marked and designed so as to prevent traffic hazards and congestion while at the same time minimizing conflicts with pedestrian travel.
- C. Canopies situated over drive-through areas shall meet all setbacks requirements for the zoning district in which the property is located.
- D. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.18 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. Required residence parking and commercial parking must be provided for each use in

accordance with the parking requirements of this Ordinance. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.19      EMERGENCY SERVICES FACILITY:

Such a facility shall have a setback distance of not less than twenty-five (25) feet from all property lines. Where any parking area abuts the side or rear property lines of an adjoining residential use, a solid wall or solid opaque fencing eight (8) feet. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.20      ENTERTAINMENT FACILITIES

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than fifty (50') feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.21      EXCAVATION OF MINERALS

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

- A.    Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B.    Map: Submission of a map or maps at a scale of not greater than one (1") inch equals fifty (50') feet that outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.

- C. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the applicant.
- D. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.
- E. Compliance with State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and /or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

#### 802.22          FOOD PROCESSING

The processing, packaging, dressing and treatment of meat, poultry and fish products, shall be conducted wholly within a completely enclosed building. Smoke, noise, or odors affecting adjacent property shall be prohibited.

#### 802.23          FORESTRY ACTIVITIES (TIMBER HARVESTING)

In order to preserve forests and the environmental and economic benefits that they provide, it is the policy of Throop Borough to encourage the owners of forest land to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, historical and amenity values. The timber harvesting regulations set forth in this Section are intended to further this policy by:

1. promoting good forest stewardship;
2. protecting the rights of adjoining property owners;
3. minimizing the potential for adverse environmental impacts;
4. preserving historical and environmental sensitive areas; and
5. avoiding unreasonable and unnecessary restrictions of the right to practice forestry.

“Forestry activities that include commercial timbering operations that equal or exceed five (5) acres shall be conducted in accordance with the following requirements:

1. A Zoning Permit Application shall be submitted to the Throop Borough Zoning Officer prior to harvesting or otherwise removing trees on any tract of land larger than five (5) acres;
2. Prior to the start of operations, a Forestry Management Plan shall be prepared and filed with the submission of the Zoning Permit Application Said plan shall be prepared by a qualified forester or forest technician, with a four-year degree from and accredited college;
3. The Forestry Management Plan shall be consistent with the most recent edition of Timber Harvesting Guidelines of the Pennsylvania Forestry Association;

4. Prior to the approval of the Zoning Permit Application, an Erosion and Sediment Control Plan shall be submitted by the Applicant to the Lackawanna County Conservation District for its review, recommendation and approval;
6. Clear cutting is prohibited on acres with slopes greater than 15% or within the 100-year floodway.
7. Road Maintenance, Repair and Bonding. The landowner and the operator shall be responsible for repairing any damage to Borough, state, or county roads caused by traffic associated with the timber harvesting operation to the extent of the damage that is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, the Borough may require the landowner or operator to furnish a bond to guarantee the repair of such damages.

#### 801.24      GARDEN APARTMENTS

All multi-family residential development of garden apartments shall be subject to the following requirements and all other applicable requirements of this Ordinance:

- A. Minimum lot size shall be 2 acres.
- B. Minimum lot width shall be 200 feet.
- C. Maximum percentage of building coverage on a lot shall be 40 percent.
- D. Minimum front yard setback shall be 50 feet.
- E. Minimum rear yard setback shall be 50 feet.
- F. Minimum side yard setback shall be 50 feet.
- G. Maximum density shall be 15 units per (1) acre.
- H. Maximum building height shall not exceed 3 stories or 35 feet.
- I. Minimum distance between principal structures shall not be less than 35 feet.
- J. Minimum front yard setback for off-street parking areas shall not be less than 30 feet.
- K. Minimum side yard setbacks for off-street parking areas shall be not less than 15 feet.
- L. Minimum rear yard setbacks for off-street parking areas shall be not less than 15 feet.
- M. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- N. Unattached accessory structures, such as swimming pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have minimum distance of ten (10) feet side and rear yard setbacks. Attached structures shall have the same setbacks as required for principal structures.

#### 801.25      GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence," in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A. The applicable requirements and standards which govern off-street parking for a single-family dwelling shall also govern for a Group Residence, however two (2) additional off-street parking spaces shall be provided and if there is any required staffing associated with the management and operation of a Group Residence.

- B. A Group Residence shall be operated and maintained in the character of a residential dwelling in harmony with and appropriate in appearance with the character of the general vicinity in which it is to be located.

801.26      HALFWAY HOUSE

A Halfway House for Persons on Parole or Probation shall be subject to the following regulations.

1.      REGULATORY AND OPERATIONAL STANDARDS

- A. Maximum Number Residents: The maximum number of residents shall be based on the lesser number of 120 square feet per bedroom based upon single room occupancy provided upon the required floor plan of the facility or five (5) residents.
- B. A Halfway House for Persons on Parole or Probation shall be licensed where required by an appropriate government agency and shall be in compliance with all applicable rules and regulations of the licensing body. A copy of any required license must be provided to the Zoning Officer prior to commencement of the use.
- C. A Halfway House for Persons on Parole or Probation shall provide a narrative that fully describes all management plans and services for daily operations to be provided within the facility. Such information also must address:
- The composition of the halfway house.
  - Policies and goals and the means to accomplish those goals.
  - The characteristics of the residents and the number of residents to be served.
  - Operating methods and procedures.
  - Any other relevant facts to its proposed operation.
- D. A Halfway House for Persons on Parole or Probation shall provide a complete list of the type of crimes and/or circumstances which would render the exclusion of a person from residency within the facility.
- E. A Halfway House for Persons on Parole or Probation shall provide a floor plan of the facility showing the use of all areas within the facility with the dimensions and square feet of each room therein and its intended purpose and use.
- F. A Halfway House for Persons on Parole or Probation shall provide in writing the rules and regulations applicable for all residents to maintain residency within the facility.
- G. A Halfway House for Persons on Parole or Probation shall provide in writing, its regulations regarding a curfew for residents and permission requirements for leaving the facility for other purposes including but not limited to activities such as work, school, off-site counseling services, volunteer services, medical appointments or religious services.

- H. If a Halfway House for Persons on Parole or Probation is not run and or operated by a governmental agency, the contract of the entity doing so must be submitted along with a historical profile on its experience and references to all other locations where it operates a facility such as a Halfway House for Persons on Parole or Probation.
- I. A Halfway House for Persons on Parole or Probation shall maintain a current list of residents and provide the names, addresses and contact information for their respective Parole Officers or Probation Officers who have supervision over persons that will be residing in the facility.
- J. Any approval granted for a Halfway House for Persons on Parole or Probation shall be bound to the type and number of persons listed on the application. Any increase in the type or number of offenders being housed shall require a new hearing before the Zoning Hearing Board.
- K. A Halfway House for Persons on Parole or Probation shall not provide any on-site supportive services, related to counseling for substance abuse disorders, emotional disorders or behavioral disorders.
- L. A Halfway House for Persons on Parole or Probation shall provide a minimum of one (1) staff member on site at the facility on a 24-hour basis. In addition, the facility shall provide, within the required narrative, the maximum number of persons employed by the facility.
- M. Insurance Coverage - No person shall operate a Halfway House for Persons on Parole or Probation unless they obtain and maintain the following liability insurance coverage:
- Comprehensive general liability insurance coverage insuring the public against bodily injury or property damage arising out of or resulting from or incidental to the operation or use of the facility.
  - At a minimum, the policies shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence and two million five hundred thousand dollars \$2,500,000.00) per aggregate.

2. DESIGN FEATURES

- A. Lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal shadows or light leaving the property. Lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible/comparable with the neighborhood.
- B. Off-street parking shall be provided at a ratio of one (1) vehicle parking space per each employee assigned to work at the facility, including those via contracted services, plus one vehicle parking space for every resident of the facility based upon the maximum number of persons approved to reside at the facility. Off-street parking shall be subject to all other applicable provisions within Article 10 article of this Ordinance governing off-street parking.

- C. A Halfway House for Persons on Parole or Probation shall not be located less than one thousand (1,000) feet from:
- any other Halfway House for Persons on Parole or Probation.
  - a school, public or private.
  - a day care facility.
  - a playground.
  - a public recreational facility.
  - a place of worship.
  - a public library.
- D. If a Halfway House for Persons on Parole or Probation is located within two hundred fifty (250) feet of a residential zoning district, all outdoor activity and/or seating areas shall be screened from public view and from the view of adjacent properties.

801.27     HOME OCCUPATIONS

A home occupation shall be subject to the following regulations:

- A. The occupation shall be carried on entirely within the principal structure or an attached or unattached accessory structure provided that the accessory structure is located on the same lot as the principal structure.
- B. No display or advertisement of products or services may be visible from outside the building. Any storage of materials associated with the home occupation shall be within the building.
- C. A sign no larger than two square feet in surface area is permitted. The sign may only be lit with indirect lighting.
- D. No person other than a resident of the dwelling unit may conduct the home occupation. No more than one non-occupant may be employed to perform secretarial, clerical or other assistance.
- E. Not more than 30%, or 600 square feet, whichever is less, of the total floor area of the building wherein the home occupation is being conducted may be devoted to the home occupation.
- F. Each home occupation shall have off-street parking as indicated below, in addition to that one space required for the dwelling unit.
1. One space for the home occupation and one space for the non- resident employee, if applicable.
  2. Two additional parking spaces for a barber, beautician or other similar service occupations.

- G. The home occupation may not disturb the peace, quiet and dignity of the neighborhood by electrical interferences, dust, noise, smoke, or traffic generated by the use.
- H. There shall be no retail sales of goods except those goods that are prepared or produced on the premises.
- I. A home occupation may not include the practice of a physician, dentist, or other licensed medical practitioner.
- J. There shall be no change in the residential character of the building wherein the home occupation is being conducted.

#### 801.28 INDUSTRIAL ACTIVITIES

All activities and uses permitted within the I-1 and I-2 District shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses which side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (E.P.A.), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agencies. All industries are required to supply the Borough Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

#### 801.29 JUNK YARDS AND/OR AUTOMOTIVE WRECKING YARDS

All new junk yards and automotive wrecking yards, or the proposed expansion of an existing junk yard and automotive wrecking yard, shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.
- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed said vehicle.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises and to

facilitate access for firefighting purposes.

