ORDINANCE NO. 2018-01

AN ORDINANCE OF THE BOROUGH OF ELVERSON,
CHESTER COUNTY, PENNSYLVANIA, ENACTING A NEW
ZONING ORDINANCE ENTITLED "THE ELVERSON
BOROUGH ZONING ORDINANCE OF 2018"

IT HEREBY IS ENACTED AND ORDAINED by the Borough Council of the
Borough of Elverson, pursuant to Section 104 of the following Ordinance, as follows:
Approved by the Borough Council of the Borough of Elverson, Chester County, Pennsylvania, and ENACTED into an Ordinance of the Borough Council of the Borough of Elverson this 4th day of September, 2018.

BOROUGH COUNCIL OF THE
BOROUGH OF ELVERSON

Dwight J. Frizen, President

Robert C. French, Vice President

John Stewart

J. Robert Clements

Mette Stoltzfus

Douglas H. Hoskins

George Pirantello

ATTEST:

Lori Kolb, Secretary

APPROVED:

Robert Broderick, Mayor
Elverson Borough
Chester County, Pennsylvania

2018 ZONING ORDINANCE
Adopted September 4, 2018

Elverson Borough Council

Dwight Frizen - President
Bob French - Vice President
Jack Stewart
Bob Clements
Merle Stoltzfus
Doug Hoskins
George Firrantello

Borough Mayor - Bob Broderick

Borough Planning Commission

Dave Stoltzfus – Chairman
Bob Colmery – Vice Chairman
David Hall
John Carroll
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Borough Zoning Update Task Force

Merle Stoltzfus
Dwight Frizen
David Hall
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Robert Trout
Robert Clements
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Borough Zoning / Code Officer - Kraft Code Services

Borough Engineer - Spotts, Stevens and McCoy

Borough Solicitor - Yergey-Daylor-Allenbach-Sceffey-Picardi Law Offices

Technical Assistance and Funding

This Zoning Ordinance was prepared by Elverson Borough with technical assistance provided by the Chester County Planning Commission. Funding was provided, in part, through a grant from the Vision Partnership Program sponsored by the Chester County Board of Commissioners. The Ordinance has been prepared in conjunction with the principles of the County’s policy plan, Landscapes, as a means of achieving greater consistency between local and county planning programs.
# Elverson Borough Zoning Ordinance

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Zoning Map
ARTICLE 1
Preamble

SECTION 101 SHORT TITLE

This Ordinance shall be known, and may be cited as, the Elverson Borough Zoning Ordinance of 2018.

SECTION 102 PURPOSE

A. To promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, community facilities, and other public improvements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains.

B. To prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flooding, panic or other dangers.

C. 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.

D. To enact an ordinance in accordance with the Municipalities Planning Code and an overall planning program, with consideration for the character of the Borough, its various parts, and the suitability of the various parts for particular uses and structures.

SECTION 103 STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

The objectives of zoning, as embodied in this ordinance, are derived from and conform to the comprehensive planning processes and activities of Elverson Borough and its policies for resource protection, land use, growth management, housing, circulation, and the provision of community facilities and services. The particular objectives for community development which Elverson Borough seeks to achieve through this Ordinance are among those contained in the Elverson Borough Comprehensive Plan of 2014, consistent with the requirements for such as prescribed in Section 606 of the Pennsylvania MPC, Act 247 as amended. Those particular goals, as articulated within the Comprehensive Plan, are as follows:

A. Provide for orderly growth that encourages economic vitality and quality of life while promoting a balance between existing businesses, growth, and resource protection.

B. Encourage a variety of housing options in the Borough to address population needs while maintaining the quality and diversity of the existing housing stock.

C. Provide and promote accessible, efficient, reliable, and fiscally responsible community services and facilities.

D. Ensure a safe and effective roadway system that is compatible with surrounding land uses.
E. Create a walkable and bikeable pedestrian-oriented community where sidewalks and trails safely connect community destinations.

F. Protect, enhance, and maintain natural resource features, landscapes, and functions to sustain ecosystems, public health, and quality of life.

G. Identify, preserve, protect, and enhance the integrity of historic and scenic resources and their settings to maintain the Borough’s heritage and character.

H. Promote the establishment and maintenance of a network of recreational facilities and open space lands that provide public health, ecological, economic, and quality of life benefits.

SECTION 104 AUTHORITY

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

SECTION 105 INTERPRETATION AND SCOPE

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the aforementioned purposes and objectives. From and after the effective date of this Ordinance, the use, construction, and development of all land, buildings, structures, signs or portions thereof, shall be subject to the regulations herein. Any existing buildings, structures, land, uses, or signs existing at the effective date of this Ordinance that are not in conformity with the regulations herein may be continued, extended or changed in accordance with the regulations herein contained relating to nonconformities.

SECTION 106 CONFLICT

A. It is not intended by this Ordinance to repeal, abrogate, annul or interfere with any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this Ordinance. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall prevail. Where the provisions of any statute, other ordinance or regulation shall impose greater restrictions than the provisions of this Ordinance, the greater restrictions shall prevail.

B. Specific references herein to other applicable regulations (e.g., Pennsylvania Department of Environmental Protection) are advisory and do not waive applicability of any other regulations not specifically referenced.

SECTION 107 VALIDITY AND SEVERABILITY

If any section, paragraph, subsection, clause, phrase, term, word, or provision of this Ordinance should be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or of any other part thereof.
SECTION 108       REPLEALER

All ordinances or parts of ordinances inconsistent herewith are hereby repealed. The Elverson Borough Zoning Ordinance of 1998 and amendments thereto, are hereby repealed.

SECTION 109       EFFECTIVE DATE

This Ordinance shall be known and may be cited as the “Borough of Elverson Zoning Ordinance of 2018.” This Ordinance shall take effect and be in force from and after its adoption this Fourth (4th) day of September 2018.
SECTION 201   DEFINITIONS AND WORD INTERPRETATION

Unless otherwise expressly stated, the following words shall be construed throughout this Ordinance to have the meaning set forth in this Article.

A. Words used in the present tense include the future.
B. The singular includes the plural and the plural the singular.
C. The masculine gender includes the feminine and the neuter.
D. The words “shall” and “must” are mandatory.
E. The word “may” is optional.
F. The words “district” and “zone” shall be synonymous.
G. The word “used” shall include the words “arranged”, “designed”, or “intended to be used”.
H. The word “person” includes an individual, corporation, partnership, public or private association or corporation, firm, trust, estate, governmental unit, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
I. Where terms, phrases, or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.

SECTION 202   DEFINITIONS

For the purposes of this Ordinance and the Subdivision Ordinance, the following words and phrases shall have the meanings given to them in this Article:

**Accessory Use or Structure.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Act 209.** Act 209 of 1990, as now and hereafter amended, as it relates to Traffic Impact Studies.


**Adult.** An individual considered in the law to be an adult, that is, a person of a minimum of eighteen (18) years of age.

**Adult Use.** Any adult bookstore, adult cabaret, or adult mini-picture theater, as defined herein and which, under the Pennsylvania Obscenity Code, must exclude minors or may not knowingly disseminate to minors.

A. **Adult Bookstore.** An establishment, having as a substantial or significant portion of its stock in trade, whether for sale or rental, books, magazines, novelties, or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" as defined herein.

B. **Adult Cabaret.** A cabaret, tavern, theater, or club which features strippers, male or female impersonators or similar entertainers who exhibit, display, or engage in obscenity, sexual conduct or sadomasochistic abuse, as defined in the Pennsylvania Obscenity Code.
C. **Adult Mini-Motion Picture Theater.** An enclosed building offering video presentations distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" for observation by patrons within private viewing booths and/or by use of token or coin operated projectors or other video machines.

D. **Adult Theater.** Any business, indoor or outdoor, which exhibits a motion picture show or other presentation which, in whole or in part, depicts obscenity, sexual conduct or sadomasochistic abuse as defined in the Pennsylvania Obscenity Code.

**Age-restricted Retirement Facility.** Housing and/or a facility designed and operated for mature adults, which meets the definition of “housing for older persons” as set forth in the Fair Housing Amendments Act of 1988, as amended, that may offer one or more levels of assistance, including but not limited to independent living, assisted living, and skilled nursing and may offer a continuum of housing (single family detached, attached, multifamily, etc.), services and health care systems, all in one building, campus, or on a site. Such housing units and/or facilities are operated for adults, generally fifty-five (55) years old or older, that may include one or any combination of the following:

A. **Independent Living.** Provides attentiveness for seniors who can essentially take care of themselves but need someone to sporadically check on them or be on call for certain needs. Independent living may take place in a congregate facility (communal setting), apartments, or facility where there are independent living units (single family detached, two-family, or multi-family dwellings) which may be rental assisted or market rate housing.

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

C. **Skilled Nursing (Nursing Home).** Traditionally considered as a “nursing home” typically in a congregate facility (communal) setting that provides medical nursing service for residents with serious illnesses or disabilities twenty-four (24) hours a day where patients generally rely on assistance for most or all daily living activities. These facilities require state and federal licenses in order for them to provide care by registered nurses, licensed practical nurses, and certified nurse aids.

**Agricultural Animal (Livestock).** Animals raised as a part of a commercial agricultural operation for sale, the production of other products, work animals, or for recreation, including but not limited to horses, mules, cattle, oxen, sheep, goats, pigs, and poultry.

**Agriculture (Farm).** The cultivation of soil and the raising and harvesting of the products of the soil, including nurseries, horticulture, commercial greenhouses, forestry, dairy farming, or growing crops, and the raising of livestock, horses, and poultry not to exceed a combined total of one thousand (1,000) pounds per acre, or one (1) animal equivalency unit (AEU) per acre, but excluding intensive agriculture. Agriculture also includes aquaculture.

**Agriculture, Intensive.** Agriculture uses involving the processing or production of agricultural products with a certain density which meet with the Environmental Protection Agency’s definition for Concentrated Animal Feeding Operations (CAFOs) or the Commonwealth of
Pennsylvania’s definition for Concentrated Animal Operations (CAOs) depending upon which type of operation is in place or a mushroom production facility, composting facility, or slaughterhouse.

**Alley.** A minor right-of-way providing secondary vehicular access to the side or rear of two (2) or more properties. See also Street.

**Alteration.** A rearrangement, renovation, relocation, or enlargement of any building, structure, or sign, including any change of use classification.

**Applicant.** A landowner or developer, as herein defined, who has filed an application for development including their agents, heirs, successors and assigns.

**Application for Development.** Any application, whether preliminary or final, required to be filed and approved prior to the start of construction or development, including but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a land development plan.

**Athletic Equipment Sales and Repair Shop.** A store involved in the retail sales and repair of athletic equipment such as camping equipment, bicycles, skis, snowboards, kayaks, paddleboards, rock climbing equipment, snowshoes, field sports equipment (soccer, football, baseball), and similar equipment.

**Area and Bulk Regulations.** Provisions which regulate individual lot sizes and the spatial arrangement of structures within individual lot boundaries including, but not limited to, required minimum yards, building height restrictions, and maximum building and lot coverage.

**Bank or Financial Institution.** Any building wherein the primary occupation or use is concerned with such business as banking, savings and loan associations, credit unions, loan companies, mortgage companies, or investment companies.

**Basement.** An area of the building having its floor below ground level.

**Bed and Breakfast Establishment.** An accessory use to a dwelling unit in which temporary lodging accommodations are provided to transient persons for compensation, including the serving of meals.

**Block.** An area of land or lots bounded by streets.

**Borough.** The Borough of Elverson, Chester County, Pennsylvania.

**Borough Council.** The Borough Council of Elverson Borough, Chester County, Pennsylvania.

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

**Builder.** The person(s) responsible for the erection of any improvement or part thereof, whether such person be the applicant or otherwise.
**Building.** A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

**Building Code.** The most current version of the building code adopted by the Borough of Elverson. (See UCC)

**Building Code Official.** An official appointed and authorized by the Elverson Borough Council to undertake official Borough actions including, but not limited to, the receipt, approval, and serving of Borough permits, enforcing the UCC, and other business, which shall include, but not be limited to, the Borough Zoning Officer, Building Code Official, Code Officer, and other officials as appointed by Borough Council.

**Building Coverage.** The ratio of the total ground floor area of all buildings on a lot to the total area of the lot on which they are located. The percentage of the lot area covered by buildings. See Figure 2-19

**Building Envelope.** The remaining area within a lot, inside of the minimum required yards, where a principal structure may be built, in compliance with maximum building coverage and building height requirements in the zoning districts of this Ordinance. See Figure 2-19

**Building Footprint.** The total ground floor area of a building.

**Building Height.** A building's vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, provided that chimneys, spires, towers, elevator penthouses, and similar projections shall not be included in calculating the height. See Figure 2-1

**Building Length.** The horizontal measurement of any continuous building wall.

**Building Line.** A line passing through the point of a building or structure nearest to the front lot line, parallel to such line and at a distance therefrom established by the actual location of the building or structure; the building line may be the same as the required minimum front yard or may be farther from the front lot line, but shall not be closer to the front lot line than the required minimum front yard. See Figure 2-19

**Building Permit.** A statement issued and signed by the Building Code Official, or other duly authorized agent of the Borough of Elverson, which authorizes the erection, construction, alteration, conversion, replacement, diminution or enlargement of a building or structure. The statement should indicate that the proposed activity complies with the applicable Borough Codes and Ordinances.

**Bulk.** A term used to describe the size of buildings or other structures and their relationship to each other, to open areas such as yards and or lot lines and includes: the size, height and floor area of a building or other structure; the relation of the number of dwelling units in a residential building to the area of the lot (density); and, all open areas in yard space relating to buildings
and other structures in accordance with the area and bulk requirements and other applicable requirements of this Ordinance.

**Caliper.** The diameter of a tree trunk measured six (6) inches above the ground for trees up to and including four (4) inch caliper and measured twelve (12) inches above the ground for trees larger than four (4) inch caliper. See Figure 2-2.

**Cartway.** That portion of a street between faces of curbs or which is paved or otherwise intended for vehicular use.

**Cemetery.** Land used or intended to be used for the burial of bodies or cremated remains thereof, including columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Certificate of Use and Occupancy.** A statement signed, issued, and administered by the Building Code Official, or other duly authorized agent of the Borough, upon completion of construction of a new building or upon change or conversion of a structure or use of a building, which establishes that a building or use complies with all requirements and regulations as provided in this Ordinance and other applicable codes, and that the same may be occupied or used for the intended use.

**Clear Sight Triangle.** An area of unobstructed vision at street intersections defined by lines of sight between points at given distances from the intersection of street center lines in accordance with the Multimodal Circulation Handbook for Chester County, PA.

**Commercial Use.** A use of land or improvements thereto for the purpose of engaging in retail, wholesale or service activities for profit.

**Community Facilities.** The services that provide for various community health, education, safety, leisure and like needs and the locations at which these services are provided. Typical community facilities include: schools; parks and recreation areas; libraries; hospitals and other health care facilities; public water and sewer facilities; fire protection; police, ambulance and rescue services; municipal buildings; and postal services.

**Comprehensive Plan.** The Comprehensive Plan of the Borough of Elverson, Chester County, Pennsylvania, as adopted and amended from time to time.

**Condominium.** A type of ownership, and not a type of use, wherein each commercial, industrial, office, apartment or townhouse unit is owned in fee, while the land and such appurtenances as driveways, parking areas, sidewalks, landscaping, swimming pools and other recreational facilities, street lighting, heating, facilities, entrance lobbies, halls, elevators and on-site utilities remain under the ownership, with full responsibility for maintenance, of the developer, or any corporation holding title to such land and appurtenances including a property owner's association made up of the owners, subject to the provisions of the Pennsylvania Uniform Condominium Act of 1980, as now and hereafter amended.

**Congregate Care.** An Age Restricted Retirement Community or part thereof, where permitted, which shall be limited by deed or by lease where applicable, for providing lodging or boarding for compensation to adult individuals and/or couples, one of whom is at least fifty five (55) years
or older, and who do not have resident dependent children living in a single structure or structures that contain multiple dwelling units and related facilities (foyer, management, dining, recreation, etc.). A congregate care facility may include nursing care to sick, invalid, infirm, disabled or convalescent persons.

**Conservation Plan.** A plan for the conservation of precipitation and soils meeting the standards established and revised from time to time by the Pennsylvania Department of Environmental Protection, the Chester County Soil and Water Conservation District and by the Natural Resources Conservation Service, U.S. Department of Agriculture.

**Construction.** The erection, modification, or alteration of any structure. Limited disturbance to soil or vegetation associated with the entering upon the premises for purposes of surveying, staking, or to obtain necessary data on existing conditions shall not be deemed “Construction.”

**Conversion.** An alteration of a building, structure or land by change of use, theretofore existing, to a new use.

**Council.** Borough Council of Elverson Borough, Chester County, Pennsylvania.

**Crematory.** A place where bodies are consumed by incineration and the ashes of the deceased are collected for permanent burial or storage in urns.

**Curbline.** The outer edge of a cartway.

**Curb.** A stone, concrete, or pavement boundary usually marking the edge of a roadway, cartway, or paved area.

**Curb Cut.** A gap in a curb to enable vehicular access to a driveway or alley or for a sidewalk or pedestrian facility.

**Curve, Horizontal.** A transition between two tangent strips of roadway, allowing a vehicle to negotiate a turn at a gradual rate rather than a sharp cut.

**Curve, Vertical.** A transition between two sloped roadways, allowing a vehicle to negotiate the elevation rate change at a gradual rate rather than a sharp cut.

**Cut.** A portion of land surface from which soil, rock, and other materials have been removed or will be removed by excavation.

**Day Care.** A facility which, on a daily basis, exclusively provides supplemental care and supervision and/or instruction to children or adults who are not all related to the care giver or operator, where tuition, fees or other forms of compensation are charged, whether governmentally subsidized or not, and which is licensed or approved to dispense such care by the Commonwealth of Pennsylvania, and whether operated for profit or not-for-profit. The following definitions are included herein but, where applicable, are subject to change by the PA Department of Public Welfare and/or Department of Aging, which shall prevail in the case there is a conflict:
A. **Home Occupations:**

1. **Family child day care home.** A location other than the child’s own home, operated for profit or not-for-profit, in which child day care is provided at any one (1) time to four, five or six (4, 5, or 6) children unrelated to the operator. A family child day care home shall have a certificate of registration from the PA Department of Public Welfare in order to legally operate. This use is typically a home occupation.

2. **Group child day care home.** A premises in which care is provided at one (1) time for more than six (6) but fewer than sixteen (16) older school-age level children or more than six (6) but fewer than thirteen (13) children of another age level who are unrelated to the operator. The term includes a facility located in a residence or another premises. A group child day care home shall have a certificate of compliance (“license”) from the PA Department of Public Welfare in order to legally operate. This use is typically a home occupation.

3. **Home Child Day Care.** This is home occupation serving less than four (4) children unrelated to the homeowner, falling below the number of children requiring a license or registration required by the PA Department of Public Welfare.

B. **Day care center (Commercial Day Care).** A premises in which care is provided at any one (1) time for seven (7) or more children or adults unrelated to the operator. A day care center shall have a certificate of compliance (“license”) from the PA Department of Public Welfare in order to legally operate. This use is typically a non-residential use.

C. **Day-care center, Adult.** A premises operated for profit or not-for-profit in which older adult daily living services are simultaneously provided for nonresident clients who are not relatives of the operator for part of a twenty-four-hour day. Services provided to clients may include nursing, personal care, nutrition, social services, activities, and emergency care as defined by the Pennsylvania Department of Aging. Adult day-care centers are regulated by the Pennsylvania Department of Aging. This use is typically a non-residential use.

**Diameter at Breast Height (DBH).** The outside diameter of a tree at breast height which is defined as four and one half (4.5) feet (one and thirty-seven one-hundredths of a meter (1.37 m)) above the forest floor on the uphill side of the tree. See Figure 2-3

**Demolition.** Any act of pulling down, removing, dismantling, or razing a substantial portion of a structure or building. Substantial portion shall mean fifty (50) percent of the volume of the structure, building, or the roof structure.

**Density.** The number of dwelling units (du) per net or gross acres (#du/acre).

**Density, Gross.**

A. The numerical value obtained by dividing the total number of dwelling units on a tract by the total tract area expressed in dwelling units per acre.
B. The following definition is specific to Section 1226: The total area within the title lines of a lot or tract divided by the total number of dwelling units existing and/or to be constructed thereon, expressed in dwelling units per acre, such area including internal streets having rights-of-way not over fifty (50) feet in width, common open space, permitted commercial uses, and all land devoted to residential use, but excluding exterior street rights-of-way and internal streets having rights-of-way greater than fifty (50) feet in width.

Density, Net.

A. The numerical value obtained by dividing the total number of dwelling units on a tract by the tract area minus easements, applicable natural resources in accordance with this ordinance, and street rights-of-way, expressed in dwelling units per acre.

B. The following definition is specific to Section 1226: The number of dwelling units per acre, within only that portion of the lot or tract devoted to any one (1) particular housing type, including the yards, off-street parking and driveway facilities directly serving those particular dwelling types but excluding common open space, permitted commercial uses, public streets and other community facilities.

Detention Basin. An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate to cause the deposition of sediment and to retard the velocity and rate of surface flows leaving as a means of preventing erosion. Detention basins are designed to drain completely shortly after any given rainfall event.

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

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

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

District, Base. A zoning district designated by this Ordinance and whose boundaries are depicted on the Zoning Map for the Borough of Elverson.

District, Overlay. A zoning district designated by this Ordinance and whose boundaries are depicted on the Zoning Map for the Borough of Elverson, apply only to specific designated areas, or for certain features as determined by the text of this Ordinance and delineated in Article 3, Establishment of Districts.
**Diversions.** A channel or ditch and embankment constructed across a sloping land surface, either on the contour or at predetermined gradient, to intercept and divert stormwater before it gains sufficient volume or velocity to scour or cause harmful erosion.

**Domesticated Animals.** Any of various non-farm (agricultural) animals, typically kept for personal enjoyment or companionship not raised for food, fur, or monetary gain, that have been tamed and made fit for a human environment and are generally kept inside the primary residence. Domestic animals are generally considered "pets", and are generally smaller animals including, but not limited to dogs, cats, hamsters, rabbits, turtles, and fish but not fowl, herd animals, goats, cattle or horses or any exotic pets precluded by other laws or ordinances.

**Domesticated Animal Shelter.** A small accessory structure that provides a temporary outdoor shelter for a domesticated animal.

**Drainage.** The flow of water or other liquid and the means of structures for directing such flow, whether surface or sub-surface, and whether natural or artificial.

**Drip Line.** A generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points. See Figure 2-4.

**Driveway, Private.** That portion of a lot which is intended for vehicular use and which is privately owned, whether paved or unpaved.

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

**Dump.** Any lot upon which trash, debris and other refuse are periodically and illegally deposited; not a permitted use.

**Dwelling, Principal.** The primary use of a parcel in a residential zoning district.

**Dwelling Unit.** A single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Dwelling Unit Types.** Dwelling units may be arranged in the following manner. See Figure 2-5:

A. **Single Family Detached.** A building providing one (1) dwelling unit used exclusively for occupancy by one (1) family with building having independent access and yards on all four (4) sides of the dwelling: two (2) side yards, one (1) front yard, and one (1) rear yard.

B. **Two-Family Dwelling.** A building designed for and containing two (2) independent dwelling units, each with separate access and separated by a party wall. Two-family Dwellings may be referred to in one (1) of the following two (2) configurations or some other similar arrangement:

1. **Twin.** A building consisting of two (2) attached buildings (semi-detached) each containing one (1) independent dwelling unit separated by a vertical party wall and each dwelling unit existing on a separate lot. Each dwelling unit has one (1) side yard opposite
the side with the party wall, one (1) front yard, and one (1) rear yard. Dwelling units could be considered “side by side.”

2. **Duplex.** One (1) building consisting of two (2) dwelling units separated by a horizontal floor/ceiling assembly on the same lot. Dwelling units could be considered “over-under.”

C. **Multi-Family.** A building containing three (3) or more dwelling units. Multi-family units may be arranged in the following configurations: townhouses, apartment building, mixed use.

   1. **Townhouse.** A single-family attached dwelling unit in a row of a minimum of three (3) attached units in which each dwelling unit has independent access to the outside, there is only one (1) dwelling unit from ground to roof, and each dwelling unit is separated from any other dwelling unit by one (1) or two (2) vertical fire-resistant party wall(s). Dwelling units with two (2) party walls have no side yards and end units have one (1) side yard opposite the side with the party wall. Townhouses may or may not exist on independent lots.

   2. **Apartment Building.** A building or part of a building containing three (3) or more independent dwelling units for rent, separated by party walls, regardless of configuration. Each dwelling unit has independent access, however, in some cases access to the outside may be accomplished by a common hallway in accordance with building codes and fire regulations.

D. **Mixed Use.** Dwelling unit(s) above or behind a non-residential use within the same building, physically separated from any other dwelling unit or non-residential use. Each dwelling unit shall have independent access to the outside, however, in some cases access may be accomplished by a common hallway for dwelling units in accordance with building codes and fire regulations. The outside access shall be separate from the access for the associated non-residential use. Mixed use may qualify as multi-family where there are three (3) or more dwelling units.

E. **Residential Conversion.** A change in residential use from one (1) single-family dwelling unit to no more than three (3) dwelling units in the same building. One (1) unit shall be considered a principal use owned and occupied by the owner of the property while the second or third unit may be rented or leased.

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

![Figure 2-5: Dwelling Unit Types](image)

**Earth Disturbance (or Earth Disturbance Activity).** A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing;
grading; excavations; road maintenance; land development; building construction; and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

**Easement.** An interest in land owned by another that entitles the holder of the easement to a specific use or enjoyment of the land.

**Educational Use.** Use of land or building or buildings for the establishment and maintenance of a public or private college, secondary or elementary school, or other educational institution for the academic instruction but not including an institution or organization directed primarily to the physical training or development of physical or manipulative skills.

**Electric Substation.** Buildings, or structures and equipment erected and used for the purpose of transmission, switching or transforming of electrical current between customers and the Utility Company facilities, not including the storage of materials, trucks, repair facilities or housing of repair crews, such buildings or structures being effectively screened to blend the installation with the surrounding landscape.

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

**Engineer.** A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for Elverson Borough, its planning commission or authority.

**Erosion.** The process by which soils, vegetation, and man-made materials on the earth's surface are worn away by action of water, wind, frost, or a combination of such actions.

**Façade.** Any exterior face or front of a building.

**Family.** The Zoning Officer or other official Borough representative shall have the authority to determine whether a group of individuals is living together as the functional equivalent of a family for purposes of this Section.

A. A single person occupying a dwelling unit.

B. Any number of persons related by blood, marriage or adoption, including foster children and including not more than two (2) other persons, for example, boarders, lodgers or domestic help.

C. Not more than three (3) unrelated persons living together as a single cooperative household unit.

D. A group of individuals with disabilities living together as the functional equivalent of a family and entitled to a reasonable accommodation to allow them adequate housing choices pursuant to the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. §§ 601 et. seq.) and the Pennsylvania Human Relations Act (43 P.S. §§ 951-963).

**Fill.** Any earth, sand, gravel, rock, inorganic material, or any other material, except landscape plantings or other customary landscape materials, which is deposited, or moved to a new location, including conditions resulting therefrom.
**Floodplain Ordinance.** The most current version of the Floodplain Ordinance adopted by the Borough.

**Floor Area.** Floor area as defined by the most current building code adopted by the Borough (UCC).

**Floor Area, Gross.** Gross floor area as defined by the most current building code adopted by the Borough (UCC).

**Forestry/Timber Harvesting.**

A. The management of forests and woodlands 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.

B. Planning and activities necessary for the management of forest or woodlands. These include timber inventory, preparation of forest management plans, silviculture treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

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

**Glare, Direct.** Illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent, or arc lighting, or from such high temperature processes as welding, petroleum or metallurgical refining.

**Governing Body.** Shall mean the Elverson Borough Council, Chester County, Pennsylvania.

**Grade, Existing.** The elevation, relative to a given datum, of the ground surface prior to any excavation or fill.

**Grade, Finished.** The elevation, relative to a given datum, of the ground surface after completion of any excavation or fill.

**Grade, Proposed.** The elevation, relative to a given datum, of the ground surface proposed to be achieved by excavation or fill.

**Grading Plan.** A plan to scale showing existing and proposed buildings and other structures, as well as existing and proposed contours at sufficient intervals to indicate any proposed change to existing grade and to define swale location, depth, gradient, and general slope of the ground.

**Grading.** The changing of the surface of the ground by excavation, filling, or combination of the two; the act of moving earth.

**Gross Sales/Service Area.** That portion of a nonresidential use that is used for display or sale of products, purchasing/transactions, sales/service offices, meeting rooms, public restrooms, or customer service areas that are intended for or open to and available to customers/patrons. Areas restricted from or not intended for customers including but not limited to storage areas,
areas for employees where customer access is restricted (breakrooms/restrooms), and offices where customer service or interaction is not intended are not included in gross sales area.

**Group Care Facility.** A facility providing shelter, counseling, and other rehabilitative services in a family-like environment that may include minimum supervisory personnel, as required to meet standards of the licensing agency. A group care facility shall be licensed and/or approved if and as required by the appropriate agency. A group care facility shall be permitted within and considered a single-family detached dwelling.

**Guarantee, Completion.** An acceptable bond or funds in escrow, sufficient to cover the complete cost of required improvements, as estimated by the Borough Engineer, or other qualified person designated by Borough Council.

**Guarantee, Maintenance and Performance.** An acceptable bond or funds in escrow sufficient to cover maintenance costs of a given facility and to sustain operation of said facility to appropriate standards for a length of time to be determined by Borough Council. Appropriate standards and costs shall be determined by the Borough Engineer or other qualified person designated by the Borough Council.

**Hedgerow.** A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fencelines, property lines, or between fields, and may occur naturally or be specially planted (e.g., as a windbreak).

**Historic Resource.**

A. Any building, wall, bridge, structure, road, trail, quarry, archeological site or cultural artifact listed on the National Register of Historic Places or identified as contributing in the nomination to the National Register of Historic Places for the Elverson Historic District, or identified in the Chester County Historic Sites Survey.

B. A structure that is:

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

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

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

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior.

   b. Directly by the Secretary of the Interior in states without approved programs.
**Homeowners Association.** A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents, subject to the provisions of the Pennsylvania Uniform Planned Community Act of 1996.

**Home Occupation.** An accessory use constituting entirely or partly the livelihood of person(s) living in a dwelling unit, when in accordance with Section 1213.

A. Minor home occupation (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, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with the residential use. (MPC Section 107)

B. Major home occupation. A major home occupation exceeds the minimum requirements of a no-impact home based business, for example a home occupation that includes employees that are not residents of the dwelling unit in which the home occupation is located.

**Hospital.** An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice. A hospital is typically capable of and permitted to provide twenty-four (24) hour emergency services or overnight lodging of patients.

**Hotel.** A facility offering transient lodging accommodations to the general public and providing additional services or accessory uses including but not limited to restaurants, meeting rooms, and recreational facilities made available to patrons.

**Illumination.** Quantity of light, measured in footcandles.

**Impervious Cover or Coverage.** A surface that has been compacted or covered with a layer of material so that it prevents or is resistant to infiltration of water, including but not limited to: structures such as roofs, buildings, storage sheds; other solid, paved or concrete areas such as streets, driveways, sidewalks, parking lots, patios, decks, swimming pools, tennis or other paved courts; or athletic playfields comprised of synthetic turf materials. Compacted soils or stone surfaces used for vehicle parking and movement shall be considered impervious. Surfaces that were designed to allow infiltration (i.e. areas of permeable pavement) will be considered on a case-by-case basis by the Municipal Engineer, based on appropriate documentation and condition of the material, etc. See Figure 2-6

**Improvement.** The construction of any type of structure, facility and/or pavement, including but not limited to grading, paving, curbing, street lights, street signs, fire hydrants, water mains, sanitary sewer mains (including laterals to the street right-of-way line), storm drains (including all necessary structures), sidewalks, street trees, and monuments.
Industrial, Light. Light industrial is defined as the creation, assembly, maintenance, disassembly, and recycling of products that are originally created products and materials that are commercially available in the marketplace. Examples of products and materials that are commercially available in the marketplace include fabrics, leather, paper and cardboard, plastic, glass, wood, paints and coatings, adhesives, pigments, dyes, colorants, and other commonly-used industrial chemicals.

Examples of uses which would be permitted in this category include the fabrication and assembly of wooden sheds, gazebos, lawn and patio furniture, and playground equipment; manufacturing of stationary, cardboard boxes and cartons, and packaging products. Additional examples of light industrial include manufacturing and packaging of pharmaceutical products, food products; bottling or packaging of dairy products, the manufacturing, assembly, and repair of professional, scientific, and electronic instruments; jewelry and watch manufacturing and repair; and the fabrication and assembly of office equipment, electrical appliances and electric or electronic equipment. Light industrial also includes metal-working and metal fabrication processes that involve machining, welding, and polishing operations and production of paints, coatings, sealants, and adhesives that are used by virtually all industrial sectors. The definition of light industrial specifically excludes the manufacturing of iron, steel, or other high-volume metals, rendering or slaughtering yards, and other heavy industrial operations including but not limited to chemical or pesticide manufacturing, metal foundries, saw mills, and salvage yards.

Institutional Use. A building or grounds, typically open to or available to the public by a public, non-profit, or governmental agency including, but not limited to libraries, fire companies, police headquarters, municipal uses, and similar uses.

Isolation Distances. A circular area around a well whose radius conforms to PaDEP and Chester County Health Department standards.

Junkyard. An area of land, with or without buildings, used for outdoor storage of used and discarded materials, including but not limited to house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition or the same. The deposit or storage on a lot of three (3) or more unlicensed, wrecked or disabled vehicles or the major part thereof, shall be deemed to constitute a “junkyard.”

Kennel. A use that is the principal use of land on which animals (excluding livestock, horses, or poultry) are kept, boarded, raised, bred, treated, or sold for a fee, including, but not limited to, dogs or cats. This use shall include but is not limited to commercial kennels or boarding kennels in accordance with applicable state laws. For the purpose of this definition, the production of more than two (2) litters in any calendar year shall be considered breeding.

Laboratory. A building or group of buildings in which are located the facilities for scientific research, investigation, testing and experimentation, but not including the manufacture of products for sale.

Land Development. Any of the following activities:

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

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

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

B. A subdivision of land.

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

**Land Disturbance.** Any activity which exposes soils or alters topography, except for removal of hazardous or invasive alien vegetation (see definition of Woodland Disturbance). Customary agricultural practices such as tilling, plowing, mowing and harvesting are excluded from the definition of land disturbance.

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

**Landscaping.** Living vegetative material required upon all lots, except where agricultural production or gardens are permitted, so as not to leave bare dirt exposed to erosion, including but not limited to grass and other plantings such as ground covers, trees, and shrubs.

**Laundromat.** A business premise equipped with individual clothes washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use.

**License.** According to usage:

A. When applied to mobile home parks, shall mean written approval to operate and maintain a mobile home park by Elverson Borough, a prerequisite of which shall be approval by the Department of Health and compliance with all applicable regulation of this, or other applicable Ordinances.

B. When applied to erection of signs, shall mean written approval by Elverson Borough, a prerequisite of which shall be compliance with all applicable regulations of this and other applicable Ordinances, and the posting of a liability insurance policy or an indemnity bond in an amount set by resolution and payable to Elverson Borough in a form satisfactory to the Borough Solicitor.

**Lighting.** Any method or equipment used to provide artificial illumination.

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

B. **Direct or Flood.** That form of lighting wherein the source is visible or the light is distributed directly from it to the object to be illuminated.
C. **Indirect.** That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

**Loading Space or Area.** A space, in a building or on a lot, for the temporary use of vehicles, while loading or unloading merchandise or materials.

**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, Corner.** A lot at the junction of and abutting on two (2) or more intersecting streets, or at the point of abrupt change in direction of a single street the interior angle of which is not greater than one hundred thirty-five (135) degrees. See Figure 2-7

**Lot, Coverage.** The percentage of lot area covered by any and all improved or hardened materials, such as buildings, paved parking areas, paved walks, terraces and similar surfaces which do not normally absorb rainfall.

**Lot, Interior.** Any lot which only has access to a street by either an easement or right-of-way and may be characterized as "landlocked"; or any lot which has limited frontage to a street by virtue of being "flag-shaped." See Figure 2-7

**Lot, Reverse Frontage.** A lot extending between and having frontage on two generally parallel streets with vehicular access only from the minor street. See Figure 2-7

**Lot Area.** The total horizontal area of land contained within the legal limits of the property lines bounding a lot, excluding any portions thereof within a street right-of-way.

**Lot Line.** A property boundary line of any lot held in single and separate ownership, except that, in the case of any lot abutting a street, the lot line for such portion of the lot as abuts such street shall be deemed to be the same as the street line, and shall not be the center-line of the street or any other line within the street lines even though such may be the property boundary line in a Deed.

A. **Front Lot Line.** The line separating the lot from the street right-of-way. See Figure 2-19

B. **Rear Lot Line.** The property line in the rear yard except in the case of a double frontage lot where it shall be the right-of-way line of a street. See Figure 2-19

C. **Side Lot Line.** The property line in the side yard, except in the case of a corner lot the right-of-way line of the street. See Figure 2-19

**Lot Width.** The distance, in feet, between the two (2) opposite side lot lines, measured at the building line. See Figure 2-19
**Lumber Yard.** A use that primarily includes the retail sale of lumber, hardware, and home improvement goods to the general public.

**Manufacturing.** Uses involved in processing and/or converting of raw unfinished or finished materials or products, or of any combination, into an article or substance of a different character, or for use for a different purpose; or the refinishing of manufactured articles.

**Map, Official.** A plan, legally adopted by Borough Council, of officially dedicated, ordained, opened, or platted streets; existing parks and other public properties; or those proposed for acquisition by the Borough by condemnation, purchase, dedication, or otherwise. See Official Map.

**Massage.** Services that involve massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth of Pennsylvania. This definition applies to any athletic 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.

**Meadow.** A plant community or area of vegetation dominated by grasses and/or forbs, often managed through annual or seasonal mowing.

**Medical Office or Clinic.** A use involved in the examination and treatment of persons as outpatients by licensed physicians or medical specialists practicing medicine during office hours. Uses providing overnight lodging of patients or prolonged surgical procedures (inpatient) shall not be considered medical clinics. Medical clinics may include limited secondary facilities such as laboratory facilities and pharmacies to service patients. Medical clinics may include but not be limited to urgent medical care centers and facilities offering minor medical treatment for illnesses or minor outpatient surgeries.

**Minor Repair.** The replacement of existing materials for the purpose of its routine maintenance and upkeep, but not including the cutting of any structural beam or bearing support, or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements: nor shall minor repairs include alteration, replacement, or relocation of any standpipe, water supply, sewer, drainage, drain, leader, gas, oil, waste, vent, or similar piping, electric wiring work affecting public health or general safety.

**Minor or Major Subdivision and/or Land Development.**

A. Minor Subdivision or Land Development. Any subdivision or land development where:

1. No public improvement intended to be dedicated to the Borough is to be constructed, with the exception of public water or sewer lines.

2. No street, public or private, is to be constructed, improved or widened.

3. No land disturbance/earth moving activities will take place except those incidental to construction of a single-family dwelling on a single lot or a two-family dwelling on one or two lots.
4. No more than five (5) lots are proposed.

5. No further subdivision can occur within the resulting lots.

6. Lot line adjustments are made where no development is proposed.

B. Major Subdivision or Land Development. Any subdivision or land development not considered Minor in accordance with A above.

Mitigation. An action undertaken to accomplish one or more of the following:

A. Avoid and minimize impacts by limiting the degree or magnitude of the action and its implementation.

B. Rectify the impact by repairing, rehabilitating or restoring the impacted environment.

C. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.

Mixed Use. More than one (1) principal use on a single lot or tract or within a single building (Mixed Use Building).

Mixed Use Building. Buildings that include more than one (1) category of principal use. Typical configurations include retail stores, offices, or personal service shops on the first floor with offices, studios, or residential dwelling units above.

Mobile (Manufactured) Home. A transportable single family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit, capable of again being separated for repeated towing on its own axles. A mobile home is built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation but with the same, or equivalent, electrical plumbing and sanitary facilities as for a conventional dwelling. A mobile home may be referred to as a manufactured home. This term does not include recreational vehicles or travel trailers. Such designation shall in no way alter the intent of this Ordinance.

Mobile (Manufactured) Home Lot. A parcel of land in a mobile (manufactured) home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile (manufactured) home.

Mobile (Manufactured) Home Park. Any lot, parcel, contiguous parcels, or tract of land designated, maintained, improved, or intended for the purpose of supplying a location for or accommodation of two (2) or more mobile home lots or upon which more than one (1) mobile home is provided or located, whether or not a charge is made for the use of the mobile home park and its facilities, and shall include all buildings and structures used or intended for use as part of the park. A mobile home park shall not include a mobile home sales lot upon which unoccupied mobile homes are parked for the purpose of inspection or sale.

Mortuary. A use involved with the provision of services including preparing human remains for burial, and arranging and managing funerals.
Motor Vehicle. Any automobile, van, recreational vehicle, racing car, bus, motorcycle, or any motorized means of human transport or any part thereof, regardless of functional condition or state of repair.

Municipal Facility/Use. Any building, structure or use of land by Elverson Borough or a municipal authority/commission created by the Elverson Borough Council.

Municipal Authority of the Borough of Elverson (MABE). The authority that operates Elverson Borough's central sewage collection, treatment, and disposal system.


Non-Conforming Lot. A lot which does not conform to the Area or Bulk Regulations of the district in which it is located, either at the time of the enactment of this Ordinance or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of such ordinance or amendments.

Non-Conforming Structure. A structure or part of a structure which does not comply with the applicable area and bulk provisions in this Ordinance or amendments thereto where such structure lawfully existed prior to the enactment of this Ordinance or amendments thereto.

Non-Conforming Use. A use whether of land or of a structure which does not comply with the applicable use provisions of this Ordinance or amendment thereto, where such use was lawfully in existence prior to the enactment of this Ordinance or amendments thereto.

Office. Business, administrative, or professional office including but not limited to architects, engineers, accountants, attorneys, planners, real estate brokers, and insurance agents.

Office of a Contractor or Craftsman. An office, generally of a registered or licensed contractor or craftsperson, which serves primarily as the administrative office of the business owner, but may also be used for business consultations in addition to minor storage of materials and minor repair, serving of items, or construction of materials on site. This use may include but shall not be limited to the office of a plumber, carpenter, HVAC professional, or electrician.

Official Map. The most current version of the Official Map and Ordinance adopted by the Borough.

Oldfield. An area undergoing natural succession characterized by the presence of grasses, forbs, shrubs and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.

Open Space, Common. Required areas within a development consisting of a parcel or parcels, designated land or water, or a combination of land and water, which is restricted from further subdivision or development for other than open space purposes permitted in accordance with this Ordinance for the use or enjoyment of residents of a development excluding streets, off-street parking areas, private yards, and areas set aside for public water and wastewater systems owned and operated by Elverson Borough and/or the Elverson Borough Authority.

Open Space Management Plan. A plan which provides for the long-term management over time of private, public, or common open space, in accordance with Section 1226.
**Outdoor Dining.** An outdoor area of an associated restaurant, used for the express purpose of providing outdoor seating for patrons where food and/or beverages from the associated use are consumed on the premises at tables, chairs, or other furnishings in an area directly abutting and adjacent to and upon the same lot as the restaurant. Outdoor dining is typically located adjacent to a public street or a parking area, in most cases on a sidewalk. Outdoor dining does not refer to outdoor dining in areas not adjacent to a street or parking area, to the rear of the principal structure, or enclosed dining facilities with open windows.

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

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

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

**Parking.** The following definitions are associated with on and off-street parking:

A. **Parking, Connected.** Two or more required off-street parking lots on adjacent parcels that are connected across parcel lines as required and where permitted in accordance with the regulations of this Ordinance.

B. **Parking, Fee-in-lieu.** A fee provided for some or all required off-street parking where permitted in accordance with the regulations of this Ordinance.

C. **Parking, On-Street.** Parking for motor vehicles within the road right-of-way, typically parallel to the curb line.

D. **Parking, Off-Street.** Parking for motor vehicles outside of a road right-of-way as an accessory use required for each use to serve the parking requirements and needs of the associated use(s).

E. **Parking, Off-Site.** Off-street parking for a use that is not located on the same lot as the building for which the parking is required, where permitted.

F. **Parking, Private.** A parking lot for the exclusive use of the owners, occupants, or visitors of the lot on which the parking area is located.

G. **Parking, Public.** Parking spaces made available to the public by the municipality or a private organization or business for free or for a fee, including, but not limited to parking lots or on street parking that is not required to fulfill parking requirements associated with a specific use.

H. **Parking, Reserve.** A portion of required off-street parking spaces that may not be initially required to be built for a given development, in accordance with the applicable regulations of this Ordinance.
I. **Parking, Shared.** Required off-street parking that is shared between more than one (1) use in accordance with the applicable regulations of this Ordinance.

J. **Parking Lot.** An off-street ground level paved area designed and used for the parking of vehicles that shall include but not be limited to parking spaces, aisles, maneuvering space, interior islands, buffers, and access driveways but not include loading and unloading areas.

K. **Parking Space.** A space designed for the parking of one (1) motor vehicle.

**Pasture.** A plant community or area of vegetation dominated by grasses which is actively or periodically grazed by livestock or which is managed through mowing to maintain the appearance and vegetative characteristics of pasture.

**Paved Surface (also paved area, pavement or other similar term).** Areas consisting of brick, compacted stone, Portland cement concrete, Bituminous concrete, or other similar materials, subject to the interpretation of the Borough Engineer.

**Pedestrian Oriented Design.** The design of communities, neighborhoods, streetscapes, buildings, crosswalks, and other uses that promotes pedestrian comfort, safety, access and visual interest.

**Pedestrian Walkway.** An improved surface, primarily for use by pedestrians, typically located outside of the road right-of-way. A walkway is generally used for pedestrian transportation between buildings and parking areas or sidewalks, within parking lots, between buildings on a parcel or within a development, or between adjacent use, developments, or facilities.

**Permeable ( pervious) Surface.** A surface that presents an opportunity for precipitation to infiltrate into the ground, including any surface not considered an impervious surface and when approved by the Borough Engineer.

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

**Personal Service Shop.** A commercial establishment primarily engaged in providing services involving the care of a person or his or her apparel or merchandise and offering only limited, if any, products for sale, including, but limited to, barbershops, salons, tanning salons, tailors, optometrists, beauticians, repair of electronic goods, bicycle repair, and other similar uses.