- H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.
- I. There shall be a fourteen (14') foot roadway provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for any fire-fighting equipment and safety purposes.
- J. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
- K. All junk yards shall be completely screened from view on all sides by a solid wall or substantial fence not less than eight (8') feet in height and an evergreen hedge with such evergreens being a minimum height of at least five (5') feet at the time of planting. Any fence or wall shall be no closer than five (5') feet to the property lines.
- L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk and/or motor vehicles only on Monday, through Saturday from 8:00 A.M. to 8:00 P.M., local time.
- M. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 802.30      LARGE RETAIL ESTABLISHMENT

- A. A site plan shall be required which illustrates the specific location of setbacks, easements, all existing and proposed buildings and structures, access points, buffering, vehicular and pedestrian circulation patterns, parking, signage, loading and delivery areas, mechanical equipment, drainage, landscaping, and the specific location of the use or uses of the development, elevation plans and profiles of all proposed structures, and other information necessary to establish that all applicable requirements will be met.
- B. When such an establishment abuts on the side or rear property line of a district having residences as a principal permitted use a setback distance of not less than fifty (50) feet shall be required. A Buffer Area as so defined in Article 2 shall be provided within the aforementioned setback distances of 50 feet.
- C. Parking Lots shall provide Four (4) spaces for each 1,000 square feet of gross floor area.
- D. Signs - The total square feet of all types of signage located upon the property shall not exceed 5 times the amount of frontage of the lot. A free-standing sign shall not exceed two hundred and fifty (250) square feet in area and shall not exceed a height of 20 feet.
- E. Lighting - All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets. Night lighting shall be provided for all pedestrian walkways. The maximum height of light poles in parking lots shall not exceed 20 feet'.

- F. Service entrances, trash and garbage storage areas shall be enclosed, and screened from public view by a solid fence six (6') feet in height.

801.31 MACHINE SHOPS.

Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, or a buffer yard of not less than 50 feet in width must be landscaped and maintained in good condition. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. All operations excluding pickups or deliveries shall be conducted within the enclosed building.

801.32 MEDICAL MARIJUANA DISPENSARY

Such a facility shall require documentation of a state license. A minimum lot size of 1 acre shall be required. The facility shall be located not less than 1,000 feet from a school, day care or childcare facility, a public park and/or residential zoning district. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.33 MEDICAL MARIJUANA GROWERS/ PROCESSORS FACILITY

Such a facility shall require documentation of a state license. A minimum lot size of 1 acre shall be required. The facility shall be located not less than 1,000 feet from a school, day care or childcare facility, a public park and/or residential zoning district. The property on which the facility is located shall be surrounded by a fence not less than 8 feet in height and constructed with industry-standard materials. There shall be no odors, fumes, smoke, dust or any other noxious pollutants discharge from the facility which exceed Federal and Commonwealth regulations. There shall be no storage of any form of marijuana or its byproducts outside the facility. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.34 METHADONE TREATMENT FACILITY

- A. Such a facility shall provide documentation in the form of state licensing and/or a permit to operate such a facility.
- B. Such a facility shall not be established and operated closer than 1,000 feet to an existing residential district, school, public playground, public park, childcare facility or church or place of worship.
- C. Any proposed methadone treatment facility shall include with its submission of a zoning permit application, an operational narrative which accurately describes the nature of medical services to be offered and the names of the medical practitioners providing said services. A licensed physician, a MD or a

DO, shall be on duty at the facility during the methadone treatment facility's hours of operation

- D. Prior to occupancy, any existing structure proposed for adaptive reuse as a methadone treatment facility shall be brought into compliance with all current building codes and all other applicable Borough, County, State and Federal regulations.
- E. Any methadone treatment facility with direct access and/or frontage along a State Legislative Route shall include with its submission of a zoning permit application, a traffic impact analysis prepared by a professional licensed engineer with expertise in transportation and traffic planning. Such analysis shall address the following:
  - 1. The number of vehicle trips expected to be generated during an average weekday including both a.m. and p.m. peak hours of adjacent street traffic.
  - 2. The number and types of vehicles, with an origin or destination at the subject site, the need for which is generated by said use.
  - 3. The routes, roadways or streets to reach the methadone treatment facility.
  - 4. The impact of the levels-of service at intersections within one half ( $1/2$ ) mile of said methadone treatment facility.
  - 5. Recommended traffic control devices designed to mitigate any documented adverse impact on adjacent roadways.
- F. Required Off-Street Parking for such a facility shall be provided in compliance with Article 10.
- H. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.35 MINERAL EXTRACTION WITH AN ASPHALT, BATCH OR CONCRETE PLANT)

- A. The use, activity or any aspect of the operation shall be located not less than 1,500 feet from the nearest inhabited residence, place of worship, or any public recreational activity. Furthermore, the setback distance of the use, activity or any aspect of the operation from surface water bodies, creeks, streams, wetlands and floodplains shall comply with the State mandated requirements.
- B. Except for approved access drives (which shall be secured by locked gates, which may only be open during business hours), the premises shall be completely screened to protect public safety with an industrial type gauge fence eight feet in height. Signs shall be conspicuously attached to the fence every 75 feet warning the public of the

nature of the operation. A yard area not less than 50 feet in width shall also be maintained with natural vegetative ground cover along all exterior lot lines that are within 300 feet of an area of excavation. This yard shall include an earth berm with a minimum height of six feet and an average of one shade tree for each for each 50 feet of distance along the lot lines. The shade trees shall be planted outside of the required berm and fence. If substantial trees, vegetation or forest exist within the required yard area, then new plantings in those area is not necessary provided that the existing trees, vegetation or forest are well-kept, preserved, maintained and adequately serve the purpose for which the yard was to be created.

- C. The lot and operation thereon shall at all times be maintained so as not to constitute a public nuisance, or adversely impact the public health, safety or welfare. The days and hours of operation, including excavation, blasting and relating trucking, may be limited taking into consideration the characteristics of the neighborhood.
- D. The site shall contain a minimum of two access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Throop Borough Subdivision and Land Development Ordinance and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. Access drives shall be located so as to prevent public safety hazards, dust and noise.
- E. All applications shall include a plan that evidences the measures to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.
- F. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
- G. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.
- H. An asphalt, batch or concrete plant or processing operations shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the mineral extraction is taking place. Furthermore, if an asphalt, batch or concrete plant is proposed on a property in which mineral extraction is not taking place items A through G above shall still apply.

#### 801.36 MORTUARIES AND CREMATORIES

Sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence not less than six (6') feet in height. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff

shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.37     MOTELS AND HOTELS

A motel or hotel shall require a lot area, of not less than two (2) acres and a lot width of not less than two hundred (200') feet and shall contain at least 10 sleeping rooms not less than 1,000 square feet per sleeping room. The remaining floor area may be used for such uses as a restaurant, retail store, game room, ballroom and banquet room provided that these uses are primarily designed to serve the guests of the motel or hotel. All buildings and structures shall be not less than 60 feet from a front yard line, and not less than 35 feet from the side and rear lot lines. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped, and the entire site maintained in good condition. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets. Trash and garbage storage areas shall be enclosed and screened from public view by a solid fence six (6') feet in height.

801.38     NO IMPACT HOME-BASED BUSINESS

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

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than the family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business, including, but not limited to, parking, signs or lights.
- E. The business activity shall not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.
- G. The business activity shall not occupy more than twenty-five (25%) of the habitable floor area.

H. The business shall not involve any illegal activity.

#### 801.39 NONPROFIT SOCIAL HALLS AND CIVIC ORGANIZATIONS

Buildings utilized for such purposes shall not be less than forty (40) feet from any property line. Where such use abuts any R District, the following requirements shall apply to the side and rear yard property boundaries:

- A. Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the facility from adjoining properties.
- B. Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.
- C. Trash and garbage storage areas shall be enclosed and screened from public view by a solid fence six (6') feet in height.
- D. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.40 OUTDOOR STORAGE (COMMERCIAL, AS A PRINCIPAL USE)

Outdoor storage, as defined in Article 2, shall be enclosed with a chain link fence eight (8) feet in height. A soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface to be provided for such storage. A complete listing of all types of machinery, material and items to be stored therein shall be attached to the required Zoning Permit Application. No hazardous substance, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Where such storage areas abuts on the side or rear property line of any R District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the storage area from adjoining properties, shall be constructed and maintained in good condition along such boundary. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years.

#### 801.41 OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler shall comply with the following standards

- A. The property must have a lot area of not less than five (5) acres.
- B. A safe flue or chimney shall be provided which has a minimum termination height

of twenty-five (25) feet above the natural ground level upon which the outdoor wood-fired boiler is located and be provided with a spark arresting device designed and approved for that purpose.

- C. A fan or blower attached to the appliance to increase the efficiency of the Outdoor Wood-Fired Boiler.
- D. An outdoor wood-fired boiler shall be located not less than two hundred (200) feet from any property line and not less than forty (40) feet to any principal structure or building located upon the property.
- E. An outdoor wood-fired boiler shall meet the EPA's standards for Phase 2 air emission Levels, which limits emissions to 0.32 pounds or less of fine particles per million BTUs of heat output
- F. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated within this Section shall apply unless the manufacturer's instructions more restrictive, in which case the manufacturer's instructions shall apply.
- G. The owner of the outdoor wood-fired boiler shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- H. All outdoor wood-fired boilers may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through May 1; and subject to meeting the requirements of this Section.
- I. No homemade outdoor wood-fired boilers will be allowed.
- J. Only natural clean wood, pellets made from clean wood, or other alternatives to wood approved by the DEP, such as natural gas, may be burned in outdoor wood-fired boiler. Regardless of the manufacturer's instructions an outdoor wood-fired boiler shall not be used to burn any of the following materials:
  - Any material that does not meet the definition of clean wood.
  - Furniture
  - Garbage
  - Tires
  - Lawn clippings or yard waste
  - Wet or soggy wood
  - Material containing plastic
  - Material containing rubber
  - Waste petroleum products
  - Paints and paint thinners
  - Chemicals
  - Any hazardous waste
  - Coal
  - Glossy colored paper
  - Construction and demolition debris

- Plywood
- Particleboard
- Saltwater driftwood
- Manure
- Animal carcasses
- Asphalt products

- K. All storage of materials to be burnt in the outdoor wood-fired boiler shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- L. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

#### 801.42 PLACES OF WORSHIP:

A minimum lot area of one acre shall be required for the use. Religious instruction and educational rooms may be permitted within the principal building as accessory uses. A minimum lot area of two acres shall be required when the use consists of one or more of the following accessory uses: primary or secondary school; day care center; and a single-family dwelling unit. Where the lot adjoins an existing residential dwelling unit, or is located within a residential zoning district, the parking area shall be screened along the side and rear lot lines with shrubbery or evergreen trees not less than four feet in height at the time of planting. The buffer area shall be kept in good condition and continuously maintained. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.43 PUBLIC UTILITY FACILITIES (ESSENTIAL)

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

- A. Access and parking shall be provided only for maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate not less than eight (8') feet in height shall surround the building or structures of such facilities.
- C. A buffer area not less than ten (10') feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.
- D. Outside lighting shall be directed away from adjacent properties.
- E. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

#### 801.44 RECREATIONAL FACILITIES - (OUTDOORS AS A PRINCIPAL USE)

All such facilities, whether public, private or commercial, shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than one hundred (100') feet to any property line.
- B. A buffer area, at least fifty (50') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Unless superseded by a PennDOT Highway Occupancy Permit, access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.
- E. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

#### 801.45 RESTAURANTS AND TAVERNS

For those establishments located on a corner lot, no access drive shall be located less than thirty (30) feet from an intersection, as measured from an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Where tavern or restaurant abuts on the side or rear property line of any R District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

#### 801.46 SATELLITE DISH ANTENNA (NONCOMMERCIAL)

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

A. Location on Lot

No satellite dish antenna shall be installed on a portable or moveable device.

B. Number on Lot

Not more than one satellite dish antenna shall be permitted on a zoning lot.

C. Size Limitations

The dimensions of a satellite dish antenna measured from its outermost edges cannot exceed twelve (12) feet in diameter.

D. Roof-Mounted

A roof-mounted satellite dish antenna having a diameter not greater than three (3) feet and installed in accordance with the manufacturer's specifications shall be exempted from securing zoning approval.

801.47      SCHOOL

A school, whether public or private, primary or secondary, shall have a minimum lot size of three acres, and any outdoor recreational or play area shall be located not less than 150 feet from any residential lot line, or existing residential dwelling unit. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.48      SELF-STORAGE FACILITY

A property containing a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25) feet between buildings for traffic circulation, parking and fire lane purposes. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

801.49      SEXUALLY ORIENTED BUSINESS

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

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

permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a fence, not less than eight (8) feet in height and screened by a variety of evergreen trees which shall be planted not more than six (6) feet apart and being not less than eight (8) feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets. Trash and garbage storage areas shall be enclosed and screened from public view by a solid fence six (6') feet in height.

#### 801.50      SHORT-TERM HOME RENTAL

In addition to securing special exception approval for the use, no owner of a short-term rental shall rent, offer to rent, or advertise for rent the short-term rental to another person without securing a valid short-term rental permit approved and issued in the manner provided for by Throop Borough Short Term Rental Ordinance

#### 801.51      SOLAR ENERGY SYSTEMS, ACCESSORY (ASES)

An Accessory Solar Energy System (ASES) intended primarily to offset part or all offset beneficiary's requirements for electricity shall be subject to the following regulations:

##### A.      COMPLIANCE WITH INDUSTRY STANDARDS

The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

##### B.      INSTALLERS

ASES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

1. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for PV installation.
2. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.
3. For residential applications, a registered home improvement contractor with the Attorney General's Office.

C. MAINTAIN IN GOOD WORKING ORDER

Upon completion of installation, the ASES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by Throop Borough in accordance with all applicable ordinances.

D. UNDERGROUND REQUIREMENTS

All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

E. SIGNAGE

The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

F. GLARE

1. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

G. SOLAR EASEMENTS

If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant and/or property owner for an ASES, such matter shall be carried out as a civil agreement between or among all applicable parties. Throop Borough shall not be a party to any agreement designed to provide a solar easement, nor shall Throop Borough be responsible for ensuring the maintenance of any solar easement.

I. DECOMMISSIONING

1. Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.

2. The ASES 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.
3. The ASES owner shall, at the request of Throop Borough, provide information concerning the amount of energy generated by the ASES in the last 12 months.

J. ZONING PERMIT REQUIREMENTS

1. A Zoning Permit Application shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. The applicant shall be required to secure all applicable building permits required under the PA Uniform Construction Code. All Permits shall be kept on the premises where the ASES is constructed.
2. A new Zoning Permit shall be required if an ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.
3. The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.
4. Prior to the issuance of a Zoning Permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:
  - (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or
  - (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
5. Routine maintenance or like kind replacements do not require a permit.

K. ROOF MOUNTED AND WALL MOUNTED ACCESSORY SOLAR ENERGY SYSTEMS

1. Location

A roof mounted or wall mounted ASES may be located on a principal or accessory building.

2. Setbacks

- (a) Wall mounted ASES shall comply with the setbacks for principal and accessory structures of the underlying zoning districts.
- (b) Solar panels shall not extend beyond any portion of the roof edge.

3. Height

ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

4. Code Compliance

For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the PA Uniform Construction Code and that the roof or wall is capable of holding the load imposed on the structure. Applications for roof mounted ASES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the ASES.

L. GROUND MOUNTED ACCESSORY SOLAR ENERGY SYSTEMS

1. Setbacks

- (a) The minimum yard setbacks from side and rear property lines shall comply with the required setbacks for a principal structure setback of the underlying zoning district.
- (b) Ground mounted ASES are prohibited in front yards, between the principal building and the public street.

2. Height

Freestanding ground mounted ASES shall not exceed 20 feet in height above the ground elevation surrounding the systems.

3. Coverage

- (a) The surface area of the arrays of a ground mounted ASES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. ASE shall not exceed the maximum lot coverage requirements of the underlying zoning district.
- (b) If applicable, the applicant shall submit a Stormwater Management Plan that demonstrates compliance with any applicable stormwater management regulations of Throop Borough.

4. Safety/Warning Signage

Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

5. Location Restrictions

Ground-mounted ASES shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

801.52 SOLAR ENERGY SYSTEM (PRINCIPAL) (PSES)

A Principal Solar Energy System (PSES) shall be subject to the following regulations:

A COMPLIANCE WITH INDUSTRY STANDARDS

The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), ), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

B. INSTALLERS

PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

1. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.
2. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program.

C. MAINTAIN IN GOOD WORKING ORDER

Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in

good working order is grounds for appropriate enforcement actions by Throop Borough in accordance with applicable ordinances.

E. UNDERGROUND REQUIREMENTS

All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

F. UTILITY NOTIFICATION

The owner of a PSES shall provide Throop Borough with written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

G. SIGNAGE

No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations.

H. GLARE

1. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

I. NOISE STUDY

A noise study shall be performed and included in the zoning/building permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 45 dBA, as measured at the property line.

J. TREE AND LANDSCAPING REMOVAL

No trees or other landscaping otherwise required by the Borough ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

K. CONTACT INFORMATION

The PSES owner and/or operator shall provide current contact information to the Borough which includes at minimum a phone number and identifies a responsible person for the Borough or public to contact regarding emergencies, inquiries and complaints throughout the life of the project. The PSES owner and/or operator shall provide a written plan outlining procedures on how complaints will be addressed. For the life of the project, the current contact information shall be conspicuously posted upon locations throughout the property.

L. SOLAR EASEMENTS

Where a subdivision or land development proposes a PSES, solar easements may be provided. If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant and/or property owner for an ASES, such matter shall be carried out as a civil agreement between or among all applicable parties. Throop Borough shall not be a party to any agreement designed to provide a solar easement, nor shall Throop Borough be responsible for ensuring the maintenance of any solar easement. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance.

M. DECOMMISSIONING

1. The PSES owner is required to notify Throop Borough immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
2. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original. If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames, Throop Borough may complete the decommissioning and land restoration at the owner's expense.
3. At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to Throop Borough to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

N. PERMIT REQUIREMENTS

1. A Zoning Permit Application shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the PSES on the property, including property lines. Permits shall be kept on the premises where the PSES is constructed.
2. PSES shall comply with Throop Borough zoning and subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.

3. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.
4. Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself : (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
5. Routine maintenance or like-kind replacements do not require a permit.

O. GROUND MOUNTED PRINCIPAL SOLAR SYSTEMS

1. Lot Size

A PSES shall require a lot size of not less than ten (10) acres.

2. Setbacks

A PSES shall be setback distance of not less than 100 feet to any property line.

3. Height

Ground mounted PSES shall not exceed 20 feet in height.

4. Lot Coverage

The surface area of the arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. The PSES shall not exceed the maximum lot coverage requirements of the underlying zoning district.

5. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the Throop Borough stormwater management regulations.

6. PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.

All solid waste storage, disposal, incineration or processing shall meet the following requirements:

- A. The use, activity or any aspect of the operation shall be located not less than 250 feet from any street right-of-way, lot line, 100-year floodplain, edge of a surface water body, creek, stream or wetland; and not less than 1,500 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.
- B. Burning and incineration is prohibited, except for an approved waste to energy facility.
- C. The site shall contain a minimum of three access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the Throop Borough Subdivision and Land Development Ordinance and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. One of the access drives shall be restricted to use by emergency vehicles only and shall be clearly marked and identified as such. The application shall also be accompanied by a plan of the site that includes the location of access drives and proposed structures, and an emergency response plan to address potential safety concerns associated with the use.
- D. The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.
- E. A solid waste facility shall have a maximum lot size of 25 acres, whether developed initially or cumulatively, with a maximum total capacity to treat or dispose of waste being 500 tons per day.
- F. Except for the required access drives (which shall be secured by locked gates, which may only be open during business hours) the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained. In addition, an attendant shall be present during all periods of operation or dumping to ensure that:
  - (1) only authorized waste is accepted;
  - (2) the access drives remain unobstructed; and
  - (3) litter, garbage and rubbish is collected from the site and its surroundings on a regular daily basis prior to the closing of business on each day.
- G. The days and hours of operation shall be limited to Monday through Friday from 7 a.m. to 5 p.m. and Saturday from 7 a.m. to 4:00 p.m. The facility shall not conduct any approved operations at any other times and days.
- H. The operator shall take all necessary precautions to prevent litter,

garbage and rubbish from scattering off site and shall regularly monitor the site and its surroundings collecting litter, garbage and other rubbish that may have escaped from the facility or trucks.

- I. Dangerous materials such as radioactive, hazardous or infectious waste may not be stored, processed, disposed of, or incinerated on site.
- J. All loading and unloading of solid waste shall occur within an enclosed building, and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within an enclosed building or enclosed container.
- K. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
- L. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

#### 801.54 SUBSTANCE ABUSE TREATMENT FACILITY

Any facility included within the term Substance Abuse Treatment Facility as so defined within this Ordinance shall be subject to the following requirements:

##### 1. REGULATORY AND OPERATIONAL STANDARDS

- A. Maximum Number of Beds: The maximum number of beds within any type of substance abuse treatment facility which allows overnight stay of patients shall be based upon the applicable regulations of the Pennsylvania Department Drug and Alcohol Program, but in no case shall such a facility be designed and/or used to accommodate more than 20 overnight patients.
- B. Any type of substance abuse treatment facility shall provide a narrative that fully describes all services to be provided within the facility.
- C. Any type of substance abuse treatment facility shall provide a floor plan of the facility showing the use of all areas within the facility with the dimensions and square feet of each room therein and its intended purpose and use.
- D. Any type of substance abuse treatment facility shall provide its intended hours of operation.
- E. Any type of substance abuse treatment facility shall provide a copy of on-site management plan, or its equivalent, as required by the Pennsylvania Department of Drug and Alcohol Programs, which includes emergency operations and persons responsible for implementation of stated measures and/or operations.