**Place of Worship.** A building or structure, or groups of buildings or structures, which by use, design, and construction, are primarily intended for the conducting of organized religious services and accessory uses.

**Plan, As-built.** A revised working drawing corrected to show all changes in design, sizes, or location which may have been made during actual construction.

**Plan, Utilities.** A plan prepared by a registered engineer or surveyor, showing location, sizes, and types of all water, gas, cable television, and electric lines; all sanitary sewer mains (profiles and laterals); all storm sewers and gradients; all street lights and fire hydrants; all service connections; and all data pertaining to existing or proposed facilities.
**Planning Commission.** The Planning Commission of Elverson Borough duly appointed by Elverson Borough Council.

**Plat, Record.** A plan of streets and lots prepared by a registered engineer or surveyor, showing all information required for legal description, layout, and other data necessary for recording in the office of the Chester County Recorder of Deeds.

**Private.** Not publicly owned, operated, controlled, or available for use to the general public.

**Private Club and/or Fraternal Institution.** This use may include land, buildings, and/or structures for meetings, social quarters, restaurants, recreation facilities, and other similar uses provided that all services shall be provided solely for members and their guests and no particular activity shall be permitted that is customarily carried on as a business. Applicable institutions include associations of persons for some common nonprofit activity, but not including groups organized primarily to render a service which is customarily carried on as a business, and shall include, but not limited to, the Boy Scouts, Girl Scouts, Elks Club, Fraternal Order of Police, Military Veterans Association, Swim Clubs, YMCA, and similar groups.

**Private Garage.** An accessory building or part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises.

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

**Public Hearing.** A formal meeting held pursuant to public notice by the Borough Council, Planning Agency, or Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accordance herein.

**Public Meeting.** A forum held pursuant to notice under 65 Pa.C.S. Ch. 7 (relating to open meetings).

**Public Notice.** A notice published in accordance with the Municipalities Planning Code.

**Public Use.** Public and semi-public uses generally of a welfare or educational nature that are open and available to the general public, including, but not limited to, hospitals, schools, parks, churches, cemeteries, municipal buildings, and recreational facilities.

**Public Utility Corporation.** A corporation registered and regulated by the Pennsylvania Public Utility Commission which is engaged in regularly supplying the public with a commodity or service which is of public consequence and need such as electricity, gas, water, transportation, or communications.

**Public Utility Service Structures and Facilities.** Electric substations, sanitary sewer lines, water lines, fire hydrants, street lights, storm sewer lines, manholes, inlets, catch-basins, gas lines, electric lines, and other facilities of the same general character, but excluding wireless communications towers and communications facilities.
Recreational Use.

A. Indoor Recreation. An entirely enclosed, indoor facility within a building or structure providing a source of amusement, entertainment, or recreation. Indoor recreation may include but is not limited to bowling alleys, athletic courts (basketball, volleyball), indoor swimming pool, gyms for weight training and similar athletic training, indoor golf centers, indoor batting cages or any other similar use.

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

Recreational Use, Commercial. A commercial business or nonprofit organization where recreational facilities are provided in an entirely enclosed, indoor facility within a building or structure providing a source of amusement, entertainment, or recreation available for a fee. Indoor recreation may include but is not limited to athletic courts, indoor swimming pool, gyms for weight training and similar athletic training (martial arts, yoga, spinning, etc) or other similar use.

Recreational Vehicle. A vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (1) not designed for use as a permanent dwelling but is temporary housing quarters for recreational, camping, travel, or seasonal use.

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

Related Equipment. Any piece of equipment related to, incidental to, or necessary for, the operation of a Tower-Based WCF or Non-Tower WCF. By way of illustration, not limitation, "Related Equipment" includes generators and base stations.

Residential Conversion. The conversion of a single family residential dwelling into two (2) or more dwelling units.

Restaurant. A place of business serving food and beverages and providing table, sit-down or take-out service.

Retail Store. A commercial establishment primarily involved in the direct sale of goods to the general public including but not limited to clothing, food, beverages, prescription drugs, bicycles, furnishings and other household supplies, jewelry, flowers, time pieces, musical instruments, scientific instruments, antiques, books and variety merchandise.

Retention Basin. A reservoir, formed from soil or other material, designed to permanently retain stormwater runoff from a specified area as defined by this Ordinance. Retention basins always contain water and include man-made ponds and lakes.

Right-Of-Way. Area of land or water reserved or dedicated for any public or private access or utility purpose.
**Right-of-Way, Street.** A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, or however designated.

**Riparian Buffer.** An area of land adjacent to a body of water and managed to maintain vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover and thermal protection to fish and other aquatic species and wildlife. See Figure 2-8

**Figure 2-8: Riparian Buffer (Forested)**

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

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

Screen, Effective Visual. Any arrangement of structural or vegetative materials capable of diverting or interrupting a clear view of an object or activity, but not necessarily one hundred (100) percent opaque during all seasons of the year.

Screen, Perimeter. A landscaped or planted strop along parcel boundaries.

Sediment Basin. A temporary dike or earth embankment downstream from an area of development, construction, grading, or other activity disturbing the natural surface which serves to regulate stormwater flow and trap sediment erected on the same property which is being disturbed or developed.

Sediment. The silt or small soil particles held or carried in suspension by water, including that which is thus deposited at a lower level.

Self Storage Facility. A commercial facility including a structure or structures containing separate, individual, and lockable private storage spaces of varying sizes leased or rented on an individual basis for the storage of tangible personal property.
Setback. The required distance an object shall be placed from another referenced point as specified by individual requirements within this Ordinance. Setbacks include but are not limited to required minimum yards, accessory use setbacks, or other setbacks for specific uses in Article 12, Supplemental Use Regulations.

Sewage. Any substance that contains any of the waste products or excrementitious matter or other discharge from the bodies of human beings or animals and laundry, bathroom and kitchen waste water.

Sewage Facilities or Systems.

A. Individual On-Site. An individual sewage disposal system as defined and regulated by the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection.

B. Community System. A sanitary sewage system which carries sewage from individual dischargers by a system of pipes to one or more common treatment and disposal facilities, either on-site or offsite, and approved by the Pennsylvania Department of Environmental Protection. Community systems are typically constructed to serve a specific subdivision or land development.

C. Public System. An off-site system for treatment and disposal of sewage in which sewage is conveyed to a publicly operated treatment plant and disposed of through means approved by the Pennsylvania Department of Environmental Protection. Public systems are typically owned and/or operated by a municipality and have a broad service area.

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

Sight Distance. The unobstructed length of street visible to the driver of a vehicle.

Sign. A structure, building, wall or other outdoor surface, or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, or to display, identify, or publicize the name, product, or service of any person or use. Additional Sign definitions and figures are located in Section 1304 and at the end of Article 13.

Single and Separate Ownership. The ownership of property by any person, which is separate and distinct from that of any other property.

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

Site. A lot, tract, or parcel of land on which grading, construction, or land development is taking place, or is proposed to take place; the location of the work.

Site Analyses. Investigation, study, and documentation of property proposed for subdivision and/or land development and adjacent areas, including review of established information sources as well as on-site investigation, in accordance with the provisions of the Elverson Borough Subdivision Ordinance.
**Slope.** The ratio of the change in elevation over the horizontal distance as measured between consecutive contour lines, expressed as a percentage.

A. **Slopes, Moderate.** Areas where the slope measured between consecutive contour intervals is greater than fifteen (15) percent and less than twenty five (25) percent.

B. **Slopes, Steep.** Areas where the slope measured between consecutive contour intervals is greater than or equal to twenty five (25) percent.

Such measurements shall be based upon mapping of contour lines at the minimum interval applicable in accordance with Section 1004.

**Spa.** A personal service shop that specializes in providing certified therapeutic and personal grooming services, including haircuts and styling, waxing, facial treatments, body therapies such as massage, and nail treatments by providers licensed by the Commonwealth of Pennsylvania.

**Special Exception.** A use which is not permitted by right, but which, when deemed suitable, with or without the imposition of conditions or restrictions under applicable standards, may be allowed by the Zoning Hearing Board after public hearing.

**Specified Sexual Activities.**

A. Acts of masturbation, homosexuality, sexual intercourse, sexual bestiality, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or if such a person be female, breasts.

B. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

C. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**Specimen Tree.** Any tree equal to or exceeding twenty four (24) inches dbh.

**Statutory Review Period.** The period of time within which the Borough Council must grant approval or issue denial to a given plan as established by the Pennsylvania Municipalities Planning Code.

**Storage.** The deposit of goods, materials or products intended for future disposition.

**Storage Capacity.** The volume of silt or water capable of being impounded in a sediment, detention, and/or retention basin after deducting the required free-board.

**Storage Garage.** A building, not a private or public garage, one story in height, used solely for the storage of motor vehicles (other than trucks), but not for the service or repair thereof nor for the sale of fuel, accessories or supplies.

**Stormwater.** Any precipitation, but usually rainfall, which is sufficient to flow on any natural or man-made surface; frequently termed “run-off”. 
Stormwater Ordinance. The most current version of the Stormwater Ordinance adopted by the Borough.

Story. That portion of a building comprised between the surface of any floor and the surface of any floor or roof next above.

Stream. Any watercourse.

Street. A public (dedicated) or private (not dedicated) right-of-way intended for use as a means of vehicular and pedestrian circulation to provide access to more than one (1) lot. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane, alley, road or similar terms. Streets are further classified within the Elverson Borough Comprehensive Plan.

Street, Marginal Access. A street used primarily as a means of access to abutting residential lots with little or no through traffic.

Street, Private. Those streets not offered for dedication.

Street, Public. A public thoroughfare which has been dedicated and deed to the Borough and which affords the principal means of access to the abutting property.

Street, Service. See Alley.

Street Line. The dividing line between a lot and the outside boundary or right-of-way line of a public street, road, or highway legally open or officially platted; or between a lot and a privately owned street, road, or way over which the owners or tenants of two (2) or more lots each held in single and separate ownership have the right-of-way.

Streetscape. The space formed by buildings located close to the street, embellished with sidewalks, street trees, street lights, hanging baskets, decorative awnings, window boxes, planters, raised plantings, benches, decorative lighting, decorative paving, curbs, street furniture, and/or on-street parking. The streetscape is framed by generally two-story buildings which create the "walls" of an "outdoor room" that is characteristic of a traditional town center. The following associated definitions coincide with items that assist in the formation of a streetscape:
A. **Bench.** Outdoor seating provided as part of a streetscape to the public. See Figure 2-9.

![Figure 2-9: Bench](image)

B. **Bricks or Textured Paving.** Paving in the form of colored and/or stamped concrete, colored or patterns of brick pavers, and the like to provide visual interest as opposed to standard concrete paving for example. See Figure 2-10.

![Figure 2-10: Decorative Paving](image)

C. **Decorative Lighting.** Lighting in addition to necessary street lighting, required lighting for safety, or otherwise required that provides aesthetics to a streetscape at night. See Figure 2-11.

![Figure 2-11: Decorative Lighting](image)

D. **Hanging Basket.** A planter hung from a street light or cantilevered from a structure. See Figure 2-12.

![Figure 2-12: Hanging Basket](image)
E. **Raised Planting.** A raised planting bed built either as part of a structure, a wall, or freestanding to provide green space and aesthetics as part of a streetscape. See Figure 2-13.

![Figure 2-13: Raised Planting](image)

F. **Street Planter.** A planter placed at ground level to provide green space and decoration. See Figure 2-14.

![Figure 2-14: Street Planter](image)

G. **Window Box.** A planter attached at the base of a window. See Figure 2-15.

![Figure 2-15: Window Box](image)

H. **Courtyard.** A public space smaller than a plaza. Smaller open spaces typically providing seating and landscaping where the public may use as a waiting area, eating lunch, having meetings, or enjoying the outdoors. See Figure 2-16.

![Figure 2-16: Courtyard](image)
I. Plaza. A public space larger than a courtyard. Larger open spaces serving the same function as a Courtyard but may include larger grassed areas, more substantial landscaping, and areas for community gatherings, concerts, or performances. See Figure 2-17.

![Figure 2-17: Plaza](image)

J. Civic Space. Civic spaces are primarily informal public open spaces spatially defined in part by landscaping and by buildings, either public or privately owned but open to the public. Civic spaces typically provide a means of seating whether through tables and chairs, benches, or low seating walls serving as enclosures for landscaping or water features. A majority of the surface of civic spaces is paved using concrete, in some cases decorative either through color, texture, or pattern, or by brick pavers, flagstone or similar material. Civic spaces may include grassed areas, particularly for larger plazas, in addition to water features and informational kiosks. Landscaping and trees should be scattered throughout civic spaces in addition to landscaped planters or beds containing flowers, shrubs, or other vegetation, particularly along the periphery of the space. Civic spaces may take the following forms: 1) Courtyard or 3) Plaza (see above).

**Structural Alteration.** Any change in or addition to the supporting structural members of a building, or other structure, such as the bearing walls, partitions, columns, beams or girders, or any change which could convert an existing building or other structure into a different structure, or adapt it to a different use, or which, in the case of a non-conforming building or other structure, would prolong the life of such building or other structure.

**Structural Unit.** One (1) or more buildings enclosed by continuous exterior walls and a continuous roof.

**Structure.** Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

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

**Studio.** A building or portion of a building used as a place of instruction where students are taught for a fee. Including, but not limited to: an art studio involved in the creation of products including but not limited to art, crafts, paintings, pottery, wood products (woodworking); or for instruction for art, photography, dance, music, linguistics, athletics, martial arts, specific educational tutoring, or other similar specialized subjects. A studio is not a public or private
educational use such as an elementary or high school pursuant to the review of the State Board of Education.

**Subdivider.** A person who is the registered owner, or authorized agent of the registered owner, of the land to be subdivided.

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

**Subdivision Ordinance.** The most current version of the Subdivision and Land Development Ordinance (SLDO) adopted by the Borough.

**Subgrade.** Any finished surface or elevation of compacted fill or natural earth upon which materials of construction are placed.

**Subsoil.** Clay, sand, gravel, or other natural earth material below the surface soil and low organic matter.

**Substantial or Substantially Change.** (1) Any increase in the height of a Wireless Support Structure by more than ten (10) percent, or by the height of one (1) additional Antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater, except that the mounting of the proposed Wireless Communications Facility may exceed the size limits set forth herein if necessary to avoid interference with existing Antennae; or (2) any further increase in the height of a Wireless Support Structure which has already been extended by more than ten (10) percent of its originally approved height or by the height of one additional Antenna array.

**Supplemental Dwelling Unit.** An accessory secondary and subordinate dwelling unit within or attached to a principal single family detached residential dwelling unit or within a detached accessory structure.

**Swimming Pool.** A structure, above or below ground level, for the purpose of containing water to a depth, at any point, in excess of two (2) feet and intended primarily for recreation without regard to materials of its construction.

**Topsoil.** Natural and friable loam containing sufficient nitrogen phosphorus and potassium to support plant growth and extending in depth to the extent of penetration of feeder roots of the prevailing native grasses.

**Tract.** One (1) or more lots assembled for the purpose of unified development, including but not limited to development under the Site Responsive Residential Community Option, and development of more than one principal use on a single tract such as a shopping center, office or industrial park.
**Traditional Neighborhood Development (TND).** A development designed and developed in accordance with and consistent with Section 102 and Article 7 of the Pennsylvania Municipalities Planning Code.

**Traffic Impact Study.** A study that assesses the impacts of a proposed development on the existing and future multi-modal transportation network in a community or a portion thereof. The study must recommend mitigation techniques for the anticipated impacts and must analyze the adequacy of the development's planned access points.

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

A. **Shared-Use/Multi-Use Trails.** A facility that is physically separated from the roadway and typically accommodates bi-directional travel by both cyclists and pedestrians. The trail can be located within a publicly owned right-of-way, an exclusive right-of-way, or an easement. Shared use trails typically have an improved surface and recommended width (per AASHTO) of ten (10) feet, although a minimum width of eight (8) feet may be used where space is constrained or in environmentally-sensitive areas.

B. **Use-Restricted/Single Use Trails.** Trails that are primarily used for one form of travel or by one type of user such as cyclists or pedestrians. These trails are typically paved or have an improved surface.

**Trail surface, Improved.** A man made or placed material on the traveled part of the trail, such as asphalt, concrete, stone dust, or similar surface, but not a naturally occurring surface such as dirt or grass, or wood chips.

**Travel Trailer.** Any vehicle used for temporary living or sleeping purposes for transient use.

**Tree Protection Zone.** An area that is radial to the trunk of a tree in which no construction activity can occur. See Figure 2-18

![Figure 2-18: Tree Protection Zone](image)

**Truck Terminal.** An area and/or building for the maintenance and storage of trucks and where cargo is stored and where trucks load and unload cargo on a regular basis.

**Turf-Grass.** Cultivated lawn grasses capable of being mowed to form a dense matting of roots and stems, other than the native, wild grasses or weeds.
**Turn-Around.** A paved area, usually but not necessarily circular, terminating a cul-de-sac or single access street.

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

**Uniform Construction Code (UCC).** The statewide building code adopted by the Pennsylvania General Assembly or the most current version adopted by the Borough of Elverson applicable to new construction in the Borough whether administered by the Borough, a third party, or the Department of Labor and Industry.

**Use.** Any purpose or activity for which a building or other structure, or a tract, or lot of land may be designed, arranged, intended, maintained, occupied, or utilized.

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

**Use, By-Right.** A use permitted without special considerations, conditions, or hearings, so long as it is a named use permitted by-right in the district which it is located and meets all of the applicable area and bulk requirements in addition to other applicable requirements of this Ordinance.

**Use, Conditional.** A use which is not permitted by right and is not wholly appropriate to a zoning district, but may be suitable to a particular area when deemed appropriate in accordance with the criteria within Article 17 of this Ordinance or any other applicable standards, with or without the imposition of conditions or restrictions under applicable standards, where approved by Borough Council after public hearing as provided in the Municipalities Planning Code.

**Use, Nonconforming.** See Nonconforming Use.

**Use, Permitted.** All uses allowed in accordance with the provisions of this Ordinance.

**Use, Principal.** The primary use of a lot. Except as specifically permitted by this Ordinance, there shall be only one (1) principal use on each lot.

**Use, Special Exception.** A use which is not wholly appropriate to a zoning district, but may be suitable to a particular area within a zoning district. Special Exceptions are allowed or denied by the Zoning Hearing Board after considering standards and criteria set forth in this Ordinance and the Municipalities Planning Code.

**Use, Temporary.** A use established and permitted for a fixed period of time and discontinued upon the expiration of the time period specified.

**Variance.** A modification of the regulations of the Zoning Ordinance granted by the Zoning Hearing Board on grounds of physical conditions or unnecessary hardship, not self-imposed, pursuant to the provisions of the Zoning Ordinance and the Municipalities Planning Code.

**Vegetation, Permanent.** Perennial grasses, legumes, or other long-lived plant materials, such as Crown Vetch, Fescues, and Bluegrasses, etc. depending upon the degree of refinement desired.
Vegetation, Temporary. Fast growing grasses, usually annuals, such as rye, oats, sedan, or other appropriate cover to prevent erosion until permanent vegetation can be installed.

Vehicle Service Station. Any area of land, including structures thereon, or any building or part thereof, that is used for the sale of gasoline or other motor vehicle fuel or accessories, and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but which shall not include painting or body and fender repairs, or the storage for sale of new or used motor vehicles.

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

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

Waiver. A modification to the requirements of the Subdivision and Land Development Ordinance granted by Borough Council as provided in the Municipalities Planning Code.

Walkway, Public. Any space designed or maintained solely for public pedestrian use, without regard to ownership.

Water Supply Systems.

A. Individual On-Lot System. A safe and healthful supply of water, to a single user from a private well located on the lot in which the use is located.

B. Community or Public Supply System. A system for supplying water from a common source or sources to all dwellings and other buildings within a development or service area. The water supply source may be located on-site and/or off-site and may be publicly or privately-owned.

Waters of the Commonwealth. Any and all rivers, streams, creeks, lakes, rivulets, dammed water, ponds, springs, and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

Watercourse. A permanent of intermittent stream or other body of water, whether natural or man-made, which gathers or carries surface water.

Wetlands. Those areas that are inundated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. More specifically, any area meeting the official wetland definition of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection (PADEP). Where a discrepancy exists between the wetland definitions of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.
**Wholesaling.** A commercial activity comprising the sale of commodities in large quantities or in bulk, as to retailers or contractors, rather than to individual consumers directly, including the warehousing, loading and unloading, and shipping of such commodities.

**Wireless Communications Facility (WCF).** The following definitions shall apply wherever found within this Ordinance but primarily apply to Section 1231 Wireless Communications Facility (WCF), and thereby grouped together here:

A. **Antenna.** Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An Antenna may include an omnidirectional Antenna (rod), directional Antenna (panel), parabolic Antenna (disc) or any other wireless Antenna. An Antenna shall not include Tower-Based Wireless Communications Facilities as defined herein.

B. **Co-location.** The mounting of one (1) or more Wireless Communication Facilities, including Antennae, on an existing Tower-Based Wireless Communication Facility Wireless Communication Facility, or on any structure that already supports at least one Non-Tower Wireless Communication Facility.

C. **Communication Tower.** A support structure and the reception and/or transmission antenna(e) upon it intended for transmitting or receiving radio, television, telephone or digital communications.

D. **Distributed Antenna Systems (DAS).** Network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.

E. **FCC.** Federal Communications Commission.

F. **Height of a Tower-Based Wireless communication Facility (CWF).** The vertical distance measured from the ground level, including any base pad, to the highest point on a Tower-Based WCF, including Antennae mounted on the tower and any other appurtenances.

G. **Monopole.** A wireless communication facility or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications Antennae and connecting appurtenances.

H. **Non-Tower Wireless Communications Facility (Non-Tower WCF).** All non-tower wireless communications facilities, including but not limited to, Antennae and Related Equipment. Non-Tower WCF shall not include support structures for Antennae or any Related Equipment that is mounted to the ground or at ground-level.

I. **Stealth Technology.** Camouflaging methods applied to wireless communications towers, Antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted Antennae, building-mounted Antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

J. **Tower.** A structure, such as a lattice tower, guy tower or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or
equipment. The term includes microwave towers, common carrier towers and cellular telephone towers on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication.

K. **Tower-Based Wireless Communications Facility (Tower-Based WCF).** Any structure that is used for the purpose of supporting one or more Antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be Tower-Based WCFs.

L. **Wireless Communications Facility (WCF).** The Antenna, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

M. **Wireless Communications Facility Applicant (WCF Applicant).** Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Borough owned land or property.

N. **Wireless Support Structure.** A freestanding structure, such as a Tower-Based Wireless Communications Facility or any other support structure that could support the placement for installation of a Wireless Communications Facility if approved by the Borough.

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

### Woodland

Any land area of at least one-quarter (0.25) acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two (2) or more viable trees per one thousand five hundred (1,500) square feet with a DBH of six (6) inches or greater and where such trees existed at any time within three (3) years of the time of land development application submission of the proposed project. The land area to be considered woodlands shall be measured from the outer drip lines of the outer trees. Woodlands shall include any area where timber has been harvested within the previous three (3) years and/or woodland disturbance has occurred within the previous three (3) years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards, hedgerows, or oldfields.

### Woodland Disturbance.

A. Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, sub-canopy trees, understory shrubs and vines, woody and herbaceous woodland floor species.