- F. Any type of substance abuse treatment facility shall provide the maximum number of employees employed by the facility including those indirectly employed under contracted services.
- G. Insurance Coverage - No person shall operate a Non-Hospital Drug Free Residential Substance Abuse Treatment Facility unless they obtain and maintain the following liability insurance coverage:
  - 1. Comprehensive general liability insurance coverage insuring the public against bodily injury or property damage arising out of or resulting from or incidental to the operation or use of the facility.
  - 2. At a minimum, the policies shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence and two million five hundred thousand dollars \$2,500,000.00) per aggregate.

Coverage shall remain in full force during the entire time that the facility is permitted. Failure to provide such proof shall result in revocation of zoning approval.

## 2. DESIGN FEATURES

- A. Lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal shadows or light leaving the property. Lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible/comparable with the neighborhood.
- B. Off-street parking shall be provided in accordance with Article 10 of this Ordinance governing off-street parking.
- C. A substance abuse treatment facility shall not be located less than one thousand (1,000) feet from any other substance abuse treatment facility.
- D. If a substance abuse treatment facility is located within two hundred fifty (250) feet of a residential zoning district, all outdoor activity and/or seating areas shall be screened from public view and from the view of adjacent properties.

## 801.55      TOWNHOUSES

Townhouses shall be subject to the following provisions and all applicable provisions of the Throop Borough Subdivision and Land Development Ordinance:

- A. Townhouse buildings shall contain no more than six single-family dwelling units. The maximum density for a townhouse development shall not exceed 12 dwelling units per gross acre.
- B. Minimum Lot Width shall be two hundred (200) feet.
- C. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.

- D. Minimum lot depth per dwelling unit shall be not less than one hundred (100) feet.
- E. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- F. Minimum front yard setback shall be not less than thirty (30) feet.
- G. No side yard setbacks shall be required for attached interior townhouse units. A minimum side yard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of Townhouses.
- H. Minimum rear yard setback shall be not less than thirty (30) feet.
- I. Minimum width of each dwelling unit shall be not less than twenty (20) feet.
- J. Maximum building height shall be 2 ½ stories or thirty-five (35) feet.
- L. Minimum distance between principal structures shall be not less than thirty (30) feet.
- K. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.
- L. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet.
- M. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- N. No dwelling unit shall have its own driveway entering onto a public street.
- O. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

#### 801.56 TRUCKING FACILITIES

The minimum lot size shall not be less than four acres. Access drives shall be sufficient in width to accommodate the use, but in no event exceed 25 feet in width. Access drives must connect to a public street. Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped and maintained in good condition. No parking, loading, idling, storage of any kind, or trucking use shall be allowed within the buffer yard. All truck idling in excess of fifteen (15) minutes shall be prohibited. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. Access drives shall be sufficient in width to accommodate the use, but in no event shall any access drive exceed 25 feet in width. No activities including off-street parking shall be allowed within 150 feet of a property line abutting a district having residences as a principal permitted use. All truck idling in excess of fifteen (15) minutes shall be prohibited. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

The applicant shall be required to submit the following information with a Zoning Permit Application for a Small Wind Energy Conversion System:

A. DESIGN AND INSTALLATION

1. Design Safety Certification

The design of a Small Wind Energy Conversion System shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

2. All components of a Small Wind Energy Conversion System shall be designed and constructed to be in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code. The owner of a Small Wind Energy Conversion System shall have all components the Facility inspected annually, with each inspection not to exceed a twelve (12) month period, for structural and operational integrity by a licensed professional engineer and shall submit a copy of the inspection report to the Borough.

3. Controls and Brakes

A Small Wind Energy Conversion System shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

4. Rotor Blades

The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

5. Electrical Components

All electrical components of a Small Wind Energy Conversion System shall conform to the Pennsylvania Uniform Construction Code.

The maximum turbine power output shall be limited to 10 KW.

All on-site electrical wiring associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines.

The applicant shall demonstrate a Small Wind Energy Conversion System shall not cause disruption or loss of radio, telephone, television or similar signals, and shall be required to mitigate any harm caused by the operation of the system.

At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, or generator where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

Anchor points for any guy wires for a Small Wind Energy Conversion System shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering eight (8) feet above the ground.

B. VISUAL APPEARANCE

1. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
2. A Small Wind Energy Conversion System's tower and blades shall be painted in a non-reflective, light gray or light blue hue, which blends with sky and clouds.
3. A Small Wind Energy Conversion System shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:
  - shall not project above the top of ridgelines.
  - shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

C. LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS:

1. A Small Wind Energy Conversion System shall not exceed a maximum height of eighty (80) feet and shall be located on a lot with a minimum size of not less than five (5) acres.
2. Setback requirements. A Small Wind Energy Conversion System shall not be located closer to a property line than two and a half (2.5) times the turbine height as measured from center point of the base of the tower.
3. Only one Small Wind Energy Conversion System per legal lot shall be allowed.

D. CLIMB PREVENTION/LOCKS

1. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - Tower-climbing apparatus located no closer than 15 feet from the ground.
  - A locked anti-climb device installed on the tower.
2. A locked, protective fence at least six feet in height shall enclose the tower and electrical equipment to prevent entry by non-authorized persons.

E. NOISE AND SHADOW FLICKER

1. Audible sound from a Standalone Non-Commercial Windmill shall not exceed 45 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. Reasonable efforts shall be made to preclude shadow flicker to any off-site building not owned by the applicant. The applicant shall provide an assessment of potential buildings that that could be affected.

F. ABANDONMENT

A Small Wind Energy Conversion System which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

801.59 WIND ENERGY FACILITY

A. INFORMATION TO BE SUBMITTED

The applicant for a Wind Energy Facility shall be required to submit the following

information:

1. The applicant and landowner's name and contact information.
2. The tax map numbers, existing use and acreage of the site parcels or which it is to be located.
3. A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and height of all Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
4. A site plan sealed by a professional land surveyor at a scale not greater than one (1") inch equals one hundred (100') feet which includes but may not be limited to identification of the properties on which the proposed Wind Energy Facility will be located with the name and mailing address of the owners of record, the properties adjacent to where the Wind Energy Facility will be located with the name and mailing address of the owners of record, the proposed location of each wind turbine within the Wind Energy Facility, property lines, setback lines, access roads, substations, electrical cabling from each wind turbine within the Wind Energy Facility to the substations, ancillary equipment, buildings, and structures, including permanent meteorological towers.
5. A survey drawing at an appropriate and legible scale showing the proposed location of the wind energy facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of 2,000 feet or less from any property boundary.
6. As applicable, copies of all proposed leases required to be secured by the applicant, shall be provided, if the applicant is not the sole owner of the parcel or parcels on which the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
7. Standard drawings of proposed wind turbine structures, including the tower, base and footings.
8. Documentation that all proposed wind turbines conform to applicable industry standards, including compliance with the Pennsylvania Uniform Construction Code (UCC), and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute.
9. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations certified by an engineer registered in the Commonwealth of Pennsylvania.

10. A completed Environmental Impact Statement, otherwise required for a Conditional Use, under Section 706 of this Ordinance shall be provided.
11. The applicant shall provide to the Borough Council three-dimensional graphic information that accurately portrays the visual impact of the proposed wind farm and each individual wind turbine within that wind farm from various vantage points selected by the Borough Council, such as, but not limited to residential developments, roads and recreation areas. This graphic information shall be provided in the form of photographs or computer-generated images with the wind turbines superimposed, as may be required by the Borough Council. The Borough Council shall also require the applicant to conduct a balloon test to confirm the visual impact.

**B. APPROVAL STANDARDS**

A Wind Energy Facility shall in addition to all other applicable criteria and requirements of this Ordinance comply with the following:

1. The minimum distance between the ground and any part of the rotor blade system shall be one hundred (100') feet.
2. To limit unauthorized access, a fence eight feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Also, all access doors to wind turbines and electrical equipment shall be locked prevent entry by non-authorized persons. A sign shall be posted on the entry area of the fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a telephone number with 24 hour, 7 days a week coverage.
3. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, color objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.
4. Wind turbines shall not be climbable up to 15 feet above the average grade of the ground surface. Tower-climbing apparatus shall be located no closer than 15 feet from the ground and a locked anti-climb device shall be installed on the tower.
5. No signs or lights shall be mounted on any wind turbine except as may be required by this Ordinance, the Federal Aviation Administration, or other governmental agency which has jurisdiction. No wind turbine shall be artificially lighted, except as required by the Federal Aviation Administration or for security purposes approved as part of the zoning permit. No approved security light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation; and the Wind Energy Facility and support structures shall comply with all Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation (PA DOT) requirements.

6. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades and turbine components. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
7. All power transmission lines from a wind turbine to on-site substations shall be underground.
8. The applicant shall submit a certificate of insurance evidencing general liability coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence covering the Wind Energy Facility and all its facilities. The applicant shall provide the Borough with proof of annual renewal prior to expiration.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

1. Combine transmission lines and points of connection to local distribution lines.
2. Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
3. All wiring between wind turbines and the wind energy facility substation shall be underground.
4. The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities and shall provide evidence of a signed interconnection agreement, or letter of intent, with the interconnecting utility company.

D. LAND AREA REQUIREMENTS AND SETBACKS:

1. A Wind Energy Facility shall require a minimum lot size of not less than 50 acres, with a minimum lot width of 600 feet.
2. If the parcel on which the Wind Energy Facility is located is a separate and distinct parcel, no wind turbine shall be located closer to any property line than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback for equipment containers, other accessory structures, and any guy wire anchors shall be a minimum of 500 feet from any property line.
3. If the land on which a Wind Energy Facility is leased, or is used by license or easement, no wind turbine shall be located closer to any line of lease, license or easement than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback distance for equipment containers, other accessory structures, and guy wire

anchors shall be a minimum of 500 feet from the line of lease, license or easement. If the land to construct a Wind Energy Facility is to be leased, a subdivision plan must be submitted to and approved by the Borough creating the new parcel to be leased prior to granting approval.