B. Any activity which constitutes a land disturbance (exposes soils, alters topography) within a woodland or hedgerow.

C. Woodland disturbance does not include the selective cutting or removal of invasive alien trees, shrubs, vines or herbaceous species including; Rosa multiflora (Multiflora Rose), Eleagnus umbellata (Autumn Olive), Lonicera japonica Oapanese Honeysuckle), Celastrus orbiculatus (Oriental Bittersweet), Acer platanoides (Norway Maple) and Polygonum perfoliatum (Mile-a-Minute Weed).
Yard. An open, unoccupied space, except for permitted accessory structures or uses, situated between the nearest portion of the principal structure and the adjacent lot line.

Yard, Front. A yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the minimum required setback line. See Figure 2-19

Yard, Rear. A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the minimum required setback line. See Figure 2-19

Yard, Side. A yard extending the full depth of the lot along a side lot line and extending in width from such side lot line to the minimum required setback line. See Figure 2-19

Yard, Required Minimum. The minimum required depth of a yard as specified in the Zoning Districts in this Ordinance. The remaining portion of the lot (interior) exclusive of the required minimum yards is referred to as the building envelope where a principal structure or structures may be placed.

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

Zoning Hearing Board. The Zoning Hearing Board of Elverson Borough.

Zoning Map. The official Zoning Map of the Borough of Elverson, Chester County, Pennsylvania.

Zoning Officer. The municipal officer charged with enforcing the literal terms of this Ordinance.

Zoning Ordinance. The Zoning Ordinance of the Borough of Elverson.

Zoning Ordinance Amendment. An addition, revision, or deletion to the Elverson Borough Zoning Ordinance text and/or Elverson Borough Zoning Ordinance Map. The authority for any amendment lies solely with the Borough Council.

Zoning Permit. A document signed by a zoning officer as required and defined in this Ordinance.
ARTICLE 3
Establishment of Districts

SECTION 301  CLASSES OF DISTRICTS

A. Base Districts. For the purpose of this Ordinance, the Borough of Elverson is hereby divided into five (5) classes of districts which shall be designated as follows:

1. "SRR" SITE RESPONSIVE/RECREATION DISTRICT
2. "SR" SITE RESPONSIVE DEVELOPMENT DISTRICT
3. "TC" TOWN CENTER DISTRICT
4. "C" COMMERCE DISTRICT
5. "LI" LIMITED INDUSTRIAL DISTRICT

B. Overlay Districts. For the purposes of this Ordinance overlay districts shall be superimposed over all underlying base zoning districts and apply to all land uses which shall be subject to both the standards in the underlying base zoning district and the overlay district. In the event that a conflict exists between the requirements of the overlay and the underlying district(s), the more restrictive provision shall apply. Overlays to the underlying base districts shall be designated as follows:

1. MHP MOBILE HOME PARK OVERLAY in accordance with Article 9.
2. NATURAL RESOURCES OVERLAY. For the purposes of this Ordinance, the sections in Article 10 shall be overlays to the underlying base districts as shown on the Elverson Borough Zoning Map. The location of and regulations applicable to regulated natural resources are described in Article 10.

SECTION 302  ZONING MAP

The boundaries of the districts shall be as shown on the map attached to, and made a part of, this Ordinance, which map shall be known as the "Zoning Map of Elverson Borough. The Zoning Map and all notations, references and data shown thereon are hereby incorporated by reference into this Ordinance, and shall be as much a part hereof as if all were fully described herein. Whenever an Amendment of this Ordinance, involving change of district boundaries, is approved by Borough Council, said change shall be recorded promptly on the "Zoning Map of Elverson Borough" in accordance with the Municipalities Planning Code.

SECTION 303  DISTRICT BOUNDARIES

A. The boundaries between districts are, unless otherwise indicated, either the center-lines of streets, rights-of-way, watercourses, platted lot lines, municipal boundaries, or such lines extended, parallel, or perpendicular thereto.

B. Where figures are shown on the Zoning Map between a street line and a district boundary, they shall indicate that the district boundary runs parallel to the center-line of the right-of-way of the street at a distance therefrom equivalent to the number of feet so indicated.

C. Where the boundaries of a single district are indicated as including directly opposite sides of a street, lake or watercourse, or right-of-way, for any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, lake, watercourse, or
right-of-way, lying within such portion of its length.

D. Where uncertainty exists as to the location of any said boundaries shown on the Zoning Map, the following rules shall apply:

1. Where a district boundary is indicated as approximately following the center-line of a street, lake, watercourse, or right-of-way, such center-line shall be construed to be such boundary.

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

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

4. Where scaled distances on the map do not agree with figures indicating the distance in feet, the figures shall control.

SECTION 304 BOUNDARY TOLERANCES

Where a district boundary line divides a lot held in single and separate ownership at the effective date of this Ordinance, the use regulations applying to the less restrictive district may extend into the portion of the lot in the more restrictive district either to the nearest lot line or a distance of fifty (50) feet from the district boundary line, whichever is less. Full use shall be made of the area of the lot in the less restrictive district before extension into the more restrictive district. Any extension of a use into the more restrictive district shall follow the area and bulk requirement of that district.
ARTICLE 4  
SRR Site Responsive/Recreation District

SECTION 401  PURPOSE

The purpose of the (SRR) Site Responsive/Recreation District is to provide areas in the Borough for a mix of primarily lower density residential uses in development patterns responsive to community resource protection objectives. The SRR District contains active farmland, significant environmental constraints, and low density residential dwellings on larger lots. The district serves as a logical transition between the Town Center District and adjacent municipalities. The SRR District provides flexible design options through use of the Site Responsive Residential Community option.

SECTION 402  USE REGULATIONS

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

A. Uses By-right. The following uses are permitted by-right in the SRR District:

1. Agriculture in accordance with Section 1205.
2. Single-family detached dwelling.
3. Site responsive residential community option in accordance with Section 1226.
4. Group care facility in accordance with Section 1211.
5. Municipal use.
6. Forestry/Timber harvesting in accordance with Section 1210.
7. Non-tower wireless communications facilities in accordance with Section 1231.
8. Public utility service structures and facilities in accordance with Section 1224.
9. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

B. Conditional Uses. The following uses are permitted when approved by the Borough Council as a Conditional Use subject to the provisions of Article 17 herein.

1. Supplemental dwelling unit in accordance with Section 1228.
2. Agriculture, Intensive in accordance with Section 1205.
3. Accessory use in addition to a permitted principal use, in accordance with Section 1202.
**SECTION 403  AREA AND BULK REGULATIONS**

The following shall apply to all uses except those included in a Site Responsive Residential Community in which case the provisions of Section 1226 shall apply:

<table>
<thead>
<tr>
<th></th>
<th>Without public sewer</th>
<th>With public sewer</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Minimum Lot Area</td>
<td>60,000 s.f.</td>
<td>30,000 s.f.</td>
</tr>
<tr>
<td>B. Minimum Lot Width at the Building Line</td>
<td>150 feet</td>
<td>100 feet</td>
</tr>
<tr>
<td>C. Maximum Building Coverage</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>D. Maximum Lot Coverage</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td>E. Front Yard, minimum</td>
<td>30 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>F. Rear Yard, minimum</td>
<td>25 feet</td>
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</tr>
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<td>G. Side Yard, minimum</td>
<td>25 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>H. Maximum Building Height</td>
<td>3 stories or 35 feet, whichever is less</td>
<td></td>
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</tbody>
</table>

**SECTION 404  DESIGN STANDARDS**

The following standards shall apply in the SRR District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
ARTICLE 5
SR Site Responsive Development District

SECTION 501 PURPOSE
The purpose of the (SR) Site Responsive Development District is to provide areas in the Borough for a mix of primarily residential uses at varying densities in patterns responsive to community resource protection objectives. The SR District contains environmental constraints and several residential developments. The district provides a variety of residential dwelling types and serves as a logical transition between the Town Center District and adjacent municipalities. The SR District includes flexible design options through use of the Site Responsive Residential Community option.

SECTION 502 USE REGULATIONS

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

A. Uses By-right. The following uses are permitted by-right in the SR District:
   1. Agriculture in accordance with Section 1205.
   2. Single-family detached dwelling.
   3. Municipal use.
   4. Place of worship in accordance with Section 1221.
   5. Forestry/Timber harvesting in accordance with Section 1210.
   6. Group care facility in accordance with Section 1211.
   7. Non-tower wireless communications facilities in accordance with Section 1231.
   8. Public utility service structures and facilities in accordance with Section 1224.
   9. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

B. Conditional Uses. The following uses are permitted when approved by the Borough Council as a Conditional Use subject to the provisions of Article 17 herein.
   1. Site responsive residential community option in accordance with Section 1226.
   2. Private club or fraternal organization in accordance with Section 1222.
   3. Residential conversion in accordance with Section 1225.
   4. Supplemental dwelling unit in accordance with Section 1228.
   5. Accessory use in addition to a permitted principal use, in accordance with Section 1202.
SECTION 503  AREA AND BULK REGULATIONS

The following shall apply to all uses except those included in a Site Responsive Residential Community in which case the provisions of Section 1226 shall apply:

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<td>150 feet</td>
<td>100 feet</td>
</tr>
<tr>
<td>C. Maximum Building Coverage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-family detached dwelling</td>
<td>10%</td>
<td>25%</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>15%</td>
<td>35%</td>
</tr>
<tr>
<td>D. Maximum Lot Coverage</td>
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<td></td>
</tr>
<tr>
<td>Single-family detached dwelling</td>
<td>20%</td>
<td>40%</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>30%</td>
<td>50%</td>
</tr>
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<td>20 feet</td>
</tr>
<tr>
<td>H. Maximum Building Height</td>
<td>3 stories or 35 feet, whichever is less</td>
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</tr>
</tbody>
</table>

SECTION 504  DESIGN STANDARDS

The following standards shall apply in the SR District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
ARTICLE 6
TC Town Center District

SECTION 601  PURPOSE

The purpose of the (TC) Town Center District is to provide for a mix of residential and commercial activity, as has historically characterized village development along Main Street. The TC District is largely coincident with the Elverson Historic District, listed on the National Register of Historic Places. The TC District is intended to promote the long-term economic viability of the District and to provide for new residential, office, and commercial development which is compatible with the historic village context.

SECTION 602  USE REGULATIONS

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

A. Uses By-right. The following uses are permitted by-right in the Town Center District:


2. Two-family dwellings.

3. The following uses are permitted by-right provided such uses occupy no more than 5,000 square feet of gross sales/service area:

   a. Retail store.
   b. Office.
   c. Studio.
   d. Spa.
   e. Bank or financial institution.
   f. Institutional use.
   g. Personal service shop.
   h. Athletic equipment sales and repair shop.
   i. Office of a contractor or craftsman.
   j. Self-service laundromat.

   k. Mixed use in accordance with Section 1218. More than one (1) principal use on a single lot or tract or within a single building, including any use otherwise permitted by right or conditional use in the TC district.

4. Municipal use.
5. Place of worship in accordance with Section 1221.
6. Group care facility in accordance with Section 1211.
7. Forestry/Timber harvesting in accordance with Section 1210.
8. Non-tower wireless communications facilities in accordance with Section 1231.
9. Agriculture in accordance with Section 1205.
10. Public utility service structures and facilities in accordance with Section 1224.
11. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

B. Conditional Uses. The following uses are permitted when approved by the Borough Council as a Conditional Use subject to the provisions of Article 17 herein. In addition to the standards and criteria of Article 17, Borough Council shall consider the standards of Section 1212 of this Ordinance and the recommendation(s) of the Elverson Historical Commission prior to approving, denying, or establishing specific conditions of approval for any conditional use for a contributing structure within the Elverson Historic District:

1. Any use permitted by-right under subsection 602.A.3 when occupying more than 5,000 square feet of gross sales/service area.
2. Restaurant.
3. Vehicle repair garage in accordance with Section 1230.
4. Multi-family dwellings. Multi-family development shall meet the area and bulk regulations stipulated for this District and the standards set forth in Section 1219. Where the standards of this Article differ from those stipulated in Section 1219, this Article shall apply.
5. Medical office or clinic in accordance with Section 1216.
6. Private club or fraternal organization in accordance with Section 1222.
7. Mortuary.
8. Crematory.
9. Day care center (Commercial Day Care) in accordance with Section 1207.
10. Adult day care in accordance with Section 1207.
11. Residential conversion in accordance with Section 1225.
12. Historic resources. The use of existing structures classified as contributing in the National Register of Historic Places nomination for the Elverson Historic District may involve any one (1) or more of the uses permitted herein. Alterations to such historic resources shall result in maintenance of general historical integrity and enlargement of such structures by greater than twenty five (25) percent of gross floor area shall be
permitted only when authorized by conditional use in accordance with Section 1212.

13. Hotel.

14. Age restricted retirement community congregate facility in accordance with the provisions of Sections 1204 and 1226.

15. Site responsive residential community option in accordance with Section 1226.

16. Supplemental dwelling unit in accordance with Section 1228.

17. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

SECTION 603 AREA AND BULK REGULATIONS

The following shall apply to all uses except those included in a Site Responsive Residential Community in which case the provisions of Section 1226 shall apply:

A. Minimum Lot Area.
   1. Single family detached dwelling 12,000 square feet
   2. Two-family dwelling 7,500 square feet per dwelling
   3. Multiple-family dwelling (tract) 20,000 square feet
   4. Other permitted principal uses 10,000 square feet

B. Minimum Lot Width at Building Line.
   1. Single family detached dwelling 50 feet
   2. Two-family dwelling 45 feet per dwelling
   3. Multiple-family dwelling (tract) 80 feet
   4. Other permitted principal uses 50 feet

C. Maximum Building Coverage.
   1. Single family detached dwelling 45%
   2. Two-family dwelling 45% per lot
   3. Multiple-family dwelling (tract) 55%
   4. Other permitted principal uses The maximum building coverage shall be in
      55% or a maximum building footprint of ten thousand (10,000) square feet, whichever is
      smaller. When authorized by Conditional Use in accordance with Article 17, the maximum building
      footprint may be increased to thirty (30,000) square feet.
D. Maximum Lot Coverage.
   1. Single family detached dwelling 60%
   2. Two-family dwelling 60% per lot
   3. Multiple-family dwelling (tract) 70%
   4. Other permitted principal uses 85%

E. Front and Rear Yard, Minimum.
   Front Yard    Rear Yard
   1. Single family detached dwelling 20 feet  20 feet
   2. Two-family dwelling    20 feet  20 feet
   3. Multiple-family dwelling (tract) 20 feet  20 feet
   4. Other permitted principal uses 20 feet, except as permitted by Section 605.

   5. Reduction of minimum front yard requirement. The front yard of a proposed structure in the TC District may be decreased in depth to the average alignment of existing structures within one hundred (100) feet on each side of the proposed structure. Such reduction may occur when alignment of adjacent existing structures is less than the minimum front yard requirement.

F. Side Yards, Minimum.
   1. Single-family detached dwelling 10 feet
   2. Two-family dwelling    10 feet, except where dwellings directly abut
   3. Multiple-family dwelling (tract) 10 feet
   4. Other permitted uses    10 feet

G. Maximum Building Height.  3 stories or 35 feet, whichever is less except a maximum of sixty five (65) feet may be permitted when authorized by Conditional Use in accordance with Section 605.

SECTION 604       DESIGN STANDARDS

The following standards shall apply in the TC District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
F. Building Design Standards for all buildings in accordance with Section 605.
G. Off-street parking shall not be allowed in the front yard of any property within the TC District. Otherwise, the off-street parking requirements shall be in accordance with Article 14.
SECTION 605 BUILDING DESIGN STANDARDS

A. Buildings Greater than Thirty Five (35) feet in Height. Buildings may be permitted to exceed thirty five (35) feet in height but shall not exceed sixty five (65) feet in height when authorized by conditional use in accordance with Article 17 and in accordance with the requirements of this Section. In addition to the requirements of Section 605.B, buildings permitted to exceed thirty five (35) feet in height shall meet the following requirements:

1. Not more than two (2) consecutive buildings greater than thirty five (35) feet shall be permitted immediately adjacent to a building of the same height.

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

3. Buildings of a height of greater than thirty five (35) feet shall have their vertical massing broken up with horizontal elements at the thirty five (35) foot height at a minimum. Elements to achieve this variation shall include, but are not limited to, such features as varying facade cladding, belt course, window and door fenestration, pilasters, piers, bay windows, bow windows, and other appropriate elements that project from the building facade no less than three (3) inches and no more than two (2) feet.

4. Buildings permitted to exceed thirty five (35) feet in height shall be required to achieve one (1) of the following three (3) options to offset the impacts of increased building height:

   a. Any portion of a building greater than thirty five (35) feet in height shall be set back an additional ten (10) feet from the lower building façade. For example, for a building fifty (50) feet in height, the first thirty five (35) feet of building may be at the front yard setback/building line, but the additional fifteen (15) feet of building shall be set back ten (10) feet from the lower portion of the building. See Figure 6-1

   Figure 6-1: Additional Building Height Setback

   b. The entire building set back a minimum of ten (10) feet to create a civic space in the form of a plaza, courtyard, or outdoor dining space. The design criteria in Section 605.A.4.d shall be required for additional building height.
c. Increase the sidewalk width from the minimum of five (5) feet for each additional ten (10) feet of building height, but sidewalks shall not exceed fifteen (15) feet in width. The design criteria in Section 605.A.4.d shall be required for additional building height.

d. The following shall be included as deemed appropriate to the design for each building approved for increased building height as per subsections b or c, above, as a part of the conditional use approval:

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

   a) Trees, planted or in planters.
   b) Surface planters (minimum size twenty four (24) inches in diameter).
   c) Hanging baskets (minimum size twelve (12) inches in diameter), hanging cantilevered from the building face or other appropriate structure (streetlights, etc) or other approved means.
   d) Planted window boxes at the bottom of all first floor windows and/or along the front building façade.
   e) Raised planting beds against the front building façade beneath windows or between the sidewalk and building line or entrance.

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

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

   a. The intent of the architectural design of the proposed building(s) and the manner in which the proposed building(s) contextually fit into and enhance the block pattern and streetscape of the traditional downtown area.
   b. Compliance with the conditional use standards and criteria set forth in this Section.
   c. General consistency with the Borough Comprehensive Plan, specifically regarding the Town Center and the 2010 Elverson Borough Revitalization Plan.

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

B. Standards for all Buildings and Structures.

1. No more than thirty (30) feet of continuous street wall shall be created for any new building or structure on a side facing a public street, unless a break in depth of not less
than three (3) inches and no more than three (3) feet is provided at intervals of not less than twenty (20) feet accomplished through elements to achieve this street wall variation which shall include, but be not limited to such features as varying facade cladding, vertical building extensions, window and door fenestration, recessed or extended doorway entrances, pilasters, piers, display windows, bay windows, bow windows and other appropriate elements that project from or extend into the street wall. See Figure 6-2.

2. No building or structure shall be a windowless box. Building openings and windows shall constitute not less than twenty five (25) percent or greater than eighty five (85) percent of all exterior walls that face a public street or parking area. See Figure 6-3

3. No building or structure shall have opaque, mirrored, or dark tinted windows. See Figure 6-4

4. Blank walls shall not be permitted along any exterior wall. Walls or portions of walls where windows are not provided shall have architectural treatments that include one or more of the following: concrete or masonry plinth at the base of the wall, belt courses, vertical columns, projecting cornice, medallions, artwork or murals, decorative trimwork, lighting fixtures, or other similar decorative feature. See Figure 6-5

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

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

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

Figure 6-2: Street Wall Interruption

![Street Wall Interruption](image)

Figure 6-3: Window Ratio Requirement

![Window Ratio Requirement](image)
Not Permitted: Building with no windows  Appropriate window ratio requirement
Figure 6-4: Opaque, mirrored, or dark tinted windows are not permitted

Figure 6-5: Examples of architectural treatment of blank walls.

Medallion    Belt Course and Projecting Cornice    Painted Mural

C. No goods shall be displayed in any open area except in accordance with Section 1109.J, Outdoor Display.
ARTICLE 7
C Commerce District

SECTION 701 PURPOSE

The purpose of the (C) Commerce District is to provide areas in the Borough for a continued mix of commercial, office, limited industrial, and other employment activity as well as new office, commercial and limited industrial development. The C District is located where convenient access and services are available. The C District is intended to provide for larger-scale and automobile-oriented uses which may not be compatible with the historic village context within the adjacent TC District.

SECTION 702 USE REGULATIONS

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

A. Uses By-right. The following uses are permitted by-right in the Commerce District:

1. Retail store.
2. Office.
3. Studio.
4. Spa.
5. Bank or financial institution.
6. Institutional use.
7. Personal service shop.
8. Office of a contractor or craftsman.
9. Restaurant.
11. Self-service laundry.
12. Place of worship in accordance with Section 1221.
13. Private club or fraternal organization in accordance with Section 1222.
14. Agriculture in accordance with Section 1205.
15. Municipal Use.
16. Medical office or clinic in accordance with Section 1216.
17. Forestry/Timber harvesting in accordance with Section 1210.

18. Non-tower wireless communications facilities in accordance with Section 1231.

19. Public utility service structures and facilities in accordance with Section 1224.

20. Accessory use in addition to a permitted principal use in accordance with Section 1202.

B. Conditional Uses. The following uses are permitted when approved by the Borough Council as a Conditional Use subject to the provisions of Article 17:

1. Multi-family dwellings. Multi-family development shall meet the area and bulk regulations stipulated for this district and the standards set forth in Section 1219. Where the standards of this Article differ from those stipulated in Section 1219 this Article shall apply.

2. Mixed use in accordance with Section 1218. More than one principal use on a single lot or tract or within a single building or structure, including any use otherwise permitted by right or conditional use in the C district.

3. Vehicle filling station in accordance with Section 1229.

4. Vehicle sales in accordance with Section 1230.

5. Vehicle repair in accordance with Section 1230.

6. Educational Use in accordance with Section 1209.

7. Day care center (Commercial Day Care) in accordance with Section 1207.

8. Adult day care in accordance with Section 1207.

9. Laboratory.

10. Industrial use.

11. Manufacturing use.

12. Wholesaling, warehousing and distribution.

13. Lumber Yard.

14. Kennel in accordance with Section 1215.

15. Two-family dwelling.


17. Residential conversion in accordance with Section 1225.

18. Supplemental dwelling unit in accordance with Section 1228.
19. Mortuary.

20. Crematory.


22. Self-storage facility in accordance with Section 1227.

23. Tower-based wireless communications facilities in accordance with Section 1231.

24. Age restricted retirement community in accordance with the provisions of Section 1204 and 1226.

25. Site responsive residential community option in accordance with Section 1226.

26. Group care facility in accordance with Section 1211.

27. Accessory use in addition to a permitted principal use in accordance with Section 1202.

SECTION 703       AREA AND BULK REGULATIONS

W/out public sewer       With public sewer

A. Minimum Lot Area.
   1. Commercial, Industrial or proposed Residential Use  60,000 square feet  20,000 square feet
   2. Residential use  20,000 square feet  7,000 square feet

B. Minimum Lot Width at Building Line.
   1. Commercial or Industrial Use  150 feet  100 feet
   2. Proposed Residential Use  150 feet  90 feet
   3. Residential use  150 feet  70 feet

C. Maximum Building Coverage.  30 percent  50 percent

D. Maximum Lot Coverage.  50 percent  70 percent

E. Front, Rear and Side Yards, Minimum.
   1. Industrial use  50 feet  50 feet
   2. Residential Use  20 feet  20 feet
   3. Commercial and all other uses  30 feet  30 feet

F. Maximum Building Height  3 stories or 40 feet, whichever is less
SECTION 704 DESIGN STANDARDS

The following standards shall apply in the C District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
SECTION 801   PURPOSE

The purpose of the (LI) Limited Industrial District is to provide an area within the Borough primarily devoted towards larger industrial and manufacturing uses. The LI District contains active industrial uses and serves as a logical location for such uses at the eastern edge of the Borough away from the higher density residential areas and historic town center.

SECTION 802   USE REGULATIONS

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

A. Use By-right. The following uses are permitted by-right in the LI District:

1. Light Industrial.
3. Laboratory.
4. Retail store.
5. Forestry/Timber harvesting in accordance with Section 1210.
6. Non-tower wireless communications facilities in accordance with Section 1231.
7. Public utility service structures and facilities in accordance with Section 1224.
8. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

B. Conditional Uses. The following uses are permitted when approved by the Borough Council as a Conditional Use subject to the provisions of Article 17.

1. Truck terminal.
2. Wholesaling, warehousing and distribution.
3. Adult use in accordance with Section 1203.
4. Junkyard, in accordance with Section 1214.
5. Mixed Use in accordance with Section 1218. More than one (1) principal use on a single lot or tract or within a single building, including any use otherwise permitted by right or conditional use in the LI District.
6. Self-storage facility in accordance with Section 1227.
7. Tower-based wireless communications facilities in accordance with Section 1231.
8. Any lawful use not specifically provided in this Ordinance.
9. Accessory use in addition to a permitted principal use, in accordance with Section 1202.

SECTION 803   AREA AND BULK REGULATIONS

A. Minimum Lot Area 60,000 square feet
B. Minimum Lot Width at the Building Line 150 feet
C. Maximum Building Coverage 30%
D. Maximum Lot Coverage 60%
E. Front Yard, minimum  50 feet
F. Rear Yard, minimum  50 feet
G. Side Yard, minimum  50 feet
H. Maximum Building Height  50 feet

SECTION 804  DESIGN STANDARDS

The following standards shall apply in the LI District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
ARTICLE 9
MHPO Mobile Home Park Overlay District

SECTION 901 PURPOSE

The Mobile Home Park Overlay District (MHPO) is designated to provide for mobile home park development offering affordable housing alternatives to present and future residents of the Borough of Elverson in a manner consistent with community resource protection objectives.

SECTION 902 APPLICABILITY

These provisions shall apply to all lands within the Borough of Elverson and shown as being located within the boundaries of the designated Mobile Home Park Overlay District which is considered as an overlay to and part of the Zoning Map.

SECTION 903 USE REGULATIONS

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

A. Permitted Principal Uses. Except where development of a mobile home park is permitted in accordance with conditional use approval by the Borough Council, the provisions of the underlying base district shall apply throughout the MHPO District.

B. Permitted Accessory Uses.

1. Accessory uses on the same tract or lot, customarily incidental to mobile home park development or mobile home use, and solely intended for use by residents thereof, including recreational and community facilities, where mobile home park development has been approved as a conditional use. No commercial use shall be permitted within a mobile home park.

2. Parking in accordance with Article 14.

3. Signs in accordance with Section Article 13.

C. Conditional Use.

1. When approved as a conditional use by the Borough Council in accordance with applicable provisions of Article 17, a mobile home park may be developed conforming to the provisions of Article VIII of the Subdivision Ordinance.

2. Conditional use application shall be accompanied by a unified overall site plan in accordance with the provisions of Article 17. The site plan shall be prepared to sufficient detail to demonstrate feasibility of compliance with all design standards and criteria of this Article. Applicant is strongly encouraged to arrange a meeting with the Elverson Borough Planning Commission to discuss conceptual plans for development under this Article in view of community development and resource conservation objectives prior to formal conditional use application.
SECTION 904  HEIGHT REGULATIONS

The maximum height of all structures erected, enlarged, altered, or used in the MHPO District shall be thirty five (35) feet, except as provided in Section 1102.A.4.

SECTION 905  AREA AND BULK REGULATIONS

The following shall apply:

A. The minimum size of any tract eligible for mobile home park development shall be three and one half (3.5) acres.

B. The Density, Dimensional, and General Layout Standards of Article VIII of the Subdivision Ordinance shall apply to any development of a mobile home park.

SECTION 906  DESIGN STANDARDS

The following standards shall apply in the MHPO District, where applicable:

A. Natural Resources Protection, Article 10.
B. General Regulations, Article 11.
C. Supplemental Use Regulations, Article 12.
D. Signs, Article 13.
E. Off-Street Parking Requirements, Article 14.
ARTICLE 10
Natural Resource Protection

SECTION 1001 PURPOSE

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

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

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

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

SECTION 1002 APPLICABILITY AND LIABILITY

A. For the purposes of this Ordinance, Sections 1004-1006 within this Article shall be overlays to the underlying districts shown on the Elverson Borough Zoning Map. In those areas of the Borough where a section of this Article applies, the provisions of the section shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between a section of this Article and the underlying district(s), the more restrictive provision shall apply.

B. In the event that two (2) or more natural resources identified in this Article overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building, etc.) shall apply to the area of overlap.

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

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

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

D. Should the boundaries or delineations of any section of this Article be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable section of this Article shall continue to apply.
E. Plan information required by Section 1003 shall be verified as correct by a qualified professional as determined by the Borough.

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

G. All new development shall comply with the Borough Stormwater Ordinance.

SECTION 1003 APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS

In order to meet the natural resource protection standards of this Article, the following information shall be submitted by the Applicant. Where a subdivision or land development review is required, such information shall be included with the application for such review in accordance with the Subdivision Ordinance.

A. A site plan which clearly delineates the limits of all natural resources on the site as outlined in this Article including areas of floodplain, steep slopes, wetlands, hydric soils, and woodlands, and the proposed use of the site including any existing or proposed structures. This site plan shall include the site’s watershed and the water quality designation of the watershed in which the property in question is located.

B. The limits of all encroachments and disturbances necessary to establish the proposed use on the site, including a grading plan showing existing and proposed contours at two (2) foot intervals.

C. The identification of the minimum buildable area(s). The purpose is to ensure that sufficient area is provided for the general location of buildings, driveways, and other improvement while meeting the requirements of the natural resource protection standards.

D. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the site plan as indicated in Figure 10-1. The figures in Column D (Proposed Disturbance) shall be less than or equal to the corresponding figures in Column C (Maximum Amount of Permitted Disturbance) for each protected resource.

**Figure 10-1: Application of Natural Resource Protection Standards**

<table>
<thead>
<tr>
<th>Protected Resource</th>
<th>Column A Amount of Land in Protected Resource* (sq.ft.)</th>
<th>Column B Maximum Disturbance Allowance** (percent)</th>
<th>Column C Maximum Amount of Permitted Disturbance (sq.ft.)</th>
<th>Column D Proposed Disturbance of Resource (sq.ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steep Slopes (&gt;25%)</td>
<td>30%</td>
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<td></td>
<td></td>
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<tr>
<td>Wetlands</td>
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<tr>
<td>Woodlands</td>
<td>SLDO 624</td>
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<tr>
<td>Floodplain</td>
<td>Floodplain Ord.</td>
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</tr>
<tr>
<td>Riparian Buffers</td>
<td>Stormwater Ord.</td>
<td></td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* See Section 1002.B and D., herein.
** Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Borough.
SECTION 1004  STEEP SLOPES

A. Purpose.

The purpose of this Section is to promote the health, safety and general welfare and to minimize negative environmental impacts by:

1. Conserving and protecting steep slopes from inappropriate development.
2. Protecting watersheds and limiting increases in stormwater runoff.
3. Regulating development in order to limit erosion and reduce the potential for increased run-off and downstream flood hazards.
4. Protecting the natural vegetative cover on steep slopes, thereby reducing runoff and flooding potential.
5. Protecting the quality of streams which would be threatened by indiscriminate grading and development on Steep Slopes.

B. Identification and Delineation of Steep Slopes.

1. The identification of possible steep slopes shall be those areas indicated on Figure 6-6 of the Borough Comprehensive Plan. Indication or exclusion of such areas in the Comprehensive Plan does not remove an applicant from the burden of identifying steep slopes as required herein.
2. Steep Slopes shall be defined and regulated as anywhere on a lot or tract where slopes are greater than twenty five (25) percent.
3. Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. For purposes of this Section, slope shall be measured over three (3) or more two (2) foot contour intervals (six (6) cumulative vertical feet of elevation). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor licensed to practice in the Commonwealth of Pennsylvania, except where exempt as per Section 1004.B.4, below.
4. Man-made steep slopes and areas of steep slope that are less than one thousand (1,000) square feet shall be exempt from these standards.
5. Where site analysis in accordance with the Subdivision Ordinance is not required and topographic data is otherwise not available, areas mapped on Map 6-B in the Borough Comprehensive Plan shall be considered steep slope areas, except where applicant has demonstrated otherwise to the satisfaction of the Borough.

C. Application Procedures. Before a permit is issued for any construction or earth disturbance activity on land within or affecting steep slope areas, a site plan prepared by a registered engineer containing the following material, in full or in pertinent parts, shall be submitted for review by the Borough Engineer:
1. An earthmoving plan of the property which indicates existing and proposed grades, with contour lines at a maximum of 2-foot intervals, including but not limited to the area of any proposed activity, disturbance, or construction.

2. A site plan indicating slopes within the site greater than twenty five (25) percent shall be mapped and displayed for existing and proposed conditions. All steep slope areas shall be shaded.

3. A site plan indicating existing and proposed structures, paved areas and other impervious surfaces, easements, sewage facilities, water supply facilities, storm drainage facilities, and retaining walls. The site plan also shall locate and identify existing vegetation and ground cover within steep slope areas, as well as proposed groundcover, vegetation, or landscape material(s) to be installed.

4. Architectural plans, elevations, and sections.

5. Plan, profile, and typical cross-sections of any proposed street, emergency access, or driveway, with the seal of a registered professional engineer thereon.

6. The site plan shall be reviewed by the Engineer as the representative agent of the Borough to verify the delineation of slopes on the application and make a determination. Should a dispute concerning any identified steep slopes occur subsequent to the determination; the party contesting the location of the boundary shall have the burden of establishing that land does not lie within the area of Steep Slopes as delineated by Section 1004.B.

D. Standards for Development or Disturbance in Steep Slope Areas. The following standards are applicable to all uses located wholly or partly within any Steep Slope Areas in accordance with Section 1004.B:

1. Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary. For areas where slopes greater than twenty five (25) percent occur, the following requirements shall apply:

   1) The maximum impervious surface permitted on the total area of steep slopes shall be fifteen (15) percent.
   2) Maximum disturbance to the total area of steep slopes shall not exceed thirty (30) percent.

2. The proposed development, any impervious ground cover, and the resultant disturbance to the land and existing vegetative cover shall not cause runoff and/or related environmental problems off the site.

3. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures may be required by the Borough as it deems appropriate.
4. Important visual qualities of the site shall be retained to the maximum extent practicable; in addition to vegetation, these may include hilltops or ridgelines, rock outcroppings, and the natural terrain and contours of the site.

5. Grading for a road or driveway necessary for access to the principal use and sewer, water, and other utility lines shall be designed within the existing contours of the land to the extent possible unless it can be demonstrated that no other routing is feasible, with cuts and grading minimized.

6. Finished slopes of all permitted cut and fill within steep slopes shall not exceed twenty-five (25) percent slope.

   a. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of the Subdivision Ordinance.
   b. The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.

E. Municipal Liability. Any determination that a proposed use complies with this Section, or any approval of a subdivision or land development plan, or any issuance of a zoning, building, or use permit within or near steep slope areas shall not constitute a representation, guarantee, or warranty of any kind by the Borough or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Borough, its officials or employees. This Section does not imply that areas outside defined steep slope areas or land uses permitted within steep slope areas will always be totally free from the adverse effects of erosion, or other effects of nearby steep slopes.

SECTION 1005 CONSERVATION OF WOODLANDS

A. Purpose. The purpose of this Section is to promote conservation of woodland resources throughout the Borough of Elverson through resource identification, management planning, and development limitations where appropriate.

B. Woodland Management Planning. Any Applicant required to submit an Open Space Management Plan in accordance with Section 1226, Site Responsive Residential Community Option, and/or a Landscape Plan in partial fulfillment of the requirements of this Zoning Ordinance and/or Section 609 of the Subdivision Ordinance shall include, as part of such plan, provision for the long-term management of any woodland areas as defined by this Ordinance, whether or not part of any required open space area on the same lot or tract. Where applicable, applicants are strongly encouraged to seek woodland management assistance through the Pennsylvania "Forest Stewardship Program" administered by the Pennsylvania Bureau of Forestry.

C. Provision for Building Permit Application. Any Applicant for building permit (i.e., for building activity not otherwise constituting a land development) shall comply with the provisions of Section 624 of the Subdivision Ordinance. On any lot of record at the time of enactment of this Section, the Zoning Officer may issue a permit for building activity in accordance with
applicable zoning district regulations where such building activity requires woodland disturbance in excess of that permitted under Section 624.A.3 of the Subdivision Ordinance, subject to determination by the Zoning Officer that such disturbance is limited to the minimum practicable extent necessary to accommodate the proposed building activity.

SECTION 1006  WETLANDS

A. Purpose. To preserve and protect wetland areas as "natural filters" which aid in improving surface and ground water quality, groundwater recharge areas, natural floodwater retention areas, and as unique habitats for species associated with wetland areas.

B. Applicability. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed except where state or federal permits have been obtained and permits have been approved by the Borough as applicable.

C. Identification.

1. The identification of possible wetland area shall be any areas of Elverson Borough consisting of wetlands, hydric soils, or seasonal high water table soils which are identified by:

   a. The Open Space, Recreation and Environmental Resources Plan of the Borough of Elverson.
   b. Map 6-A and 6-C in the Borough Comprehensive Plan.
   c. The current Soil Survey for Delaware and Chester Counties by the Natural Resource Conservation Service of the United States Department of Agriculture, or the most recent revision thereto.

2. Where wetlands are indicated by any of these sources, or where the Borough otherwise has sufficient evidence that wetlands may be present on a site, an applicant shall be required to delineate wetlands in accordance with Section 1006.D.2.

D. Delineation of Wetlands / Administrative Process.

1. Coordination with the Pennsylvania Department of Environmental Protection and the U.S. Army Corps of Engineers:

   a. Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations, regardless of whether a delineation under Section 1006.D.2 is required.
   b. If required, a wetlands delineation shall be sent to both agencies for review.
   c. A copy of any correspondence submitted to or received from either agency shall be provided to the Borough within ten (10) working days of mailing or receipt.

2. If wetlands delineation is required pursuant to Section 1006.C above, prior to the granting of any applicable permits from the Borough of Elverson, the applicant shall provide a wetlands delineation report consistent with the following requirements:
a. A full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional with demonstrated qualifications approved by the Borough.

b. The wetland report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present. If there is a question as to the accuracy of the wetland delineation report, the Borough may hire a qualified consultant to review the delineation and recommend revisions at the applicant’s expense.

c. Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the delineation report shall be acceptable to the Borough Engineer or other qualified consultant hired by the Borough.

d. If no wetlands are found on the site, a note shall be added to the preliminary and final plans stating that “This site has been examined by (name and address with a statement of submitted qualifications), and no wetlands as defined by the U.S. Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January 1987 (or most currently used manual), were found to exist.”

SECTION 1007  RIPARIAN BUFFERS

Riparian Buffers are regulated in accordance with the Borough Stormwater Management Ordinance.

SECTION 1008  FLOODPLAIN

Floodplains are regulated in accordance with Borough Floodplain Ordinance.
ARTICLE 11
General Regulations

SECTION 1101 PURPOSE

The provisions of this Article represent regulations and standards which are common to all zoning districts unless stated as pertinent to a specific district herein.

SECTION 1102 BUILDINGS, STRUCTURES, LOTS, and YARDS

All buildings, structures, lots, and yards shall, in addition to the applicable zoning district regulations, comply with the following regulations, as applicable:

A. Buildings and Structures.

1. More than one (1) principal structure shall be permitted on a single lot, provided the area and bulk requirements of the applicable zoning district shall be met for each individual structure.

2. Except where permitted otherwise in the SR, SRR, C, TC and LI Zoning Districts, only one (1) principal use shall be permitted in a single structure.

3. One (1) or more accessory structures may be located on a lot, subject to the zoning district regulations and in accordance with Section 1202, Supplemental Use Regulations.

4. Building Height. No building or structure in any zoning district shall exceed the height limitations of the applicable district. The height limitations of this Ordinance shall not apply to church spires, belfries, steeples, cupolas, domes, and other similar structures not devoted to human occupancy. Ventilation fans, air-conditioning equipment, and similar equipment shall be masked from view by a pediment or other similar architectural feature.

5. Minimum Habitable Floor Area. The minimum habitable floor area of a dwelling unit shall be in accordance with the building code for the Borough of Elverson (UCC) and other applicable requirements of this Ordinance.

B. Lots. See Figure 11-1

1. Not more than one (1) principal use shall be permitted on a lot, except where permitted in the SR, SRR, C, TC and LI Zoning Districts,

2. No lot shall be reduced in size so that the minimum lot area and/or dimensional requirements of this Ordinance are no longer met.

3. Every lot hereafter approved shall have frontage upon a public or private street improved to meet Borough regulations or for which such improvements have been ensured by the posting of a performance guarantee pursuant to the Subdivision Ordinance.

4. Minimum Lot Width. No principal structure shall be erected on any part of a lot which has a width less than the width required in the applicable zoning district.
5. An existing lot that does not comply with the minimum lot area requirements shall not be subdivided.

6. A lot that does not comply with the minimum dimensional requirements shall not be subdivided to further increase the nonconformity or create a new nonconforming condition.

7. Corner Lots.
   a. A front yard shall be applied to the street frontage to which the front of the primary structure or structures faces.
   b. The yard opposite the front of the primary structure or structures shall be a rear yard.
   c. The remaining yards shall be side yards.
   d. The minimum lot width requirements shall be applied to the street frontage to which the front of the primary structure or structures faces.
   e. Corner lots shall comply with the requirements of Section 1103, Visibility on Corner Lots.

8. Flag Lots. Flag lots shall be permitted by Conditional Use in accordance with Article 17 and the following regulations:
   a. Flag lots shall contain a lot area equal to the minimum required lot area of the zoning district in which the lot is located. Where applicable, the area of the access strip (stem) shall not be included in the calculations of the required minimum lot area.
   b. Access Strip (stem).
      1) A flag lot shall be connected to an existing or proposed road by an access strip (stem) which shall have a minimum width of twenty five (25) feet measured from the existing street line of the road being accessed for the full length of the access strip (stem) to the point where the lot first obtains the required minimum lot width.
c. The front yard for a flag lot shall be measured from the point where the lot first obtains the minimum required lot width for the district in which the lot is located.

9. Reverse frontage lots (Through lots).

a. Any yard abutting a street shall meet the minimum required front yard for the applicable zoning district and shall be subject to all front yard requirements of this Ordinance. The remaining yards shall be side yards.

b. The minimum lot width requirements shall be applied to the street frontage to which the front of the primary structure or structures faces.

C. Yards. See Figure 11-2

1. Where a minimum depth of a front, side, or rear yard setback is required as specified by the area and bulk requirements in the zoning districts, an unoccupied space a minimum of the specified depth shall be provided between the street line(s) or lot line(s) and the nearest point of any principal building or structure, except when permitted or otherwise specified elsewhere in this Ordinance.

2. Sideyards shall not be required for buildings or structures connected by party walls on adjacent lots or on the same lot where such structures are permitted by this Ordinance.

3. Space provided to satisfy the area and bulk requirements for any building or structure, either existing or proposed, shall not be used to meet the area and bulk requirements for any other building or structure.

4. Projection into required yards. No building or structures or portion thereof shall be constructed within or shall project into any required yard in any zoning district except as follows:

a. No structure or any other item or property shall be placed so that intrudes upon the required Visibility on Corner Lots in accordance with Section 1103.

b. Driveways, sidewalks, walkways, fences, and signs shall be permitted within required yards, except as otherwise regulated by this Ordinance and the Subdivision Ordinance.

c. Open, unenclosed fire escapes, unroofed steps, bay windows, and balconies may project a maximum of four (4) feet into any side or rear yard.

d. Uninhabited accessory structures including sheds not used for automobile storage, storage sheds, arbors, open trellises, flagpoles, and lampposts shall be permitted within required yards.

e. Awnings or movable canopies may project into any yard a maximum of twelve (12) feet.

f. No building, structure, or part thereof shall be located within five (5) feet of any lot line, except as otherwise permitted by this Ordinance.
SECTION 1103  VISIBILITY ON CORNER LOTS.

Any wall, fence or other structure, object, hedge, tree or other planting on a corner lot shall be designed in a manner which does not obscure the vision of traffic. No vision-obstructing object shall obscure vision above the height of thirty (30) inches or below the height of ten (10) feet within the area bounded by the street lines of such corner lots and a line joining them twenty five (25) feet from their point of intersection. For example, trees shall be limbed to a height of ten (10) feet. Applications for subdivision or land development shall comply with the clear sight distance requirements in Section 621.I of the Subdivision Ordinance.

SECTION 1104  OFF-STREET PARKING AND LOADING

All uses shall be provided with required off street parking and loading facilities as required by Article 14 of this Ordinance.

SECTION 1105  SCREENING

Where required, screening shall be in accordance with Section 609 of the Subdivision Ordinance.

SECTION 1106  LANDSCAPING

The provisions of Section 609 of the Subdivision Ordinance shall apply to any use or change in use, where required by the Zoning Hearing Board, where stipulated as a condition of conditional use approval by Borough Council, or otherwise required by this Ordinance.

SECTION 1107  ACCESS AND TRAFFIC CONTROL

In order to minimize traffic congestion and hazards, and control street access in the public safety, the following standards have been established:

A. Access to parking lots shall be provided by a defined access driveway or driveways in order to avoid direct access onto a public street. No parking lot or individual parking space shall directly abut the cartway of a street, except where an access driveway or driveways are
provided, in accordance with Article 14 and Section 611.D of the Subdivision Ordinance.

B. There shall be a maximum of two (2) access driveways to any public street per use or lot.

C. Buildings or structures shall be so located on a lot in such a manner to provide safe and convenient access for emergency service vehicles and to accommodate required off-street parking and access thereto in accordance with Section 611.D of the Subdivision Ordinance.

D. Driveways and access driveways shall otherwise be in accordance with Section 611.D of the Subdivision Ordinance.

SECTION 1108 LIGHTING

A. Purpose. The provisions of this Section are enacted in order to minimize undesirable off-site effects of lighting while providing for lighting that is sufficient for the safe and pleasurable use of each property in order to:

1. Protect drivers and pedestrians from the glare of non-vehicular light sources.
2. Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.
3. Promote energy efficient lighting design and operation.

B. Applicability. Outdoor lighting shall be required for the purpose of safety and personal security in areas of public assembly and traverse, including, but not limited to:

1. Access driveways, pedestrian walkways, vehicular service areas, and parking facilities of multi-family, commercial, institutional and industrial uses.
2. Loading facilities.
3. At the ingress and egress of parking facilities.
4. Where Borough Council may require or permit lighting to be incorporated for other uses where security and safety reasons warrant.
5. Where required in accordance with any applicable provision of this Ordinance or the Subdivision Ordinance, the owner shall install, or cause to be installed at the expense of the owner, metal pole street lights serviced by underground conduit in accordance with a plan prepared by an engineer and approved by the Borough Council.
6. Unless otherwise regulated by this Ordinance, the requirements of this Section shall apply to signs, architectural lighting, and landscape lighting.