4. No wind turbine within a Wind Energy Facility shall be located less than 1,500 feet to any public road as measured from the center of the foundation of a Wind Turbine to the outer edge the public right-of-way.
5. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, as measured from the center of the foundation of a Wind Turbine to an existing power line or telephone line.

E. NUISANCE ISSUES:

1. All wind turbines shall be located so that the level of noise produced by wind turbine operation shall not exceed 45 dBA, measured at all points of the site's property line. A noise study shall be performed by an independent noise study expert and paid for by the applicant. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. The applicant shall document that the radio, television, telephone or reception of similar signals from nearby properties will not be disturbed or diminished by the installation of any wind turbine.
3. No vibration associated with the operation of a wind turbine shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness.
4. The applicant shall make reasonable efforts in siting proposed locations of wind turbines to minimize shadow flicker to any off-site building.
5. The Applicant shall provide to the Zoning Hearing Board a plan for how complaints about noise, communications interference and vibration will be addressed by the operator of a wind turbine

F. ENVIRONMENTAL AND VISUAL:

1. No wind turbine shall be located less than 1,000 feet from any important bird area or migration corridor, National Wetland Inventory Wetland, Historic Site or lake, dam, stream, creek, ponds or public water supply sources or waterways. These areas shall be defined or designated by the Pennsylvania Department of Environmental Protection and/or as depicted on U.S.G.S. mapping.
2. Wind Energy Facilities shall not be used for displaying any advertising except for

reasonable identification of the manufacturer or operator of the wind energy facility.

3. The design of the wind turbines buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
4. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines.
5. The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 500 feet.
6. Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas to the greatest extent feasible.
7. Wind Turbines shall be designed to avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, b) horizontal perching opportunities on the towers or related structures or c) soil where weeds can accumulate.
8. A Wind Energy Facility shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wildlife habitat, including but not limited to bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having a jurisdictional review or stewardship over the protection of wildlife shall be required.

G. TRAFFIC

1. Access to a Wind Energy Facility shall be provided by means of a public street or easement to a public street. All access easements shall be a minimum of 25 feet in width and shall be improved to a width of not less than 12 feet with an improved, durable, dust-free, all weather surface. No access easement shall exceed a grade of 15% unless it can be proven to the Borough Engineer that an unsafe situation is not being proposed, the road surface can be properly maintained by the applicant and emergency vehicles can negotiate the excessive slopes.
2. The Applicant shall identify all state, county and Borough roads to be used within Throop Borough intended for use to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
3. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility. A bond, letter of credit or other financial guarantee shall be posted by the applicant in an amount, determined by the Borough Engineer to be fair, reasonable and sufficient to compensate the Borough for any damage to Borough roads.
4. The Borough shall hire a licensed professional engineer to document the condition of Borough roads prior to the start of construction. The engineer shall document the road conditions again within thirty (30) days from the completion of construction or as

weather permits. Completion of construction shall be deemed to be the date on which final approval land development approval is granted by the Borough Council. The applicant shall be responsible to reimburse the Borough for the subject engineering fees.

5. If the wind farm site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to 20 percent of the required spaces based on the employees but not less than two.

#### H. DECOMMISSIONING AND RESTORATION REQUIREMENTS

The owner or operator of a Wind Energy Facility or the landowner shall complete decommissioning within twelve (12) months after the end of the useful life of a Wind Energy Facility. Each wind turbine will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses shall be the responsibility of the owner, operator or landowner and shall be so identified in writing as part of the approval process for any a Wind Energy Facility. Decommissioning shall include the removal of each wind turbine, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds. All access roads to the wind turbine shall be removed, cleared, and graded by the Owner, Operator, or Landowner unless the landowner requests, in writing, a desire to maintain the access road. The Borough will not be assumed to take ownership of any access road unless through official action of the Borough Council. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner, operator or landowner. An independent and certified professional engineer shall be retained by the Borough to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommission Costs"). When determining this amount, the Borough may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Borough Zoning Officer after the first year of operation and every fifth year thereafter. The owner or operator shall post and maintain Decommissioning Funds in an amount equal to or greater than Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or state-chartered lending institution chosen by the owner or operator posting the financial security. The bonding company or lending institution must be authorized to conduct such business and be approved by the Borough.

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

SECTION 901     INTENT

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

SECTION 902     NONCONFORMITY – TYPES:

For the purposes of this Ordinance, nonconformities shall be defined and classified by types, as follows:

902.1   Nonconforming Use:

"Nonconforming use" means a use, whether of land or a structure, which does not comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or such amendment.

902.2   Nonconforming Structure:

"Nonconforming structure" means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or such amendment. Nonconforming structures shall include, but are not limited to, nonconforming signs.

902.3   Bulk Nonconformity:

"Bulk nonconformity" refers to the bulk of a structure which does not comply with the applicable size, height or other bulk provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed in compliance with such provisions prior to the enactment of this ordinance or such amendment.

902.4   Area Nonconformity:

"Area nonconformity" refers to that aspect of a structure or use on a zoning lot which is not in compliance with the applicable yard, coverage or other area provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure or use lawfully existed in compliance with such requirements prior to the enactment of this Ordinance or such amendment.

#### 902.5 Nonconforming Lot

“Nonconforming Lot” means a lot of record legally existing as of the date on which this Ordinance was adopted or amended, which does not conform to the applicable area, frontage, width, or depth requirements established by this Ordinance for the Zoning District in which it is located.

### SECTION 903 NONCONFORMING LOTS OF RECORD

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

### SECTION 904 CONTINUATION

Nonconforming uses, nonconforming structures, bulk nonconformities and area nonconformities may be continued except as otherwise set forth in this Article, but no nonconforming use or structure shall be enlarged, reconstructed, structurally altered or changed except as permitted by the provisions of this Article.

### SECTION 905 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The owner or occupant of the premises occupied by a nonconforming use or structure may apply for a Certificate of Nonconformity from the Zoning Officer. The owner or occupant shall bear the sole responsibility to provide required documentation to substantiate the issuance of a Certificate of Nonconformity. The Zoning Officer may issue a Certificate of Nonconformity where he finds that a use or structure, although not in compliance with the requirements presently applicable thereto, is a nonconforming use or structure.

### SECTION 906 CHANGES OF NONCONFORMING USES AND STRUCTURES

When approved by the Zoning Hearing Board as a special exception, in accordance with Section 1410.2, a nonconforming use and/or structure may be changed to a different type in accordance with the following:

#### 906.1

A nonconforming use or structure shall not be extended to displace a conforming use or structure.

## 906.2

Structures, buildings or uses, either main or accessory, shall not be combined for the purpose of extending a nonconforming use or creating a different nonconforming use.

## 906.3

The proposed change to another nonconforming use shall be in accordance with the following criteria:

- a. The proposed change shall be less objectionable in external effects than the previous nonconforming use and will be more consistent physically with its surroundings.
- b. There will be no increase in traffic generation or congestion including both vehicular and pedestrian traffic.
- c. There will be no increase in the danger of fire or explosion.
- d. There will be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration or electrical disturbances.
- e. There will be no increased threat to health by reason of rodent infestation or otherwise.
- f. There will be no reduction in minimum lot area requirements as a result of the proposed change.

## SECTION 907

## ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE

The enlargement of a nonconforming structure or a nonconforming use shall require approval by the Zoning Hearing Board as a special exception, in accordance with Section 1410.2, and in accordance with the following criteria:

- a. The enlargement will not replace a conforming use.
- b. Nonconforming Structure or Nonconforming Use: The area subject to a proposed expansion shall after enlargement conform to all area and bulk requirements applicable to conforming buildings in the zone in which it is located and to all applicable off-street parking and loading requirements.
- c. The floor or land area of a nonconforming structure or use shall be enlarged not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.
- d. Not more than one enlargement of a nonconforming use shall be permitted.
- e. A nonconforming structure or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot is prohibited.

- f. A structure containing residential dwelling uses, both conforming and nonconforming, shall not be enlarged to increase the number of dwelling units unless in full compliance with all other applicable provisions of this Ordinance

#### SECTION 908

#### REPAIR AND REHABILITATION

Nonconforming structures and structures containing nonconforming uses may be normally maintained and repaired provided that there is no alteration which extends the area occupied by the nonconforming use. A structure containing nonconforming residential uses may be altered to improve interior livability, subject to no structural alterations which would increase the number of dwelling units or the bulk of the building.

#### SECTION 909

#### RESTORATION OF USE AND/OR STRUCTURE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

#### SECTION 910

#### TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

##### 910.1

##### NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

##### 910.2

##### CHANGE OF NONCONFORMING USE

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

910.3

ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed to be abandoned if it is changed as set forth in Section 909.2 or if it is discontinued for a period of one year or more without substantial evidence of intent to resume the nonconforming use by documented overt actions.

910.4

UNSAFE STRUCTURES

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

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**ARTICLE 10**  
**OFF-STREET PARKING AND LOADING**

SECTION 1001      PURPOSE

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

SECTION 1002      SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and eighty (180) square feet, being ten (10) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles.

SECTION 1003      DIMENSIONS AND DESIGN

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

- A      Stall width shall be not less than ten (10) feet.
- B      Stall depth shall be not less than eighteen (18) feet.
- C      The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking shall be as follows:

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

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

SECTION 1004      SIZE OF OFF-STREET LOADING SPACES

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

## SECTION 1005

### WIDTH OF ACCESS DRIVEWAYS

Unless superseded by a PennDOT Highway Occupancy Permit, the width of a driveway intended to provide access to or from a property shall comply with the following:

- a. A minimum of nine (9) feet for all single-family dwellings.
- b. A minimum of twelve (12) feet for one-way traffic for all uses other than single-family dwellings.
- c. A minimum of twenty (20) feet for two-way traffic for all uses other than single-family dwellings.
- d. A maximum of twenty (20) feet at the street lines in residential districts, and thirty (30) feet in all other districts.

## SECTION 1006

### NUMBER AND LOCATION OF ACCESS DRIVEWAYS

For the purpose of providing access to a property, driveways crossing a street line shall be forty (40) feet apart and shall be limited to two (2) along each front, rear or side lot line. On all corner properties, there shall be a minimum distance of thirty-five (35) feet from any driveway to the lot line fronting on the intersecting street unless a greater distance is required for a specific use as contained within Article 8, Supplemental Regulations.

Any street under the jurisdiction of the Pennsylvania Department of Transportation shall be governed by all applicable rules, regulations and standards of PennDOT.

## SECTION 1007

### EXISTING USES AND STRUCTURES

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

## SECTION 1008

### EXPANSION OF EXISTING USE

When an existing use of a building, structure or land is expanded, off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this Ordinance for the net increase of expansion based upon land area and/or gross floor area of the subject use. Any existing use prior to its expansion, which does not conform to the required the number of off-street spaces that would otherwise be required, shall not be required to provide said spaces as a condition for zoning approval.