C. Lighting shall otherwise be in accordance with Section 610 of the Subdivision Ordinance.
SECTION 1109 OUTDOOR STORAGE REGULATIONS

A. All outdoor storage shall be completely screened or hidden from view from any public right-of-way, a contiguous residential use, or property zoned for residential use. Screening shall consist of plants or an architectural screen in accordance with Section 1105.

B. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide defined areas within the required parking space areas for storage of said carts. Each designated storage area shall be clearly marked for storage of shopping carts. Such signs indicating storage shall not be considered as regulated by Article 13. However, no more than two (2) signs shall be permitted per parking cart storage each not greater than four (4) square feet in size. Each designated storage area shall be enclosed by a barrier a minimum of four (4) inches higher than the parking area surface, and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during non-operating hours.

C. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off by natural causes or forces.

D. All organic refuse or garbage shall be stored in durable, vermin-proof containers. For multi-family uses with greater than six (6) units, commercial, institutional, and industrial uses, garbage storage shall be centralized to expedite collection and screened from adjacent properties and from the public view in accordance with Section 609.C.4.b of the Subdivision Ordinance.

E. Outdoor storage facilities for fuel, raw materials and products shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot.

F. Storage Area. This Section shall not apply principal use where storage is implicit to the use including Lumber Yards and Vehicle Sales.

1. Outdoor storage shall be permitted within the rear yard of any property.

2. Outdoor storage shall not exceed the following percentage of the rear yard area:

   1. Residential Uses: 25 percent
   2. Nonresidential Uses: 50 percent

3. Outdoor storage shall not exceed ten (10) feet in height.

4. Outdoor storage shall not occupy any part of street rights-of-way, pedestrian walkways, sidewalks, driveways, or required parking spaces.

5. Outdoor storage shall be screened from adjacent properties in accordance with Section 1105 and the Subdivision Ordinance.

G. Vehicles and Vehicle Parts.

1. Not more than two (2) unregistered, uninspected, or unlicensed vehicle of any kind shall be permitted per residential property/lot.
2. No vehicle shall be stored on blocks, further, no vehicle shall be in a constant state of disrepair for more than sixty (60) consecutive days.

3. The storing or parking of vehicles for sale shall not be located within any street right-of-way and shall be located a minimum of ten (10) feet from all other property lines.

H. Storage of not more than two (2) boats, trailers, or recreational vehicles (RV’s, ATV’s) owned by the property owner shall be permitted behind the building line and shall be setback from any lot line as required for an accessory structure for the district in which it is located.

I. Outside storage or display shall not occupy any part of the street right-of-way, area intended or designed for pedestrian use, required parking area, or required front yard except as specifically permitted herein.

J. Outdoor Display. In the Town Center (TC) Zoning District, merchandise available for retail sale may be displayed in a neat and orderly fashion outside of the building of the retail establishment that is selling the merchandise, provided:

1. No merchandise shall be placed within four (4) feet of the edge of cartway.

2. A four (4) foot wide clear sidewalk path shall be maintained at all points.

3. No merchandise shall be displayed outdoors in a manner that is intended to or has the effect of interfering with pedestrian or vehicular traffic or is distracting to motorists.

4. The outdoor display of merchandise shall not interfere with the sight lines of traffic and shall not impair the visibility of any public or private sign.

5. The merchandise shall not be placed within required parking spaces.

6. No merchandise shall be displayed outdoors in a manner that will result in the merchandise falling into the street or sidewalk, blowing, spilling, or otherwise becoming disorderly, hazardous or a nuisance.

7. No additional signage in excess of that approved for the property shall be attached to or placed in conjunction with the merchandise being displayed.

8. Any merchandise that is placed on the public sidewalk or right-of-way in violation of this Section or that otherwise constitutes a hazard to the public may be removed by the Borough Zoning Officer with or without notice to the owner.

9. All merchandise displayed outdoors shall be removed and placed indoors at the close of business each day.
SECTION 1110 PERFORMANCE STANDARDS

A. Applicability.

1. All uses shall comply with the requirements of this Section. The regulations established in this Section are designed to prevent dangerous or objectionable hazards or conditions which would be adverse to the health, safety and welfare of Borough residents.

2. In no instance shall any use or activity be permitted which by reason of noise, dust, odor, appearance, smoke, glare or other objectionable factor creates a nuisance, hazard, or other adverse effect upon the value or reasonable enjoyment of the surrounding properties, in accordance with this Section.

3. Compliance shall be determined by the Zoning Officer with respect to Permitted Uses, by the Zoning Hearing Board with respect to Special Exceptions, and Borough Council in respect to Conditional Uses. In order to determine whether a proposed use will conform to the requirements of this Ordinance, the Borough may obtain a qualified consultant's report, whose cost for services shall be borne by the applicant.

B. Smoke. No smoke shall be emitted from any chimney or other source visible gray greater than No. 1 of the Ringelmann Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a shade not darker than No.2 on the Ringelmann Chart may be emitted for not more than four minutes in any eight (8) hour period.

C. Air Pollution Dust and Dirt. Fumes, Vapors, and Gases

1. The emission of dust, dirt, fly ash, fumes, vapors or gasses which can cause any damage to human health, to animals or vegetation or to other forms of property or which can cause any soiling or staining of persons or property at any point beyond the lot lines of the use creating the emission is herewith prohibited.

2. No user shall emit or cause or allow to be emitted or permit to escape into the open air, any air contaminant of a quantity or quality which will violate any provision of this Ordinance or any other applicable regulation.

3. No user shall cause, allow, permit, kindle, ignite, or maintain any junk fire, refuse fire, or salvage operations fire.

4. No firm or corporation shall permit or cause the discharge of particulate matter into the atmosphere from incinerators in excess of 0.1 grains per cubic foot of gas at standard conditions corrected to twelve (12) percent CO2, except as designated under specific contaminants.

D. Specific Contaminants.

1. Fugitive Emission. As required by Sections 123.1 and 123.2, Chapter 123, Article III, Sub-Part C, Part 1, Title 15 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 17 January, 1972, or as may be revised in the future.

2. Particulate Matter Emissions. As required by Sections 123.11, 123.12, and 123.13, Chapter 13, Article III, Sub-Part C, Part 1, Title 25 of the Rules and Regulations of the...
Pennsylvania Department of Environmental Protection, as revised 27 January 1972, or as may be revised in the future.

3. Sulfur Compound Emissions. As required by Sections 123.21, 123.22, and 123.23, Chapter 123, Article III, Sub-Part C, Part 1, Title 25 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as revised 27 January, 1972, or as may be revised in the future.

E. Toxic or Noxious Matter.

1. Water-borne. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.

2. Airborne. The ambient air quality standards for the Commonwealth of Pennsylvania shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the Commonwealth of Pennsylvania, the release of such materials shall be in accordance with the fractional quantities of those toxic materials currently listed in the Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any 24 hour sampling period.

F. Noise Control. Noise levels shall be maintained at a level which is not objectionable due to intermittence, frequency or intensity and shall not exceed the standards established by this Section. The operation of motor vehicles, farm operations, temporary activities involved in the construction or demolition of structures, and emergency alarm signals shall be excluded from this regulation. Sound levels measured at all the property lines housing the activity producing the sound by a sound level meter which conforms to the specifications published by the American Standards Association shall not exceed 65 decibels (dBA) at any time. Sound levels at property lines abutting residential uses shall not exceed 50 decibels (dBA) between the hours of 9:00 p.m. and 7:00 a.m.

G. Odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond the lot boundary line within which the operation is situated. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system in order that control will be maintained if the primary safeguard system should fail. Odor thresholds shall be measured in accordance with ASTM d-1391-57, "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)."

H. Glare and Heat. No industrial use shall carry on an operation that would produce heat or glare beyond the property line of the lot on which the industrial operation is situated.

I. Vibration. Machines or operations which cause vibrations shall be permitted, but in no case shall any such vibrations be perceptible beyond the property line.

J. Radioactivity, Electrical, Radio Disturbance, or EMF and RFI Emission. There shall be no activities which emit radioactivity disturbance (except from domestic household appliances)
adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

K. Fire and Explosion Hazards. The manufacture of materials or products using processes ranging from free or active burning to intense burning is permitted, subject to compliance with all other performance standards, and provided the following conditions are met:

1. Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having non-combustible exterior walls.

2. All such buildings or structures shall be set back a minimum of fifty (50) feet from side or rear lot lines, and one hundred fifty (150) feet from the street line, and shall be protected throughout by an automatic fire suppression system complying with installation standards prescribed by the National Fire Protection Association.

3. The utilization in manufacturing process of materials which produce flammable or explosive vapors or gases shall be prohibited, except where permitted as a conditional use upon the recommendation of the Borough Engineer. Conditional Use approval shall be guided by the standards prescribed by the National Fire Protection Association, and the requirements of other ordinances of the Borough.

L. Water Quality. No use shall withdraw water from any stream without filing for and obtaining permission from the Delaware River Basin Commission or the Susquehanna River Basin Commission as applicable. No use shall discharge water to any stream except in accordance with applicable regulation of the Pennsylvania Department of Environmental Protection (DEP).


1. All storage must be designed to meet the standards prescribed by the National Fire Protection Association and other applicable regulation.

2. All outdoor storage facilities for fuel, raw materials, products; and all fuel, raw materials and products stored outdoors, shall be enclosed by an approved safety fence and visual screen and shall conform to all yard requirements of the applicable zoning district.

3. Storage of all materials or wastes shall meet the requirements of Section 1109 and all other applicable performance standards herein.

4. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

SECTION 1111  FENCES AND WALLS

A. Fences or walls may be permitted within and along the periphery of any required yard provided:

1. No fence or wall shall be constructed without filing a permit and receiving approval from the Borough. Permits are available on the Borough website and at Borough Hall.
2. No fence or wall shall be erected or planted within or encroaching upon the legal or ultimate street right-of-way or floodway. No fence or wall shall be erected or planted within or encroaching upon a utility easement or drainage easement unless the easement agreement which creates the easement specifically allows such encroachment.

3. No fence or wall shall be erected in any manner that obstructs a clear line of sight or vision from a driveway or street intersection in accordance with applicable sections of this Ordinance or the Subdivision Ordinance.

4. Unless otherwise specified in this Ordinance, fences or walls which are erected within a required front yard shall not exceed four (4) feet in height, and fences shall maintain a minimum one (1) to one (1) ratio of open areas to structural members (for example, picket wrought iron fence and post and rail fence).

5. Unless otherwise specified by this Ordinance all fences and walls within the required side yard or rear yard shall not exceed a maximum of six (6) feet on any lot for residential uses and eight (8) feet for nonresidential uses.

6. Fences and walls shall be constructed so as to place structural members toward the property being enclosed by the fence, thereby presenting the best appearance towards adjacent property.

7. Fences which are erected in residential zoning districts or for residential uses may be comprised of the following materials: wood; split rail; wrought iron; composite; chain link; a combination of the aforementioned materials; or other materials which, in the discretion of the Zoning Officer, are recognized as standard materials utilized for residential fencing.

8. Fences which are erected in the nonresidential zoning districts or for nonresidential uses may be comprised of the following materials: wood; split rail; wrought iron; composite; chain link; a combination of the aforementioned materials; or other materials which, in the discretion of the Zoning Officer, are recognized as standard materials utilized for nonresidential fencing.

9. Walls may be comprised of the following materials: decorative concrete block (such as E.P. Henry, Mesa, Keystone); brick; stone; concrete with a brick or stone veneer; or other materials which, in the discretion of the Zoning Officer, are recognized as suitable industry standards.

10. The use of razor or barb wire fencing shall only be utilized as part of a security fence for nonresidential uses.

11. An existing fence or wall replaced in its entirety shall comply with the provisions by this Section.

12. Ordinary and normal maintenance and/or repairs of a fence or wall in any zoning district shall not require the issuance of a permit.

13. Any fence or wall which, in the judgment of the Zoning Officer, is unsafe, dangerous or a threat to the public health, safety and/or welfare shall be removed, repaired or replaced.
14. Fences or walls erected on property that is dedicated to private or public open space shall comply with the provisions established under this Section.

B. The following wall and fences shall be exempt from the provisions established under this Section.

1. Fences and walls used for agricultural purposes to contain livestock or for agricultural uses, provided that they do not hinder visibility or pose a threat to the public health, safety or welfare.

2. Fences and walls of an historic nature which are accessory to an officially designated historic structure.

3. Buried electronic fences used to control pets, provided that they do not emit radiation which would pose a threat to public health, safety or welfare.


C. In situations where a property line is in doubt, the Zoning Officer may require the property owner(s) to have a professional land surveyor determine and mark the precise limits of the property line(s) in question, at the cost to the applicant(s).
ARTICLE 12
Supplemental Use Regulations

SECTION 1201 PURPOSE

The following regulations have been established to govern specific uses, structures, or buildings within the Borough of Elverson. These controls are important to the accomplishment of the purposes of this Ordinance to achieve compatibility with the general character of the Borough. The provisions under this Article shall apply in addition to any other applicable zoning district regulations.

SECTION 1202 ACCESSORY USES

A. General Regulations. Accessory uses shall be in accordance with applicable sections of Article 11 and the following:

1. Incidental and subordinate to the principal use on the tract or lot and shall not constitute a single and separate use from the associated principal use, unless otherwise expressly permitted by this Ordinance.

2. Located on the same tract or lot as the associated principal use.

3. Maximum height shall be in accordance with the regulations set forth herein, unless otherwise expressly permitted by this Ordinance.

4. No truck bodies, travel trailers, recreational vehicles, or similar items shall be used as accessory structures or to house any accessory uses.

5. Where accessory uses include buildings or structures, such buildings or structures shall be securely anchored, shall not pose a hazard to surrounding uses, and comply with the requirements of this Section.

6. No accessory use shall constitute a nuisance by way of odor, noise, light, glare, or other means, or shall endanger the health, safety, or welfare of residents or other uses.

7. Accessory Use Setbacks. Except as otherwise permitted by this Ordinance and as permitted in Section 1102.C.4., accessory uses shall be permitted at or to the rear of the building line and shall comply with the following regulations:

   a. Accessory uses shall be setback a minimum of five (5) feet from any lot line.

   b. Commercial accessory uses shall be setback a minimum of fifteen (15) feet from any lot line in the Commerce District or when adjacent to a residential use.

   c. Industrial accessory uses shall be setback a minimum of twenty (20) feet from any lot line.

   d. The minimum distance between any accessory buildings shall be ten feet (10). The minimum distance between any accessory building and a principal building shall be ten feet (10) if the buildings are not attached.
e. Alleys. Where accessory uses abut an alley, the accessory use shall not be located within the right-of-way of the alley.

8. Accessory Use maximum height. The maximum height of an accessory use, unless otherwise permitted by this Ordinance, shall not exceed the following requirement:
   a. SRR, SR, HTC Districts: 18 feet
   b. C and LI Districts: 25 feet

B. Residential Accessory Uses.

1. Accessory uses permitted by-right in every district include the following:

   a. Private residential garages or similar structure.
   b. Storage sheds. A maximum of two (2) storage sheds shall be permitted.
   c. Private swimming pools, in accordance with Section 1223.
   d. Minor home occupations, in accordance with Section 1213.
   e. Private recreation facilities or equipment.
   f. Domesticated animals and domesticated animal shelters, which shall not exceed fifty (50) square feet.
   g. Gardens and non-commercial greenhouses.
   h. Driveways and off-street parking facilities in accordance with Article 14.
   i. Fences or walls in accordance with Section 1111.
   j. Signs as permitted by Article 13.
   k. Landscaping, buffering, and screening in accordance with Section 1105 and 1106.
   l. Lighting in accordance with Section 1108.
   m. Outdoor storage in accordance with Section 1109.
   n. Uses designed to serve residents of a residential development, including areas for washing machines and dryers, lockers or indoor storage areas, recreational facilities and lounges, shall remain accessory and incidental to the development.
   o. Dish antennae, in accordance with Section 1217.

2. Accessory uses permitted by conditional use when authorized by Borough Council and subject to the requirements of Article 17 include the following:

   a. Major home occupations in accordance with Section 1213.
   b. Bed and breakfast in accordance with Section 1206.
   c. Supplemental dwelling units in accordance with Section 1228.

3. General Regulations.

   a. Permanent residency in travel trailers, tents, or recreational vehicles stored on a lot shall be prohibited.

   b. Temporary or nightly, outdoor parking or storage of commercial vehicles shall be limited to two (2) vehicles per lot within the lot boundaries. There shall be a maximum of two (2) such vehicles per lot, and such vehicle shall be owned or operated by the resident of the lot.

   c. Where storage of materials constitutes an accessory use, Section 1109 shall apply.
C. Nonresidential Accessory Uses.

1. Accessory uses permitted by-right include the following:
   a. Driveways and off-street parking and loading in accordance with Article 14 and applicable sections of the Subdivision Ordinance.
   b. Signs in accordance with Article 13.
   c. Accessory buildings, structures, or storage sheds.
   d. Fences or walls in accordance with Section 1111.
   e. Landscaping, buffering, and screening in accordance with Section 1105 and 1106.
   f. Lighting in accordance with Section 1108.
   g. Flagpoles.
   h. Outdoor storage or display in accordance with Section 1109.
   i. Outdoor dining shall be permitted as an accessory use to a restaurant or similar use in accordance with Section 1220.
   j. Cafeteria solely for the use of employees, patients, or students of the applicable use, or for official visitors to the use, but not open to the general public, including but not limited to Educational Use, Place of Worship, Office, or other similar nonresidential use.
   k. Adult or child day care center in accordance with Section 1207, shall be permitted as an accessory use for the use of employees patients, and students of the applicable use, or for official visitors to the use, but not open to the general public, including but not limited to Educational Use, Place of Worship, Office, or other similar nonresidential use.
   l. Drive-through service shall be permitted as an accessory use to certain specified uses within the C District in accordance with Section 1208.
   m. Recreational uses designed primarily for employees of the principal use.

SECTION 1203 ADULT USE

A. No adult use or structure shall be permitted:

1. Within five hundred (500) feet of any other adult use.

2. Within one hundred (100) feet of any residentially zoned district or residential use, or within five hundred (500) feet of any of the following uses:
   a. Place of worship.
   b. Day Care.
   c. Public and private schools and their adjacent play areas and facilities.
   d. Public playgrounds, public swimming pools, public parks and libraries.

B. No such use shall be located in any zoning district except the (LI) Limited Industrial District.

C. For the purposes of this Section, spacing distances shall be measured, in a straight line between the closest points of the listed uses, as follows:

1. From all property lines of the lot supporting any adult use.
2. From the outward line of boundary of all residential zoning districts or all property lines of a residential use.
3. From all property lines of any use listed in Section 1203.A.2.
D. Sign messages shall be limited to verbal description of material on the premises.

E. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.

F. Messages which are visible or intended to be visible from outside the property, such as on or within doors, windows, or exterior walls, shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films or live presentations of persons performing or services offered on the premises.

G. Any building or structure used and occupied as an adult-related use shall have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale materials, merchandise or film shall be visible from outside of the building or structure.

H. No materials or merchandise offered for sale, rent, lease, loan, or for view upon the premises, shall be exhibited or displayed outside a building or structure.

I. Should any adult commercial use cease or discontinue operation for a period of ninety (90) or more consecutive days, it shall not resume, nor may it be replaced by another adult commercial use unless said use complies with all the requirements of this Section.

J. Nothing in this Ordinance shall be deemed to allow any uses that are "obscene" as that term has been interpreted from time to time by the courts of the United States or the Commonwealth of Pennsylvania.

SECTION 1204 AGE RESTRICTED RETIREMENT COMMUNITY CONGREGATE FACILITY

A. Area and Bulk Regulations.

1. Minimum Tract Area. There shall be a minimum tract area of four (4) acres.

2. Maximum Density. The maximum density of the residential component of an Age Restricted Retirement Community Congregate Facility shall be fifteen (15) dwelling units per acre.

3. Maximum Floor Area. The maximum intensity of a Age Restricted Retirement Community Congregate Facility, including all residential units and all non-residential components thereof, measured by the total floor area of the building(s), shall not exceed 15,000 s.f. per acre, based upon the gross acreage of the entire tract.

4. The Minimum Lot Width, Maximum Building Coverage, Maximum Lot Coverage, Yard/Setback and Maximum Building Height requirements for "other permitted uses" in the zoning district regulations shall otherwise apply in addition to the applicable regulations for an Age Restricted Retirement Community Congregate Facility in Section 1226.

B. Accessibility. Wheelchair access to all dwelling units and facilities shall be provided in the design of structures, pedestrian walkways and parking lots. Buildings may be interconnected by means of covered or enclosed walkways.
C. Architectural Design. The requirements of Section 1226.E.2 shall apply in the context of an application for an Age Restricted Retirement Community Congregate Facility; provided, the architectural design shall reflect a residential use and appearance.

D. Internal Circulation. The development design shall facilitate safe and convenient traffic patterns, allowing entrance onto the tract at the discretion of Borough Council in accordance with the applicable regulations of this Ordinance and the Subdivision Ordinance, provided that exiting traffic has safe sight distances. The circulation pattern shall be reviewed and approved by Borough Council as part of the approval process, including consideration of the needs of the community and adjoining properties.

E. Community Room. Where a community meeting room is provided, Borough Council may request the availability of the meeting room for civic and public meetings, to be determined as part of the approval process.

F. Trash and Recycling. Recycling and trash pickup and disposal shall be contracted with private trash disposal companies by the community.

G. Age Restrictions. Age-restrictive covenants shall be imposed in accordance with the requirements of various applicable government agencies. In the event of the expiration of such restrictions, Elverson Borough may require the continuation of such restrictions so long as the retirement community is able to maintain at least eighty (80) percent occupancy.

H. Parking requirements shall be in accordance with Section 1402.D.2.

SECTION 1205 AGRICULTURE

A. The keeping of agricultural animals (livestock), exclusive of domesticated animals, shall not be permitted except on property qualifying for agricultural use in accordance with the provisions of this Section.

B. Agriculture uses shall be permitted as follows:

1. The minimum lot size shall be five (5) acres.

2. Except for a dwelling, no barn or other agricultural structure shall be constructed closer than one hundred feet (100) to any lot boundary of a different property owner.

3. No slaughtering operations for commercial purposes shall be permitted.

4. All pasture or exercising areas shall be fenced.

5. Lots shall be graded so that animal wastes are confined to the lot on which they originate.

C. Intensive agriculture uses, and customary buildings associated with intensive agricultural activities shall be permitted as follows:

1. The minimum lot size shall be five (5) acres.
2. All agricultural buildings, structures, feedlots or other odor or dust producing uses or activities, except storage facilities, shall be setback a minimum of two hundred feet (200) from any lot boundary.

3. Structures sheltering livestock shall be buffered by a vegetative screen from abutting lots containing nonagricultural uses. Screening shall be in accordance with Section 1105.

4. All pasture areas shall be fenced.

5. Lots shall be graded so that animal wastes are confined to the lot on which they originate.

D. The display and sale of agricultural products shall be permitted as an accessory use to an agricultural use from a temporary stand dismantled and removed at the end of the growing season, or from a permanent building provided that:

1. At least fifty (50) percent of such products displayed for sale shall be produced on the agricultural land on which said stand or building is located.