## SECTION 1009

### CHANGE OF USE

Whenever an existing use of a building, structure or land is changed to a different use,

off-street parking and/or loading facilities shall be provided in accordance with the previous use requirements and the applicable provisions of this Ordinance based upon the proposed change in use.

#### SECTION 1010 LOCATION OF OFF-STREET PARKING AREAS

Required off-street parking shall be located upon the same lot with the principal use to which it serves. The Zoning Hearing Board may grant a special exception approval to allow the required parking on another lot subject to the following criteria:

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership and/or the applicant shall provide written documentation that the required number of parking spaces shall be retained upon such other lot throughout the life of the principal use which it serves.
- C. The lot to be used for off-street parking shall be not less than two hundred (200) feet to any lot line on which the principal structure is located.

#### SECTION 1011 SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area shall be surfaced so as to provide a pavement structure of bituminous asphalt, or concrete. Excluding points of ingress or regress, the parking area shall be curbed. All stormwater shall be contained within the boundaries of the property. Methods for containment may include:

1. The design and construction of catch basins to collect and discharge stormwater into a public storm sewer.
2. The design and construction of rain gardens or similar systems designed to retain all stormwater within the parking area for infiltration into the ground.
3. A combination of the above.

An off-street parking area for ten (10) or more vehicles shall require a complete design and layout of the proposed parking area, sealed by a licensed professional engineer attesting that the subject design and construction of the parking area shall fully comply with the above provisions.

#### SECTION 1012 SCREENING AND LANDSCAPING

##### A. SIDE YARDS AND REAR YARDS

The side and rear yards areas of properties that contain off-street parking for five (5) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than five (5) feet in depth, containing low growth ornamental grass, shrubbery, plants and/or a similar vegetative cover that will not exceed a maximum height of approximately (3) feet in height when full grown and shall not be planted in locations that would be in violation of Section 315 of this Ordinance or otherwise result in a visual obstruction for motorists.
2. Such borders shall also be screened by a substantial, tight fence, six (6) feet in height,

#### B. FRONT YARDS

The front yards areas of properties that contain off-street parking for five (5) or more vehicles or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than ten (10) feet in depth shall be provided between the parking areas and the abutting street right-of-way except for the location of access drives to the property. Said planting strip shall contain ornamental grass, shrubbery, plants or a similar vegetative cover that will not exceed a maximum height of approximately (3) feet in height when full grown and shall not be planted in locations that would be in violation of Section 313 of this Ordinance or otherwise result in a visual obstruction for motorists.
2. Said planting strip shall also contain one (1) shade tree for each forty (40) linear feet of planting strip. Said trees shall be not less than eight (8) feet in height at the time of planting.

#### C. INTERIOR LANDSCAPING

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

#### SECTION 1013     LIGHTING

Any lighting used to illuminate off-street parking or loading areas shall be designed and constructed with cut off shields and further located in a manner to avoid any adverse impact and spillover lighting onto adjacent properties and the public right-of-way.

#### SECTION 1014     DRIVEWAYS

- A. Residential: All driveways shall have a minimum setback distance of five (5) feet to any side yard or rear yard property line. Townhouses, with exception of end units, shall be excluded from this provision.

- B. Nonresidential Uses: All driveways shall have a minimum setback distance of ten (10) feet to any side yard or rear yard property line.

#### SECTION 1015      PARKING IN YARD AREAS

Required parking for residential properties shall be permitted within the required front, rear and/or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5) feet to the nearest point of a side yard or rear yard. No vehicle shall be parked in a front yard area in a manner in which the vehicle extends beyond the boundary of the front property line or otherwise obstructs pedestrian traffic.

Any off-street parking areas for a nonresidential use shall be setback a minimum distance of not less than ten (10) feet to any front, side or rear yard property line. Off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard property line.

#### SECTION 1016      FRACTIONAL SPACE

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

#### SECTION 1017 MULTIPLE ACTIVITIES OR USES

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

#### SECTION 1018      SHARED PARKING

The Zoning Hearing Board may grant a special exception approval for the joint use of parking for two or more principal uses subject to the following criteria:

- a. The total number of off-street parking spaces provided are not less than the number of the spaces required for each use individually.
- b. When the sum of off-street parking spaces required for each principal use is greater than the total amount of provided spaces, the hours of operation for the subject uses shall not be conflicting.

#### SECTION 1019      OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

## **RESIDENTIAL USES**

- Single-Family Detached Dwelling: Two (2) spaces for each dwelling unit.
- Two-Family Structure: Two (2) spaces for each dwelling unit.
- Multi-Family Residential:
  - Townhouses: Two Spaces for each dwelling unit.
  - Garden Apartments: Two (2) spaces for each dwelling unit.
  - Single Structure with three or more dwelling units: Two (2) spaces for each dwelling unit.
- Rooming House: Two Spaces for each rooming unit which is rented or leased, plus all other off-street parking spaces required for any other use or uses located within the structure.
- Bed and Breakfast: Three spaces and one and one-half (1.50) spaces for each guest rental room.
- Short-Term Home Rental/ Short-Term Transient Rental: (2) spaces for each dwelling unit, plus Two (2) spaces for each bedroom. However, the maximum number of vehicles allowed at the short-term rental shall be limited to the available number of off-street parking spaces provided on the same property as the short-term rental
- Home Occupation: Two (2) spaces in addition to that required for the dwelling unit.
- Group Residence: Four (4) spaces, plus one space for each person residing or eligible to reside in the facility, based upon State licensing, who are not related operator of the facility.
- Personal Care Home: Four (4) spaces, plus one space for each person residing or eligible to reside in the facility based upon State licensing, who are not related operator of the facility.
- Half-Way House: One (1.5) spaces for each staff member based upon the maximum number of staff personnel working at any given time, plus 1 space for each person allowed to reside therein based on maximum number of persons approved by State licensing of the facility.

## **NONRESIDENTIAL USES**

- Animal Hospital: Five (5) spaces for every veterinarian.
- Auditorium or Similar Place of Assembly: One (1) space for every four (4) seats or one (1) space for every thirty (30) square feet of gross floor area if fixed seating is not provided.

- Automobile Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each five thousand (5,000) square feet of open sales or display area.
- Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
- Car Wash and Auto Detailing: One (1) space for each employee on the maximum working shift.
- Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each (12) feet of bench length, if fixed seating is not provided, one (1) space for every 30 square feet of gross floor area.
- Commercial, Business or Vocational Trade Schools: One (1) space for each staff and/or faculty member, plus one (1) space for every five (5) classroom seats, based upon the maximum capacity.
- Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) individuals served by the facility, based upon the maximum number of individuals which the facility is licensed to serve.
- Entertainment Facilities: One (1) space for every one hundred (100) square feet of gross floor area.
- Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
- Fast Food Restaurants: One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five (5) spaces. A fast-food restaurant with a drive-in window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
- Funeral Homes and Crematories: Twenty (20) spaces for each viewing parlor.
- Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
- Health Spa/Clubs: Shall provide one (1) space for every two hundred (200) square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.

- Large Retail Establishment:
  - a. Five (5) spaces for each 1,000 square feet of gross floor area.
  - b. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces. The above requirement may be increased to 125% when porous pavement is used in areas of the parking lot that do not receive heavy traffic, such as parking stalls, cart areas and crosswalks.
- Manufacturing / Industrial Uses: One space for every 1,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.
- Medical or Dental Office or Clinic: Five (5) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
- Methadone Treatment Facility: Five (5) spaces for every doctor, licensed medical practitioner, counselor and/or staff personnel employed at the facility, including those employed on a full-time or part time basis and/or by contractual arrangements with the facility.
- Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
- Nonprofit Social Hall and Clubs: One (1) space for every two hundred (200) square feet of gross floor area.
- Nursing Home/Continuing Care Facility: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
- Personal Services: One (1) space for every three hundred (300) square feet of gross floor area.
- Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of gross floor area when there is no fixed seating.
- Professional or Service Offices: One (1) space for every three hundred (300) square feet of gross floor area.
- Public Uses: One (1) space for every one hundred (100) square feet of gross floor space.
- Public Utility Facilities: Two (2) spaces per facility; if the facility includes maintenance and/or storage yards, then the required number of spaces shall be one (1) for each employee assigned to work at such facility.

- Recreational Facilities (Indoor): One space for every 100 square feet of gross floor area
- Recreational Facilities (Outdoor): In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats, facilities which do not provide any spectator seating shall provide one (1) space for every three thousand (3,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
- Restaurants and Taverns: One (1) space for every three (3) seats, plus two spaces for every three employees on the maximum working shift.
- Retail Businesses: One (1) space for every three hundred (300) square feet of gross floor area.
- Schools, Elementary and Secondary: One (1) space for each staff member, plus one space for every twenty (20) classroom seats, based upon the maximum capacity.
- Self-Service Coin-Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
- Self-Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
- Sexually Oriented Businesses:
  - a. Sexually Oriented Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces or every three (3) employees based upon the maximum working shift.
  - b. Sexually Oriented Entertainment: One (1) space for every one hundred (100) square feet of gross floor area, plus:
    - one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
    - two (2) additional spaces for every three (3) employees based upon the maximum working shift.
  - c. Massage Parlor: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- Shopping Center: Five (5) spaces for each one thousand (1,000) square feet of gross floor area.

- Substance Abuse Treatment Facility: One (1) space for every two (2) beds based upon State licensing regarding the maximum number of beds of the facility, plus five (5) spaces for every doctor, licensed medical practitioner, counselor and/or staff personnel employed at the facility, including those employed on a full-time or part time basis and/or by contractual arrangements with the facility.
- Substance Abuse Treatment Facility, Outpatient: Five (5) spaces for every doctor, licensed medical practitioner, counselor and/or staff personnel employed at the facility, including those employed on a full-time or part time basis and/or by contractual arrangements with the facility.
- Warehousing/Distribution Facility: One space for every 5,000 square feet of gross floor area.; plus one space for every two employees on the maximum working shift.

## SECTION 1020      PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1019 of this Ordinance shall provide one (1) off-street parking space for every two hundred (200) square feet of gross floor area or lot area.

## SECTION 1021 OFF-STREET LOADING REQUIREMENTS

The following standards shall apply for the provision of off-street loading areas.

Uses	Square Feet of Floor Area	Required Off-Street Loading Berths
Schools	15,000 or more	1
Hospitals one additional for each additional 30,000 sq. ft. or fraction thereof	10,000 - 30,000	1
Hotels, Motels & Offices	10,000 or more	1
Commercial, Wholesale, Industrial or Manufacturing  one additional for each additional 50,000 sq. ft. or fraction thereof	10,000 - 24,999	1
	25,000 - 39,999	2
	40,000 - 59,999	3
	60,000 -100,000	4

Public right-of-way shall not be used for the loading, unloading or storage of such vehicles.