2. Such stand or building shall be located at least thirty (30) feet from any street line. A minimum of three (3) parking spaces, or one (1) space for each three hundred (300) square feet of building floor area, whichever shall be greater, shall be provided behind the street line. Any sales, display or parking area shall be at least seventy five (75) feet from a side or rear yard lot line.

SECTION 1206        BED AND BREAKFAST

A. Bed and Breakfast establishments shall be permitted as an accessory use when approved as a conditional use by Borough Council. A Use and Occupancy permit for a bed and breakfast establishment shall be required prior to the beginning operation of the use.

B. Bed and breakfast establishments shall be conducted within a single-family detached dwelling only, which is the bona fide residence of the operator. The appearance of the dwelling shall not be altered in such a way as to detract from the residential character of the structure. The principal use of the structure shall remain that of a single-family dwelling.

C. A minimum of one (1) full bathroom, separate from that used for the residents of the principal private dwelling, including a toilet, lavatory, and bathtub and/or shower, shall be provided.

D. Meals may be provided and any amenities associated with the residence, such as a swimming pool or hot tub, may be made available to registered guests.

E. Proof of annual fire inspection by a fire company or recognized fire safety organization shall be available at all times.
SECTION 1207 DAY CARE

The following standards shall apply to all day care facilities (Home Occupations: Home Child Day Care, Family Child Day Care Home, Group Child Day Care Home), Day Care Center (Commercial Day Care), and Adult Day Care where permitted by this Ordinance, except where otherwise specified herein:

A. Operators are responsible for obtaining and complying with all pertinent approval and license requirements from appropriate state, county, and other agencies including but not limited to the Pennsylvania Department of Human Services or Department of Aging, and compliance with applicable building, fire, UCC and other applicable code requirements. The applicant shall have received and hold all pertinent approvals and licenses and shall provide evidence thereof, prior to issuing of a zoning permit by the Zoning Officer.

B. The minimum lot size for any day care facility shall be based upon fulfilling the requirements of this Section, accommodating required off-street parking, and buffering/landscaping requirements but in no case shall be less than the applicable minimum lot size of the zoning district in which the facility is located.

C. There shall be a minimum of one (1) additional off-street parking space provided for each nonresident employee where applicable and a minimum of one (1) safe passenger unloading space a minimum of ten (10) feet by twenty (20) feet in size.

D. Minimum indoor areas and outdoor recreation area requirements per child or adult shall meet the most current Pennsylvania Department of Human Services or Department of Aging requirements, and the applicant shall submit proof to the Borough, prior to the issuing of permits, that these requirements have been met. In addition, outdoor recreation areas as applicable, shall be in accordance with the following:

1. The outdoor recreation area shall be located to the rear or side of the building and shall not include driveways, parking areas, land used for other purposes, or unsuited for active recreation due to natural conditions.

2. The outdoor recreation area shall be enclosed by a fence suitable to restrict attendees to the play area and fencing shall be a minimum of five (5) feet in height and meet all other applicable requirements of the UCC in conjunction with the PA Department of Human Services.

3. The outdoor recreation shall be on the same lot as the principal structure and fully controlled by the operator of the facility.

4. Outside play shall be limited to the hours of daylight.

E. Parking and Drop-off Area Requirements for a Day Care Center (Commercial Day Care).

1. Off-street parking shall be provided in accordance with Article 14 and shall be so designed to prevent interference with traffic flow on any adjacent roadways. In addition, appropriate areas designed specifically for temporary parking and dropping off of patrons may be provided in addition to and separate from off-street parking spaces, in accordance with this Section and consistent with Section 1208.C.
2. Drop-off areas shall be designed to eliminate the need for patrons to cross traffic lanes within or adjacent to the site and shall not be provided within parking aisles or lanes.

3. Drop-off areas shall be separate from required off-street parking spaces or aisles and shall be designated and maintained for the discharge and collection of attendees associated with the Day Care use.

4. Drop-off areas shall be marked by appropriate signs, pavement markings, or text.

F. Day care, Adult.

1. This use shall comply with the requirements of a Day Care Center (Commercial Day Care) in Section 1207.E. Adult day-care centers shall not be permitted as an accessory use in private homes (Home Occupation).

2. Adult day-care centers shall hold a valid license from the Pennsylvania Department of Aging, meet the regulations of the Pennsylvania Older Adult Living Centers Licensing Act of 1993 (6 Pa. Code § 11.1 et seq.), and the applicable requirements of all other state and county agencies. Where any of the requirements in this Section conflict with state requirements, the more restrictive requirement shall apply.

SECTION 1208 DRIVE-THROUGH

A. Where permitted, drive-through service shall be an accessory use in conjunction with any restaurant, bank, or other similar commercial use that provides service to customers who remain in vehicles and are served through an exterior window.

B. A site circulation plan shall be devised that separates those patrons utilizing drive through service from those patrons utilizing indoor facilities. The plan shall include the following information:

   1. Location and dimensions of all structures.
   2. Location and access to the drive through service.
   3. Location and dimension of parking, landscaping areas and signage, including handicapped parking spaces and handicapped access.
   4. Description of internal circulation and external access.

C. Drive through facilities shall have a dedicated area for conducting business, including a vehicle stacking lane which shall accommodate a minimum of five (5) vehicles waiting to utilize the drive-through service, and an area for departing vehicles which shall be situated to prevent vehicles from queuing onto adjoining roadways. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking, circulation, pedestrian, or handicapped access to the building. The stacking lane may be separated from parking or interior aisles by a curb and/or median buffer, and at a minimum shall be clearly marked/striped to distinguish it from parking areas and traffic aisles. An escape lane shall be provided parallel to the drive-through lane from the beginning of the drive-through lane to the order board. The escape lane may be part of a standard circulation aisle.

D. Exterior microphone/speaker system shall be arranged or screened to prevent objectionable noise impact on adjoining properties. Devices used to facilitate communication between the
establishment and customers shall not be audible on adjacent residential properties, where applicable.

E. The drive through facility, including teller windows and intercom, and the driveway, shall be located along the side or rear faces of the associated use.

F. A buffer yard/screen planting shall be maintained along all property lines abutting a residential use or district in accordance with this Ordinance and the Subdivision Ordinance.

G. Trash receptacles shall be provided outside in conjunction with drive-through service for patron use located specifically so they may be accessed by persons in vehicles using the drive-through facilities. Trash receptacles shall be maintained and cleaned periodically and trash shall be removed on a regular basis so that no trash shall be protruding or spilling out from the mouth of the receptacle, stuck to the side of the receptacle, or laying on the ground around or blowing from the receptacle. The receptacle shall be kept clean from gum, writing, extensive stains, and refuse.

H. When this use is adjacent to or on the same lot as other commercial establishments, it shall use a common access with the other establishments and not have a separate entrance to the street, otherwise, the drive-through service shall not have a separate access from that of the associated use. See Figure 12-1

Figure 12-1: Drive Through

SECTION 1209 EDUCATIONAL USE (PUBLIC or PRIVATE SCHOOL)

A. Minimum lot area: Two (2) acres.

B. Minimum lot width: 100 feet

C. Maximum impervious surface coverage: 50 percent

D. Outdoor play areas shall be located in the rear or side yards at a minimum of ten (10) feet from side yards and rear property lines. Outdoor play areas shall be screened from adjacent uses in accordance with Section 1105.

E. All proposed areas designated for the loading or unloading school buses shall be planned and arranged so they may be utilized without interfering with the interior traffic circulation and parking facilities
F. Accessory uses shall be permitted as follows: The following accessory support uses shall be permitted for any school, only when specifically for the use of the students, guests, or employees of the facility:

1. Indoor and outdoor recreational facilities including but not limited to auditoriums, activity rooms, craft rooms, libraries, lounges, walking trails, tennis courts, pools, sitting area, picnic areas, and pavilions or shelters.

2. Kitchen and dining facilities.

3. Office or facilities that serve directly the facility, including, but not limited to: school medical offices or treatment centers, ATM machine, school counselors.

4. Day Care Center for the use of employees of the associated use in accordance with Section 1207.

SECTION 1210 FORESTRY/TIMBER HARVESTING

A. Applicability. To encourage maintenance and management of forests/woodlands and promote the conduct of forestry as a sound and economically viable use of forested land and forestry activities, including, but not limited to timber harvesting, and to be in compliance with the Municipalities Planning Code, forestry shall be a permitted use by right in all zoning districts. The following standards apply to all timber harvesting within the Borough where the value of trees, logs, or other timber products removed exceed one thousand ($1,000) dollars. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.

B. Purpose. In order to conserve forests/woodlands and the environmental and economic benefits they provide, it is the policy of the Borough to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The forestry/timber harvesting regulations contained in this Section are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining property owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.


1. For all timber harvesting activities that are expected to exceed two (2) acres, the landowner shall notify the Borough Zoning Officer a minimum of ten (10) business days before the activity commences and within five (5) business days before the activity is complete. No forestry/timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.

2. Every landowner on whose land forestry/timber harvesting is to occur shall prepare a written logging plan in the form specified by this Ordinance. No forestry/timber harvesting activity shall occur until the logging plan has been prepared. The provisions of the logging plan shall be followed throughout the operation. The logging plan shall be
available at the harvest site at all times during the operation and shall be provided to the Borough Zoning Officer upon request.

3. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

4. The logging plan shall be reviewed and approved by the Chester County Conservation District.

D. Contents of the Logging Plan. As a minimum the logging plan shall include the following:

1. The design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings.

2. The design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars.

3. The design, construction, and maintenance of stream and wetland crossings.

4. The general location of the proposed operation in relation to municipal and state highways, including any accesses to those highways.

5. A sketch map or drawing containing the site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within the property; significant topographic features related to potential environmental problems; location of all earth disturbance activities such as roads, landings, and water control measures and structures; location of all crossings of waters of the Commonwealth; and the general location of the proposed operation to municipal and state highways, including any accesses to those highways.

6. Documentation of compliance with the requirements of all applicable state regulations including, but not limited to, the following: erosion and sedimentation control regulation contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. 691.1 et seg: and stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. 693.1 et seg.).

7. Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified above, provided all information required is included or attached.

E. Forest Practices. The following requirements shall apply to all forestry/timber harvesting activities in the Borough:

1. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Borough or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.
2. No tops or slash shall be left on the property, on a public thoroughfare, on a private roadway providing access to adjoining residential property, or on or across the boundary of any property adjoining the activity.

3. Litter resulting from a forestry/timber harvesting activity shall be removed from the site before the operator vacates it.

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

G. All tires of all trucks leaving the site shall be cleaned. All trucks leaving the site shall not deposit accumulating amounts of dirt, mud, or other such substances on public roads. Runoff from the tire cleaning area shall be controlled and disposed of in accordance with all pertinent local, county, state or federal standards.

H. Enforcement. The Borough Zoning Officer shall be the enforcement officer for the standards set forth herein.

I. Inspections. The Borough Zoning Officer may go upon the site of any forestry/timber harvesting activity before, during, or after active logging to review the logging plan or any other required documents for compliance with the standards and inspect the activity for compliance with the logging plan and other onsite requirements of these regulations.

J. Violations Notices; Suspensions. Upon finding that a forestry/timber harvesting activity is in violation of any provision of these standards and regulations, the Borough Zoning Officer shall issue the operator and the landowner a written notice of violation describing each violation and specifying a date by which corrective action must be taken. The Borough Zoning Officer may order the immediate suspension of any activity upon finding that corrective action has not been taken by the date specified in a notice violation; the activity is proceeding without a logging plan; or the operation is causing immediate harm to the environment. Suspension orders shall be in writing, shall be issued to the operator and the owner, and shall remain in effect until, as determined by the Borough Zoning Officer, the activity is brought into compliance with the regulations herein or other applicable statutes or regulations. The landowner or the operator may appeal an order or decision of an enforcement officer with thirty days of issuance to the Zoning Hearing Board of the Borough.

K. Penalties. Any landowner or operator who violates any provision of these regulations; refuses to allow the Borough Zoning Officer access to a harvest site pursuant to paragraphs H and I of this Section or who fails to comply with a notice of violation or suspension order issues under paragraph J of this Section shall be subject to the enforcement remedies set forth in Article 18 of this Ordinance, in addition to any other remedy at law or in equity.
SECTION 1211   GROUP CARE FACILITY

A. The intent of this use is to encompass living arrangements for a group of persons who meet the Federal definition of individuals with disabilities. The purpose of this use is to offer such persons an alternative, whereby they can be placed in a family setting which most nearly approximates traditional familial living arrangements.

B. Due to the fact that it is the intent of this use to create traditional familial living arrangements, all group care facilities shall have the same appearance as a residential dwelling unit not housing a group care facility.

C. All group care facilities shall comply with the standards of the Pennsylvania Department of Public Welfare and all other applicable agencies.

D. The dwelling unit housing a group care facility shall comply with all applicable building code regulations, however reasonable accommodations and reasonable modifications shall be permitted to allow residents of a group care facility the full enjoyment of the housing and related facilities. Area and bulk regulations shall apply in the same manner as otherwise applicable to the form of dwelling unit being used as a group care facility.

SECTION 1212   HISTORIC RESOURCE REGULATIONS

A. Intended Purposes.

1. To promote the general welfare by protecting the integrity of the Historic Resources of the Borough of Elverson.

2. To encourage the continued use of Historic Resources and facilitate their appropriate reuse.

3. To tailor protective measures to those Historic Resources in the Borough of Elverson worthy of preservation.

4. To discourage the unnecessary demolition of Historic Resources.

B. Applicability.

1. The provisions of this Section shall apply to all Historic Resources, as defined in the Elverson Borough Comprehensive Land Use Definitions.

2. The Special Criteria for Conditional Use Approval set forth in subsection 1212.D below shall be reviewed as applicable.

C. Modifications to Area and Bulk Regulations Otherwise in Effect. Where approved by the Borough Council as a Conditional Use in accordance with Article 17 of this Ordinance, and upon review by the Historical Commission in accordance with Section 1212.E, below, requested modifications to regulations otherwise applicable to Historic Resources may be permitted as follows:

1. Enlargement of Historic Resources in excess of twenty five (25) percent as provided in Section 602.B.12.
2. Modification(s) to applicable lot area, lot dimension, or yard requirements for plans involving Historic Resources. In all cases, such modifications may be permitted to reduce otherwise applicable requirements to the minimum degree necessary to accommodate proposed plan(s).

D. Specific Criteria for Conditional Use Approval. Where modifications to otherwise applicable regulations are permitted, or where conditional use approval is sought pursuant to Section 602.B, the following requirements shall apply:

1. All applicable standards and criteria set forth in Article 17 of this Ordinance for conditional use approval shall be complied with to the satisfaction of the Borough.

2. The granting of conditional use approval is deemed to be necessary to the preservation of the Historic Resource(s).

3. The Secretary of the Interior’s Standards for Rehabilitation of Historic Structures (see Section 1212.G, below) shall serve as guidelines for any plans involving the rehabilitation, alteration, or enlargement of Historic Resource(s). In approving a conditional use, the Borough Council may set conditions requiring compliance with Section 1212.G, below.

4. Where plans involving Historic Resource(s) under this Section result in all or portions of any such resource(s) remaining unoccupied, such unoccupied resources shall be tightly sealed and barred off and the utilities turned off for safety.

5. Other applicable standards contained in this Ordinance shall be complied with, including but not limited to requirements for buffering, lighting, storage, access and traffic management, interior circulation, loading, parking, and signs.

6. The Borough Council may deny the request for modification of area and bulk regulations where, upon the Review of the Historical Commission, Council determines any one or more of the following:

   a. The proposal is unacceptably destructive to the integrity of the Historic Resource.
   
   b. The proposal is inappropriate in the context of the immediate neighborhood.
   
   c. The proposal is unnecessary pursuant to Section 1212.D.2 above.
   
   d. The proposal requires more than the minimum modification to otherwise applicable regulation as provided in Section 1212.C.2 above.

E. Application Procedures for Conditional Use Approval Regarding Historic Resources.

1. An Applicant seeking conditional use approval under the provisions of this Section shall submit the appropriate application to the Borough in accordance with the provisions of Article 17. The application shall include, in addition to that which is required under Article 17 where relevant, a detailed description of the proposed use(s), any physical changes proposed for the affected Historic Resource(s) and their surrounding landscape, and any proposed modifications to otherwise applicable area and bulk regulations.
2. The Borough shall forward the complete application to the Historical Commission as well as to the Planning Commission in accordance with Article 17. Within thirty (30) days of receipt of a complete application by the Borough, the Historical Commission, at a regular or special meeting, shall review the application for conditional use. The Applicant will be notified of the meeting by the Borough at least ten (10) days prior to its date and shall have the opportunity to present his reasons for filing the application. The Historical Commission shall review the application considering the criteria set forth in Sections 1212.C and 1212.D, above, and shall make recommendations as to the appropriateness of the application.

3. Recommendations of the Historical Commission shall be transmitted in the form of a written report to the Borough Council and shall include suggestions for specific changes to proposed plans, if any. If the Historical Commission does not transmit its recommendations to the Council by the date set by the Council for public hearing to consider the application for conditional use approval, Council shall proceed to consider such application without the recommendation of the Commission.

4. The Borough Council shall act upon the application in accordance with the provisions of Article 17.

F. Demolition of Historic Resources.

1. No Historic Resource may be demolished except as provided herein.

   a. Demolition Permit Requirements for Historic Resources. No Historic Resource nor any significant part thereof shall be demolished unless a demolition permit is obtained from the Borough's Zoning Officer in accordance with the procedures and requirements of this Section, and other applicable standards and procedures of this Ordinance and the Borough Building Code. These provisions shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site, or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure, site, or object and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage.

   b. Procedure for Obtaining Demolition Permit. The Applicant shall submit three (3) copies of an application for a demolition permit in a form acceptable to the Borough. If the Zoning Officer determines that the permit request is for the demolition of a Historic Resource, the Zoning Officer shall not immediately issue the demolition permit and the application shall be forwarded to the Historical Commission for review.

   c. Information to be Provided. In addition to applicable requirements under the Borough Building Code, an Applicant seeking a permit to demolish an Historic Resource shall provide the following information:

      1) Owner of record.
      
      2) Site plan showing all buildings and structures on the property.
      
      3) Recent photographs of the resource proposed for demolition.
4) Reasons for the demolition.

5) Proposed method of demolition.

6) Intended future use of the site and of the materials from the demolished resource.

d. Review by Historical Commission. Within thirty (30) days of receipt of a complete application from the Zoning Officer, the Historical Commission, at a regular or special meeting, shall review the application for demolition. The Applicant will be notified of the meeting by the Borough at least ten (10) days prior to its date and shall have the opportunity to present his reasons for filing the application. The Historical Commission shall consider the following:

1) The effect of demolition on the historical significance and architectural integrity of the resource in question and neighboring Historic Resources.

2) Whether the Applicant has demonstrated that he has considered all alternatives to demolition.

3) Economic feasibility of adaptive reuse of the resource proposed for demolition.

4) Whether the resource in its current condition presents a threat to public safety.

5) Whether the resource has been intentionally neglected.

6) Whether the required retention of the resource would represent an economic hardship and the extent of the hardship.

e. Historical Commission Recommendation. Within thirty (30) days following the conclusion of the meeting, the Historical Commission shall set forth its recommendations in a written report to the Borough Council. Such recommendation shall, at a minimum, consist of either of the following:

1) Approval. After reviewing the demolition permit application with attachments, the Commission may recommend approval of the demolition permit, as provided under Section 1212.F.2, below.

2) Delay of Demolition. Alternatively, the Commission may recommend delay of demolition in accordance with Subsection 1212.F.3, below.

2. Approval of Demolition Permit or Delay of Demolition by the Borough Council.

a. Within thirty (30) days of receiving the recommendation from the Historical Commission, the Borough Council shall consider the application, together with the recommendations of the Historical Commission, and vote either to approve the application, approve the application with changes or conditions, deny the application, or defer their decision, affording a delay of demolition for up to ninety (90) days as set forth in Section 1212.F.3, below. The Applicant shall be notified of the meeting by the Borough a minimum of ten (10) days prior to its date, and shall have the opportunity to present their reasons for filing the application. Within five (5) days of
making its decision, the Council shall provide written communication of its decision to the Applicant, Historical Commission, and Zoning Officer.

b. Issuance of Building Permit. Where the Council acts to approve the application, it shall authorize the Zoning Officer to issue the permit. Where the approval is granted with conditions attached, the Zoning Officer shall be authorized to issue the permit upon receipt from the Applicant of written acceptance of those conditions.

3. Delay of Demolition.

a. The specified period of delay shall be a maximum of ninety (90) days, used to provide an opportunity to engage in a dialogue with the Applicant about alternatives to demolition and to allow for historical documentation of the resource where appropriate or when requested by the Commission and approved by the Applicant. The Historical Commission shall make every effort to open a dialog with the Applicant to inform them of the historical importance of the resource, its significance to the Borough, and alternatives to demolition.

b. The Commission may recommend approval, approval with conditions, or denial of the demolition permit and may so advise the Borough Council not later than the end of the applicable ninety (90) day time period. The Borough Council shall act upon the application for demolition in accordance with Section 1212.F.2, above, within or at ninety (90) days, whether it receives a recommendation from the Historical Commission or not.

G. Secretary of the Interior's Standards for Rehabilitation. The following standards are provided as guidelines only, for purposes of review of conditional use applications involving Historic Resources:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of the property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials.
Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sand blasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New materials, exterior alterations, or related construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

H. Violations and Penalties. Any person who violates the terms of this Section shall be subject to the fines and penalties imposed under this ordinance, as well as applicable fines and penalties imposed under the Borough Building Code. In addition:

1. Any person who alters an Historic Resource in violation of the provisions of this article or in violation of any conditions or requirements specified in a permit issued under the terms of this Section shall be required to restore the building, structure, site, or object involved to its appearance prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under this ordinance or any other applicable law.

2. Any Conditional Use application or subdivision or land development application involving any property which, at the date of enactment of this ordinance, was occupied by an Historic Resource(s) that subsequently was demolished in violation of this Article, shall not be approved except upon the condition of satisfactory restoration of any such resources or upon the granting of appropriate demolition permit(s) in accordance with this Section.

SECTION 1213 HOME OCCUPATION

A. General Regulations.

1. Permitted home occupations shall be clearly incidental and secondary to the residential use and are limited to those occupations conducted entirely within a single-family or two-family dwelling, except the raising of garden produce.

2. No more than one (1) home occupation shall be permitted in a dwelling.

3. Any dwelling unit in which a home occupation is conducted shall have its own direct access to ground level.
4. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

5. The business shall employ no employees other than family members residing in the dwelling.

6. There shall be no display or sale of retail goods and no stock piling or inventory of a substantial nature.

7. There shall be no outside appearance of a business use, including, but not limited to, parking, signs, or lights.

8. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

9. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

10. The business activity shall be conducted only within the dwelling and may not occupy more than twenty five (25) percent of the habitable floor area.

11. The business may not involve any illegal activity.

B. Determination of classification. The Borough shall determine whether a proposed home occupation is minor, major, or prohibited. The applicant shall be responsible for supplying such information as deemed necessary by the Borough to make this determination.

C. Permitted Uses.

1. Uses Permitted By-right. Home occupations that comply with all of the regulations in Section 1213.A which shall be considered minor home occupations.