## SECTION 1022      PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A commercial facility shall include any business

whose operations are open to the general public. A facility which provides public accommodations shall include, but may not be limited to the following:

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

#### SECTION 1023      DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9<sup>1</sup>/<sub>2</sub>) feet.
4. An off-street parking area shall be designed to provide convenient, accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.

Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

#### SECTION 1024      SIGNAGE FOR HANDICAPPED PARKING

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

#### SECTION 1025      MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1018 and/or

Section 1019 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

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

## **ARTICLE 11**

### **SIGN REGULATIONS**

#### **SECTION 1101**      **PERMITS REQUIRED**

A zoning permit shall be required for the erection, alteration or relocation of any sign which exceeds six (6) square feet in surface area. Temporary real estate signs and temporary construction signs shall be exempt from securing a zoning permit. A zoning permit shall be required for the establishment, erection or reconstruction of any sign, with the following exceptions:

1. Real Estate Sign (temporary) not greater than twenty-four (24) square feet.
2. Construction Sign (temporary) not greater than twenty-five (25) square feet.
3. Identification Sign not greater than two (2) square feet.
4. Directional Sign, not greater than six (6) square feet.

#### **SECTION 1102**      **SIGNS**

##### **1102.1**              **TYPE AND USE OF SIGNS**

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

- A. **IDENTIFICATION SIGN**: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. **BUSINESS SIGN**: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. **BILLBOARD OR OFF PREMISE ADVERTISING SIGN**: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. **CONSTRUCTION SIGN**: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firm associated with the project.
- E. **REAL ESTATE SIGN**: A temporary, which advertises the sale or rental of property.
- F. **INSTITUTIONAL SIGN**: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- G. **ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN**: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking

areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

- H. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fundraisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

#### SECTION 1103      DESIGN AND CONSTRUCTION FEATURES OF SIGNS

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

- A. FREESTANDING OR PYLON SIGN: A sign not attached or applied to a principal building, but supported by a sign structure from the ground, which identifies a business or businesses located on the same parcel or in the same development on which the sign is located.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than eighteen (18) inches from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than eighteen (18) inches from the building or structure.
- D. ILLUMINATED SIGN: Any sign directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.
- E. ELECTRONIC MESSAGE BOARD SIGN: A sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change are electronically programmed and can be modified by electronic processes. There shall be an interval of not less than 10 seconds between displayed changes of messages.
- F. FLASHING SIGN: A sign, excluding an Electronic Message Board Sign which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.
- G. WINDOW SIGN: A sign painted, stenciled, or affixed on a window
- H. AWNING SIGN: A sign that is attached to, affixed to, or painted on an awning or canopy of a building.
- I. ROOF SIGN: A sign erected upon, against, or directly above a roof or roof eaves, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eaves.
- J. PORTABLE SIGN: Any sign not permanently affixed in the ground or to a building whose principal supporting structure is intended, by design and construction, to

be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer or other non-motorized mobile structure with or without wheels. A portable sign shall be governed by the same regulations applicable to a Free-Standing Sign

Subject to other requirements of this Ordinance, the establishment, erection or reconstruction of a sign shall be in accordance with the following table:

<b>DESIGN AND CONSTRUCTION FEATURES OF SIGNS PERMITTED BY ZONING DISTRICT</b>								
<b>TYPE OF SIGN</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>E-1</b>
Free Standing or Pylon Sign	X	X	X	X	X	X	X	X
Wall Sign			X	X	X	X	X	X
Projecting Sign:	X	X	X	X	X	X	X	
Illuminated Sign:			X	X	X	X	X	
Electronic Message Board Sign				X	X	X	X	
Flashing Sign:								
Window Sign			X	X	X	X	X	X
Awning Sign:			X	X	X	X	X	X
Roof Sign <sup>1</sup>			X	X	X	X	X	
Portable Sign						X	X	X

**X-Indicates Permitted in District**

**<sup>1</sup> Fifteen (15) Feet Maximum Height Extension above Roof Line**

#### SECTION 1104 PERMITTED SIGNS BY ZONING DISTRICT

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

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

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

SECTION 1105      AREA, HEIGHT AND SETBACK REQUIREMENTS

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

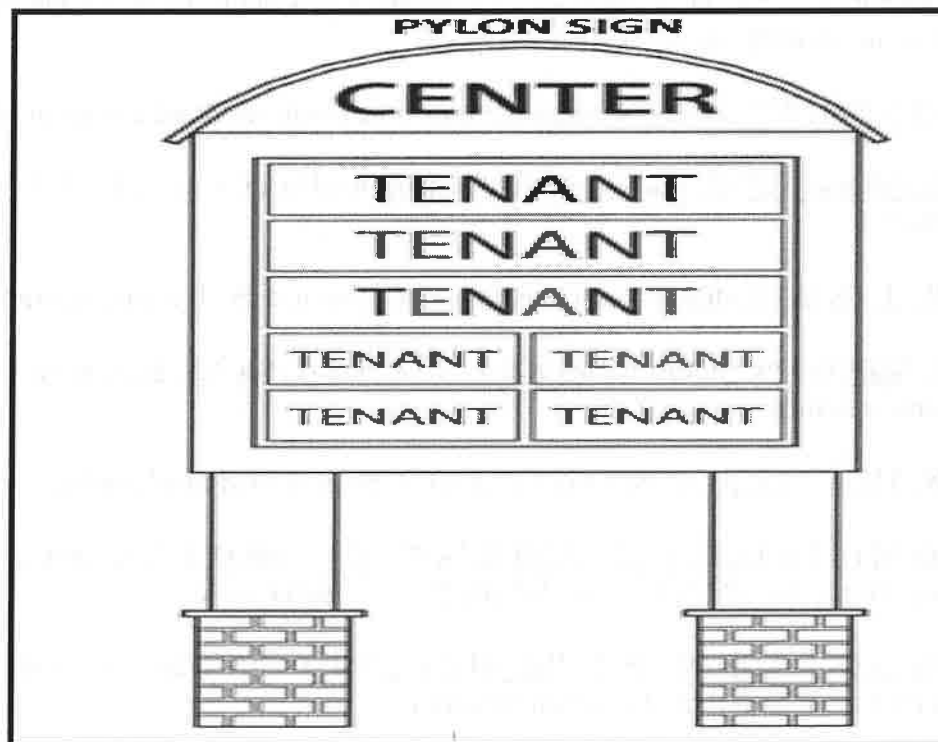
- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. BUSINESS SIGN: The surface area of a business sign shall not exceed the square feet of area for the following Zoning Districts:

C-1 District - One Hundred (100) square feet

I-1 District - Two Hundred (200) square feet

C-OP District - Twenty-Five (25) square feet

In an integrated grouping of commercial or industrial uses classified as a "Land Development," in addition to permitting each individual use to display signage, a pylon sign shall be permitted which identifies uses located on the same parcel or in the same development on which the sign is located. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed Five Hundred (500) square feet in area.



A business sign shall have a minimum front yard setback of not less than twenty-five (25%) percent of the required setback for a principal structure in the zoning district

in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.

The maximum height of any business sign shall not exceed twenty (20) feet.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed six (6) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line or if attached to a building shall not be higher than the first story of the building to which it is attached. Said sign shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. CONSTRUCTION SIGN: A construction sign shall not exceed twenty (20) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall be temporary in nature and removed within thirty (30) days following the completion of construction activity.
- F. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed sixteen (16) square feet in area. The maximum height of such signs shall not exceed twelve (12) feet. An institutional sign shall have a setback of not less than ten (10') feet from any property line.

An institutional sign which is constructed as a free-standing sign that is located in any R District shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached. Institutional wall signs shall be exempt from said limitation subject to not extending above the uppermost edge of the wall to which the sign is attached. Religious symbols such as those mounted on a church steeple and/or belfry will be exempt from any height restrictions.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5') feet shall be required for such signs when constructed as a free-standing sign. The maximum height of such signs when constructed as a free-standing sign shall not exceed six (6') feet. Directional and/or informational signs will not be permitted over a vehicular and/or pedestrian right of way, excluding those located upon immediate entrance to a parking garage as a height warning device and directional signs within a parking garage. An informational/directional sign may be illuminated but shall not include any attributes of a flashing light or similar motion.
- H. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: A Billboard Sign or Off Premise Advertising Sign shall only be permitted in an I-1 and C-2 District subject to the following regulations:

1. Area of Sign:  
No advertising sign shall exceed three hundred (300) square feet in surface area. The surface display area of a billboard shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the billboard, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of surface display area. In the case of a sphere, spheroid, or similarly shaped billboard (e.g. a ball), the total surface display area shall be divided by two for determining the maximum surface display area permitted.
2. Maximum Height:  
The height of a billboard may not exceed 35 feet above the natural grade of the ground on which the billboard is located. No billboard may be located on top of, cantilevered over or otherwise suspended above any building or structure
3. Number of Signs:  
Not more than one (1) advertising sign shall be permitted on a lot having a frontage of one hundred (100) feet or less. One (1) additional sign is permitted for each additional one hundred (100) feet except that no lot or contiguous group of lots shall contain more than three (3) advertising signs.
4. Setback Distance: No billboard may be located within 75 feet of a property line adjoining a street or 30 feet of any other boundary lines of the property on which the billboard is located or within 300 feet of any PennDOT State highway.
4. Advertising Signs Adjacent to Certain Uses:  
No advertising sign shall be permitted within two hundred (200) feet of any residential district, nor within three hundred (300) feet of any public park, nor shall any advertising sign face any public or parochial school, library, church, hospital, or similar institutional use, located on an abutting lot.
6. Illumination. A billboard may be illuminated, provided such illumination is consistent is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises

#### SECTION 1106 HEIGHT RESTRICTIONS FOR FREESTANDING SIGNS

MAXIMUM HEIGHT OF FREE-STANDING SIGNS BY ZONING DISTRICT <sup>1</sup>								
ZONING	R-1	R-2	C-1	C-2	C-3	I-1	I-2	E-1
Free Standing Sign	10	10	18	20	20	25	25	15

**<sup>1</sup> Excluding a pylon sign for an integrated grouping of commercial or industrial uses Classified as a "Land Development or unless superseded by other provisions within this Article**

## SECTION 1108      SETBACK FOR FREESTANDING/PYLON SIGNS

The minimum front yard, side yard setback and/or rear yard setback for any freestanding sign in all Zoning Districts shall be not less than ten (10) feet. In the case of free-standing signs, the required setback distance, shall be measured from the outer most edge of the sign and not front the supporting structure. If an existing building has a front yard setback which is less than ten (10) feet, any proposed new sign shall be attached flat against the building as a wall sign.

## SECTION 1109      SIGNS RELATED TO NONCONFORMING USES

Identification, institutional and business signs related to nonconforming uses may be continued in use, including repair and/or replacement of the same, but shall not be enlarged. Where the nonconforming use is lawfully changes to another nonconforming use there shall be permitted a new sign, not greater than that of the previous sign. The sign may be erected at a different location provided it meets all applicable regulations for the zoning district in which it is located.

## SECTION 1110      AREA COMPUTATION OF SIGNS

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

- A.    WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B.    SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall, awning or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C.    DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D.    CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

## SECTION 1111      VERTICAL CLEARANCE

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

SECTION 1112     ILLUMINATED SIGNS

Signs illuminated by reflected light shall have the lighting source shielded in a manner that no direct light shines onto abutting properties or in the normal line of vision of the public using nearby streets or sidewalks:

SECTION 1113     PROHIBITED SIGNS

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

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. A Flashing Sign per Section 1103 (F).
- D.\* Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.

**\* Zoning approval for signage is limited to the lot on which the sign is proposed to be erected. Any signage which extends beyond the lot and into a public right-of way shall require the approval of Throop Borough Council**

- E. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20') feet along the centerline of the right-of-way of such streets from the point of their intersection.
- F. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

<p style="text-align: center;"><b>ARTICLE 12</b> <b>ENFORCEMENT AND ADMINISTRATION</b></p>
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SECTION 1201      ZONING OFFICER

1201.1      APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Throop Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by Throop Borough, which shall at minimum include a working knowledge of municipal zoning. The Borough Council may also appoint an Assistant Zoning Officer who shall also be conferred with the same duties and powers of the Zoning Officer

1201.2      DUTIES AND POWERS OF THE ZONING OFFICER

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

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Borough Council, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (F) Issues of Certificates of Zoning Compliance indicating that the proposed activity/use and or development as listed upon an approved Zoning Permit Application and accompanying site plan has been completed in conformity and compliance with said approved Zoning Permit Application.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.

- (H) Notify the Zoning Hearing Board and/or the Borough Council of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Zoning Hearing Board or the Borough Council is either required or requested shall be a prerequisite for any application being forwarded to either the Zoning Hearing Board or the Borough Council for consideration.
- (J) Participate in proceedings before the Zoning Hearing Board, Planning Commission or Borough Council and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.
- (K) In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.
- (L) Render a Preliminary Opinion on a proposed development in accordance with Section 1207 of this Ordinance.

## SECTION 1202      ZONING PERMIT

### 1202.1      ISSUANCE OF PERMIT

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

### 1202.2      FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property

shall be accompanied by two (2) sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

#### 1202.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one (1) copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One (1) copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

#### 1202.4 TIME PERIOD FOR PROCESSING APPLICATION

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

#### 1202.5 EXPIRATION OF ZONING PERMIT

An approved zoning permit shall expire one (1) year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by

the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

#### 1202.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

#### SECTION 1203     POSTING OF PERMITS

Prior to the commencement of work at a property for which a zoning permit has been issued, the owner of the property shall have the zoning permit posted in an area publicly visible upon said property, signed by the Zoning Officer, stating the type of construction or activity which the permit was obtained.

#### SECTION 1204     ENFORCEMENT PROCEDURES

##### 1204.1 NOTICE OF VIOLATION

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

- A. The name of the owner of record and any other person against whom Throop Borough intends to take action.
- B. The location and/or address of the property in violation.
- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1406 (M) shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless

extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

#### 1204.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Borough Council or, with the approval of the Borough Council, an officer or agent of Throop 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 proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Throop Borough not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

#### 1204.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1204.1 of this Ordinance.

#### 1204.4 ENFORCEMENT REMEDIES

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

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

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

#### SECTION 1205      PROCEDURE TO OBTAIN PRELIMINARY OPINION

In accordance with Section 916.2 of the Pennsylvania Municipalities Planning Code, the Zoning Officer, shall be authorized to render a preliminary opinion for pending applications of development. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under Section 1413 of this Ordinance by the following procedure:

- A. The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- B. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 1207 and the time therein specified for commencing a proceeding with the Zoning Hearing Board shall run from the time when the second notice thereof has been published. A favorable preliminary opinion shall in no way preclude landowner's responsibility to formally submit all required applications and gain approval of the same prior to the start of any activity related to the subject development.

#### SECTION 1206      SCHEDULE OF FEES, CHARGES AND EXPENSES

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

**ARTICLE 13**  
**AMENDMENTS**

**SECTION 1301**      **AMENDMENT PROCEDURE**

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

- (A) Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before the Borough Council to provide the Borough Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Lackawanna County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Borough Council shall submit any required fees charged by the Lackawanna County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Borough Planning Commission and the Lackawanna County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
  - 1. Notice of the public hearing shall be conspicuously posted by the Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.
  - 2. Written notice of the public hearing shall be mailed by the Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail to the

addresses to which real estate tax bills are sent to property owners whose properties are located within the boundaries of the area proposed to be rezoned.

Written notice of the public hearing shall also be mailed by the Borough, at least seven (7) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent to property owners whose properties are located within a distance of two hundred (200) feet of any property boundary line of the property or area proposed to be rezoned.

The above information for providing written notices to property owners shall be based upon the most current tax records possessed by Throop Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of the Borough Council to provide written notice to such owners, failure to do so shall not invalidate or otherwise affect a duly enacted ordinance that amends in the Zoning Map.

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

#### SECTION 1302      APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1301 of this Ordinance. An application shall contain the following information as applicable:

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

## SECTION 1303     CURATIVE AMENDMENTS

### 1303.1   INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Lackawanna County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

The public hearing before the Borough Council shall be conducted in accordance with the applicable procedures contained in Section 1406 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider in addition to the landowner's proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the

degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.

- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Board of Commissioners

#### 1303.2 INITIATED BY THE BOROUGH

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within one hundred eighty (180) days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1408 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the

enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

#### SECTION 1304      ENACTMENT OF AMENDMENTS

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

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1301 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the Borough solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Borough a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

#### SECTION 1305      NOTIFICATION TO COUNTY

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

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**ARTICLE 14**  
**ZONING HEARING BOARD**

**SECTION 1401 MEMBERSHIP OF BOARD**

The membership of the Zoning Hearing Board shall consist of three (3) residents of Throop Borough appointed by resolution by the Throop Borough Council. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Throop Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall not be an employee of the Borough, nor hold any office in the Borough, including membership upon the Planning Commission.

**SECTION 1402 ALTERNATES TO ZONING HEARING BOARD**

The Throop Borough Council may appoint by resolution up three residents of Throop Borough to serve as alternate members of the Board. When seated pursuant to the provisions of Section 1404 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall not be an employee of the Borough, nor hold any office in the Borough, including membership upon the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1404 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be for three (3) years.

**SECTION 1403 REMOVAL OF MEMBERS**

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

**SECTION 1404 ORGANIZATION OF BOARD**

The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1406. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate an alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which

the alternate was initially appointed until the Board has made a final determination of the matter or case.

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

#### SECTION 1405 EXPENDITURES FOR SERVICES

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

#### SECTION 1406 HEARINGS

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

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The Throop Borough Council
- 3. The applicant.
- 4. The owner of record of the subject property before the Board, if different than that of the applicant.
- 5. Any party or person who has submitted a written request to receive notification on the subject property.
- 6. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or side yard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way.

In cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and mailing addresses of the true and correct owners of record based upon the records contained in the Lackawanna County Tax Assessor's Office at the time their application for a hearing is submitted. While it shall be the intent of the Throop Borough Zoning Hearing Board to provide written notice to those affected property owners as set forth above, failure to do so shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board in accordance with a Fee Schedule as set forth in Section 1206 of this Ordinance. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the

hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Borough Council, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic, or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, provide written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five (45) days. The parties shall be entitled to make

written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1406 (D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1406 (A) and written notice of the decision shall be mailed to those parties identified under Section 1406(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- M. In any appeal of an enforcement notice under Section 1206.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

## SECTION 1407 MEDIATION OPTION

### 1407.1

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

### 1407.2

Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board,

the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

#### SECTION 1408 JURISDICTION OF ZONING HEARING BOARD

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

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1303.1 of this Ordinance.
- B. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-desist order, the revocation of a zoning permit or building permit or the registration or refusal to register any nonconforming use, structure or lot.

- C. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- D. Applications for variances, pursuant to Section 1409 of this Ordinance.
- E. Applications for special exceptions pursuant to Section 1410 of this Ordinance.
- F. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and/or stormwater management not related to development which is classified as a subdivision, land development, or a planned residential development.
- H. Appeals from the Zoning Officer's determination in rendering a Preliminary Opinion under Section 1205 of this Ordinance.

## SECTION 1409 VARIANCES

### 1409.1 INITIAL DETERMINATION BY ZONING OFFICER

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

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

### 1409.2 CRITERIA FOR GRANTING A VARIANCE

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

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally

created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impairs the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Unless approved as part of the variance request, an applicant for a proposed use or development shall comply with any applicable standards and/or criteria as set forth in Article 8, Supplemental Regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### SECTION 1410 SPECIAL EXCEPTIONS

##### 1410.1 INITIAL DETERMINATION BY ZONING OFFICER

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

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

##### 1410.2 CRITERIA FOR GRANTING A SPECIAL EXCEPTION APPROVAL

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

1. The proposed use shall not jeopardize Community Development Objectives as set forth in this Ordinance and the Throop Borough Comprehensive Plan, including any updates, revisions and/or amendments thereto.

2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
7. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall comply with any applicable standards and/or criteria as set forth in Article 8, Supplemental Regulations.
10. The proposed use and/or development shall not be injurious to the public interest.

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

#### SECTION 1411 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1408 of this Ordinance may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's

signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

## SECTION 1412 TIME LIMITATIONS

### 1412.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

### 1412.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

## SECTION 1413 STAY OF PROCEEDINGS

### 1413.1

Upon filing of any proceeding referred to in Section 1408 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

#### 1413.2

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

#### 1413.3

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

#### 1413.4

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

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**THROOP BOROUGH**  
**LACAWANNA COUNTY, PENNSYLVANIA**  
**ZONING MAP**

**THE 30 DAY CHALLENGE**



**John R. Varley, AICP**  
**Varley Associates, LLC**  
Professional Planning Consultants  
39 Elm Street  
Willsboro, N.Y. 12895