2. Conditional Uses. Any home occupation that does not comply with the regulations in Section 1213.A may be permitted by conditional use in accordance with Article 17 as a major home occupation when approved by Borough Council and in accordance with the following regulations:

   a. Materials, products, equipment or business vehicles may be stored outdoors only when screened in accordance with Section 1105.

   b. A maximum of two (2) employees not residing in the dwelling may work on-site at the location at any time.

   c. Hours of operation shall be restricted to normal business hours 8am-5pm.

   d. When approved, the following additional uses may be permitted as Major Home Occupations:

      1) Family child day care home.
      2) Group child day care home.
e. Borough Council may require further conditions and approvals for a major home occupation to protect the health, safety, and welfare of adjacent property owners and the greater community in accordance with Article 17.

D. Prohibited Uses. The operation of a motor vehicle repair shop, stable, kennel or mortuary shall not be deemed a home occupation.

SECTION 1214   JUNKYARD

A. Where a junkyard is located on a property which is adjacent to a residential district or use, all activity associated with the junkyard use shall be setback from the property boundary at least twenty five (25) feet and shall be screened in accordance with Section 1105.

B. The maximum lot coverage including storage, buildings and structures shall not exceed seventy five (75) percent.

C. The area where junk or any other material is stored outside shall be enclosed with a wall or fence, at least eight (8) feet in height and which is designed and constructed so as to be at least ninety (90) percent solid or opaque. Use of landscaping materials and earthen berms are encouraged to achieve an effective screen.

D. Storage piles shall not exceed eight (8) feet in height and no more than two (2) adjoining rows of junked cars shall be stored together.

E. There shall be provided at least a twelve (12) foot wide accessway which shall be kept clear and free at all times to provide for access to all parts of the premises for fire fighting and other safety or emergency purposes.

F. Gasoline, oil, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises. Such liquids shall be removed and disposed of in a proper manner and shall not be deposited on or into the ground.

G. No junk or other material shall be burned on the premises.

H. No garbage or other waste liable to give off a foul odor or attract vermin or insects shall be kept on the premises.

I. All junk shall be stored or arranged to prevent accumulation of water in addition to controlling mosquito propagation.

J. All junk shall be kept a minimum of two hundred (200) feet from any stream or watercourse.

K. Stormwater Planning.

1. A stormwater plan shall be submitted as part of any land development plan for a junkyard and the use shall allow reasonable inspection by the Borough at any reasonable time.

2. The stormwater plan and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnate water on the site and include best management practices to address chemicals or pollutants that may adversely impact water quality.
L. Tire storage piles shall be in accordance with 025 PA Code 299.155-163.

M. Junkyards shall be licensed in accordance with Pennsylvania Act 4 of Special Session Number 3 of 1966 where applicable.

N. Junkyards shall comply with all other applicable Borough, State, or Federal regulations and shall provide proof of compliance upon request of the Zoning Officer. Examples include Environmental Protection Agency (EPA), the Solid Waste Management Act, the Clean Streams Law, in terms of water runoff, and storage and/or disposal of hazardous materials.

O. All tires of all trucks leaving the site shall be cleaned. All trucks leaving the site shall not deposit accumulating amounts of dirt, mud or other such substances on public roads. Runoff from the tire cleaning area shall be controlled and disposed of in accordance with all pertinent local, county, state or federal standards.

P. The permittee shall allow inspection of the business premises by the Borough or its appointed representative at any reasonable time.

SECTION 1215  KENNEL

A. Minimum lot size shall be one (1) acre with a minimum lot width of one hundred (100) feet.

B. Minimum yard dimensions:

1. Front yard: Twenty (30) feet
2. Side yard: Thirty (30) feet
3. Rear yard: Thirty five (35) feet

C. Each kennel shall have all outdoor exercise yards entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of fifty (50) feet from front, side, and rear lot lines.

D. Animals shall not be permitted to remain outdoors in exercise yards overnight and exercise yards shall predominantly be used between dawn and dusk prevailing time.

E. Outdoor lighting of outdoor exercise yards shall be prohibited.

F. The sale of related products shall remain accessory to the kennel, and shall occupy no more than twenty five (25) percent of the floor area of the principal building.

G. All kennels shall be licensed by the Commonwealth of Pennsylvania, if, and as required by the Pennsylvania Dog Law; Act 119 of 2008, PA Statutes, as it may be amended from time to time; kennels shall comply with all relevant provisions of the Pennsylvania Dog Law and 7 Pa. Code 21.21, et. seq., as amended.

SECTION 1216  MEDICAL OFFICE OR CLINIC

A. Uses within a medical office or clinic shall include but not be limited to administrative and professional offices and outpatient examination/treatment rooms in addition to accessory subordinate uses such as a pharmacy or similar medical support uses, in accordance with applicable sections of this Ordinance and shall be for the use and treatment of patients and
their guests. The cumulative floor area of all such accessory subordinate uses shall not occupy more than thirty (30) percent of the cumulative floor area of the medical clinic.

B. Public and private hospitals and medical facilities (medical office or clinics) are explicitly prohibited within floodplain areas in accordance with the Borough Floodplain Ordinance.

SECTION 1217  DISH ANTENNAE.

A. Dish antennae shall be located on the same lot for which it is being used, and shall remain accessory to the principal use.

B. Free-standing ground mounted dish antennae shall be located only in the rear yard area of a lot, and shall be setback a minimum of ten feet (10) from any property line.

C. When separately supported, the total height of the dish antennae and supports shall not exceed ten feet (10) in height. Such an arrangement shall be screened, in accordance with Section 1105. Supporting materials shall comply with the Borough Building Codes.

D. When attached to the principal structure, no portion of a dish antennae shall project above the ridge line of the roof unless where a flat roof exists. Mounting techniques shall comply with the Borough Building Codes.

E. One (1) dish antennae shall be permitted per dwelling unit.

F. Dish antennae shall be used solely for the reception of signals and shall not be used for transmission.

SECTION 1218  MIXED USE

Where a combination of uses, such as a residential dwelling above or to the rear of a nonresidential use, or anywhere two (2) or more uses are permitted within the same building or upon a single lot, each use shall be required to meet the following criteria:

A. Only those uses permitted in the district in which the mixed use is located shall be permitted.

B. A minimum of one (1) improved, all-weather off-street parking space per bedroom of any residential use shall be provided and maintained for the exclusive use of the residents, otherwise, the off-street parking requirements of this Ordinance shall be met in accordance with Article 14. Parking requirements shall be calculated for each use, but may be designed within a common or interconnected parking lot, or as otherwise provided by this Ordinance.

C. Where a dwelling is proposed above or to the rear of a nonresidential use, the following requirements shall apply:

1. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permit requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough. Trash receptacles shall be screened so as not to be visible from the street or abutting properties except on scheduled days for trash pick-up.
2. Primary access to a dwelling shall not be from the non-residential use. Each dwelling unit shall have either direct access to the outdoors or to a common area that has direct access to the outdoors.

3. Site and floor plans for the dwelling unit(s) shall be included with the application for such use, including both exterior and interior building alterations for an existing building if applicable, and the location of fire exits and fire escapes in accordance with building and fire code requirements.

SECTION 1219 MULTI-FAMILY DWELLINGS

A. Unless otherwise specified herein, the area and bulk regulations of the applicable zoning district shall be met.

B. Sketch Plan.

1. An applicant for multi-family (apartment building or single family attached) development is strongly encouraged to submit for the review of the Borough Planning Commission and Borough Council, pursuant to review by the Borough Engineer, a sketch plan of any use(s) proposed under this Section in accordance with Section 303 of the Subdivision Ordinance.

2. The Borough will make every attempt to provide timely, objective, and clear feedback, in order to facilitate development of a preliminary plan that meets the purposes, conditions, standards, and dimensions of this Section.

3. It is recommended that the sketch plan clearly show its consistency with the items listed in this Section as applicable, and may include schematic architectural renderings to address the applicable standards.

C. Where there is condominium ownership of the dwelling units, a homeowners’ association document shall be submitted and approved by the Borough which shall also meet the applicable requirements in Section 1226.F.2.b of this Ordinance.

D. Multi-family buildings are encouraged to be located in clusters which create common courtyards and open space areas rather than situated parallel to one another. Where clustering is not feasible, there shall be no more than three (3) abutting or adjacent buildings or groups of buildings parallel to one another.

E. Buildings within a multi-family development shall be designed to provide individual dwelling units with views and access to open space areas.

F. In single-family attached buildings and where possible in multi-family buildings, staggered setbacks of individual dwelling units accompanied by a variation in facade design are encouraged so the buildings offer visual variety, individualism, and provide private yard areas. No more than two (2) contiguous units shall have the same facade setback within a building. Changes in unit setback shall involve a minimum of four (4) feet.

G. No more than six (6) units shall be included in a row of single family attached units (townhouses) and the maximum combined building length shall not exceed two hundred ten (210) feet.
H. The minimum building width of an individual townhouse shall be twenty (20) feet.

I. The following building separation distances shall be met:

<table>
<thead>
<tr>
<th>Building Configuration</th>
<th>Minimum Distance Between Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facing front / rear walls (long wall)</td>
<td>45 feet</td>
</tr>
<tr>
<td>Facing end walls</td>
<td>25 feet</td>
</tr>
</tbody>
</table>

J. Multi-family buildings shall be setback twenty (20) feet from any tract boundary and in accordance with the applicable district regulations.

K. Entrances to dwelling units shall be provided with walkways to parking, refuse collection points, and public sidewalks along any public street within or adjacent to the tract constructed in accordance with sidewalk construction standards in Section 618 of the Subdivision Ordinance.

L. All areas of the development not covered by impervious surfaces shall be landscaped and maintained with suitable ground cover and plants. Existing vegetation is encouraged to be preserved for landscaping purposes. Existing plant material with a caliper of six (6) inches or greater shall be preserved during construction. Such existing plants may be credited toward the amount of required plantings. A landscaping plan for the entire tract shall be required. It is recommended that a landscape architect licensed by the Commonwealth of Pennsylvania be retained to complete such a plan to ensure the proper species, use and arrangement of plant materials. Earthen berms may be incorporated into the landscaping plan along public street frontage and along property lines abutting existing dwellings; however, are not appropriate in the TC District. Earthen berms shall have a maximum height of three (3) feet and a maximum slope of four (4) feet horizontal to one (1) foot vertical. Landscaped areas shall be continually maintained by the landowner or a homeowner's association or a condominium association. Care, grooming, and replacement of plants shall be included as part of the required maintenance. Failure to adequately maintain landscaped areas shall be subject to a citation issued by the Borough. Unless otherwise required herein, the requirements of Section 1105 shall apply.

M. A landscaped screen in accordance with Section 609 of the Subdivision Ordinance shall be maintained along the entire tract boundary, excluding areas for entrances and exits. The landscape screen shall not be required when it abuts a nonresidential or mixed use building.

N. Parking areas within a multi-family development shall be adequately landscaped in order to provide shade, to screen vehicles from public streets, and to reduce glare and noise within the development itself, and shall comply with the following:

1. Parking for each dwelling unit shall be grouped into one (1) or more parking areas serving a number of dwelling units. Individual curb cuts at the street line for access to parking shall not be permitted. No parking space shall be greater than two hundred fifty (250) feet from the entrance to the dwelling it serves.
2. Parking lots shall be setback a minimum of five (5) feet from any road right-of-way.
3. Earthen berms of a maximum of three (3) feet in height topped with vegetation a minimum of six (6) feet in height may be used for screening.
4. Other forms of vegetative screening compatible with a traditional neighborhood environment shall be provided in the TC District in accordance with Section 1105.

5. Landscaped areas a minimum of five (5) feet in width shall be provided around the periphery of all parking areas, except where head in parking is provided immediately to the front or rear of each unit, and such parking space is accessed from the head of the space by a sidewalk or walkway leading to the unit. Such areas shall extend the entire length and width of the parking areas, except for necessary access points and walkways.

6. Landscaped islands shall be provided between every fifteen (15) parking spaces and shall be equal to the length of the parking spaces in the row and a minimum of eight (8) feet in width.

O. Multi-family developments shall be provided with common open space, unless the Fee-in-Lieu provisions of Section 616.C of the Subdivision Ordinance are enacted and approved by Borough Council, in accordance with the following:

1. Common open space shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands.

2. Maintenance of common open space shall be the responsibility of the landowner, or homeowners’ or condominium owners’ association.

3. Common open space shall not be included in calculating the required buffer area or setback areas, but shall be included in calculating the maximum density permitted.

4. Common open space shall be substantially free of structures, except those designed for recreational purposes including but not limited to benches or playground equipment, and shall be usable to the residents of the development.

5. Common open space shall be located and designed to be easily accessible by residents of the multi-family dwelling development.

6. When a portion of common open space is designed for active recreation and abuts a public street, it shall be fenced, provided with an earthen berm, screening, or combination thereof, that provides a physical barrier from the street in accordance with Section 1105.

7. Failure to maintain any common open space shall constitute a violation of this Ordinance and shall be actionable by the Borough in accordance with Article 18.

8. A minimum of ten (10) percent of the total tract size for multi-family and single-family attached developments shall be dedicated to common open space.
SECTION 1220 OUTDOOR DINING. See Figure 12-2

A. Outdoor dining areas shall be associated with a principal use of a restaurant or other similar use and shall be located abutting that building in which the principal use is located, and on the same lot as the principal use.

B. Outdoor dining areas shall not be located on or extend into a public street or required parking area and shall be separated from parking areas by fencing or other approved buffer in addition to being separated from parking areas by a minimum of two (2) feet.

C. A minimum clear pedestrian walkway meeting ADA requirements shall be maintained in front of the eating establishment.

D. There shall be no advertising in conjunction with the outdoor dining area aside from the approved signs for the associated use in accordance with Article 13, Signs.

E. All tables, chairs, umbrellas, and other furnishings shall be temporary in nature so as to be easily moved or removed during winter months when outdoor dining is not in operation, severe weather, for emergency purposes, or other occurrence as warranted by the Borough. However, all furnishing shall be weighted or of a substantial nature so as not to be blown off the property by strong winds and to ensure the safety and convenience of patrons.

F. Tables, chairs and all other furnishings or accessories may not be left in place but shall be removed from the sidewalk during non-business hours.

G. No tables, chairs or any other fixtures used in connection with an Outdoor Dining Area shall be attached, chained or in any manner affixed to any tree, sign or other public fixture.

H. Paint, carpeting, artificial turf, platforms or other surfaces of any kind shall not be permitted at any time on the public sidewalk or in the outdoor seating area. The outdoor dining area or its operation shall not damage, stain or discolor any part of the sidewalk or public right-of-way.

I. The perimeter of outdoor dining areas may be delineated by nonpermanent fixtures such as railings, fencing, planters, and other similar approved fixture. Railings, fences, planters, and other enclosures shall not be greater than forty two (42) inches in height and shall be anchored, weighted, connected, or constructed so as to prevent them from being easily moved.

J. The owner of the eating establishment is responsible for keeping the pedestrian walkway and seating area in front of the premises clean and free of trash and debris.

K. Where outdoor dining areas are permitted for use for patrons aside from table service and clearing by employees, trash receptacles shall be required and shall be kept covered and clean at all times.

L. Owners of the eating establishment must stop serving customers on or before 10:00 p.m. prevailing time and clear all tables of food, beverages, and customers on or before 11:00 p.m. prevailing time.
M. The owner shall maintain the eating establishment in accordance with all Borough ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to this use of eating establishments.

N. The owner shall remove the outdoor portion of the eating establishment within thirty (30) days after written notice if the Borough or the Zoning Officer determines that the eating establishment is detrimental to the health, safety and general welfare of the Borough or its citizens due to one (1) or more conditions including but not limited to, the following:

1. The outdoor dining use narrows the sidewalk to the extent that pedestrian traffic is impeded.

2. The outdoor dining use consistently violates the hours of operation and/or becomes a nuisance due to noise, trash, odor or other similar nuisance when consistently documented by the Borough, the Code Officer, or due to consistent documented complaints from Borough residents or businesses.

3. The eating establishment is no longer being used as such.

4. The eating establishment has been temporarily or permanently closed for violation of any Borough, state or federal law and/or regulation.

5. The eating establishment is operated in violation of an ordinance, rule, or regulation of the Borough of Elverson.

O. In the event that the owner fails to remove the eating establishment within thirty (30) days after written notice, the Borough may proceed to remove and restore the area and charge the owner for the cost thereof. Should an eating establishment be removed by the Borough, the owner shall be entitled to a return of the equipment, furnishings or appurtenances so removed only after the payment of all costs due to the Borough an by requesting the return in writing. The responsibility for removal under the provisions of this subsection shall be the sole responsibility of the owner without any obligation or cost assessed against the Borough.
SECTION 1221  PLACE OF WORSHIP

A. The following uses shall be permitted accessory uses to a place of worship and shall be conducted upon the same lot:

1. Accessory uses permitted by right:
   a. Administrative and counseling offices.
   b. Related recreational facilities including but not limited to playgrounds, ballfields, or courts (basketball, volleyball).

2. Accessory uses permitted when approved as a conditional use:
   a. Day care center in accordance with Section 1207.
   b. Educational Use.

SECTION 1222  PRIVATE CLUB OR FRATERNAL INSTITUTION

A. Use shall not be conducted as a for-profit gainful business.

B. Use of the facilities shall be for authorized members and guests only.

C. Food, meals, and beverages shall be available to club members and guests only, provided adequate dining room and kitchen facilities are available.

D. Operating hours shall be similar to restaurants and other businesses.

E. Lodging of overnight guests is prohibited.

SECTION 1223  PRIVATE SWIMMING POOL

A. Permanent or temporary swimming pools with a depth of two (2) or more feet shall be located in the rear or side yard of a residential lot to which it is accessory. Such swimming pools are further subject to the regulations of the Building Code of the Borough of Elverson (UCC).

B. Hot tubs, whirlpool baths and tubs, and jacuzzi-type tubs or baths shall not be considered swimming pools if located outdoors or designed to be located outdoors, and are provided with permanent outdoor water plumbing and a lockable cover.

C. Pumps, filters, propane tanks, or other ancillary mechanical equipment associated with outdoor pools, tubs, or baths shall not be located within ten (10) feet of a property line.

D. The provisions regulating fencing shall not apply to pools having sides extending four (4) feet above grade, provided that the stairs, or other means of access to the pool, are removed or locked in such a position as to make it readily inaccessible when not in use.

E. All materials used in the construction of pools shall be waterproofed and so designed and constructed as to facilitate emptying and cleaning and shall be maintained and operating in such a manner as to be clean and sanitary at all times.
F. Water may not be discharged from a swimming pool directly onto adjacent properties or rights-of-way, storm sewer/drainage, or into the public sanitary sewer system or stormwater conveyance system.

G. Enclosed indoor pools must comply with applicable regulations pertaining to accessory structures.

H. Outdoor lighting, if any, shall be shielded and/or reflected away from adjoining properties so that no beam of light, only diffused or reflected light, enter adjoining properties.

I. Above ground pools shall have a combination of a pool wall and fence in accordance with the Building Code (UCC).

SECTION 1224 PUBLIC UTILITY SERVICE STRUCTURES AND FACILITIES

A. Front and rear yards shall be provided in accordance with the regulations of the district in which the facility is located. All public utility service structures and/or facilities shall be setback a minimum of ten (10) feet from any lot line.

B. All equipment shall be totally enclosed within a building or approved structure.

C. The external design any building shall be in character with the existing buildings in the Borough.

SECTION 1225 RESIDENTIAL CONVERSION

A. The Zoning Hearing Board may authorize as a special exception, the conversion of single family dwellings existing at the effective date of this Ordinance into a dwelling for not more than three (3) dwelling units, where clearly necessary to permit reasonable use of the structure and the requirements of this Section.

B. A single-family detached dwelling which is converted to a dwelling with a greater number of dwelling units shall maintain the facade and appearance of a single-family detached dwelling with a single front entrance. The dwelling units may share the single front entrance.

C. Additional entrances, when required, shall be placed on the side or rear of the building. Exterior stairways and fire escapes shall be located on the rear wall in preference to either side wall, and in no case be located on a front or side wall facing a street.

D. With the exception of improvements relating to safety and access as identified in subsections B and C above, there shall be no major structural change to the exterior of the building in connection with the conversion.

E. A floor plan shall be included with the application for conversion indicating both exterior and interior modifications. A lot plan shall also be included in the application which identifies off-street parking and other lot improvements.

F. The area and bulk regulations for the applicable zoning district shall be met.

G. The minimum floor area for an individual dwelling unit shall be six-hundred (600) square feet.
H. Each dwelling unit shall be provided separate cooking and sanitary facilities in accordance with the Borough Building Code.

I. The number of off-street parking spaces shall be as required in Article 14.

J. Off-street parking lots with five (5) or more spaces shall be landscaped and screened from abutting lots with dwellings, in accordance with Section 1105 of this Ordinance.

K. Twenty five percent (25) of the lot area shall be designed, reserved and maintained as common open space for residents of the dwelling units. The minimum dimension of any common open space area shall be fifteen (15) feet in any direction. Stormwater detention areas shall not be counted as common open space. All or some of the common open area may be paved if designed as a patio(s) for leisure use.

L. The plans for the conversion which are submitted to the Zoning Hearing Board shall be accompanied by a certificate of approval by the Pennsylvania Department of Labor and Industry where two (2) or more families are to be housed above the ground floor.

SECTION 1226 SITE RESPONSIVE RESIDENTIAL COMMUNITY OPTION

A. Purpose. The purposes of this Article are:

1. To provide an opportunity for flexibility in lot designs and building arrangement not afforded by conventional lot-by-lot development.

2. To provide for a more varied, innovative, and efficient development pattern.

3. To promote new development which is compatible with existing uses, architecture, landscapes and community character.

4. To preserve unique and sensitive landscapes and site features, including woodlands, wetlands, and scenic views, by providing for the location of new dwelling sites in areas removed from such features.

5. To retain and protect open space areas within residential development.

6. To provide a means to attain the aims and objectives of the Elverson Borough Comprehensive Plan relative to orderly growth and the enhancement of environmental resources.

B. Eligibility.

1. Approval.

   a. By-right. The Site Responsive Residential Community Option shall be permitted in the (SRR) Site Responsive/Recreation District by-right.

   b. Conditional Use. The Site Responsive Residential Community Option shall be permitted in the (SR) Site Responsive Development District when approved as a conditional use in accordance with the provisions of Article 17 of this Ordinance and where the applicant, to the satisfaction of the Borough Council, can demonstrate
compliance with all design standards and criteria of this Section. The applicant is strongly encouraged to submit a sketch plan to the Elverson Borough Planning Commission and to discuss community development and open space resource conservation objectives with the Planning Commission prior to formal conditional use application. Upon written request from the applicant and if the Borough Council and Planning Commission have previously reviewed a sketch plan and site analysis of the proposed development, the Borough Council may elect to consider the preliminary subdivision plans simultaneously with the Conditional Use approval.

2. Water Supply. Development under the Site Responsive Residential Community Option shall be served by a public water supply system in accordance with the provisions of the Subdivision & Land Development Ordinance. As a condition of Conditional Use approval, Council may approve use of other than public water supply, where Applicant can demonstrate to the satisfaction of the Council that extension of public water service is infeasible and that adequate supply for the intended uses can otherwise be supplied.

3. Sewage Disposal. Development under the Site Responsive Residential Community Option shall be served by a public sewage disposal system consistent with the Elverson Borough Sewage Facilities (Act 537) Plan and in accordance with the provisions of the Subdivision & Land Development Ordinance, subject to demonstration of compliance with all applicable regulations of the Pennsylvania Department of Environmental Protection. As a condition of Conditional Use approval, Borough Council may approve use of other than public sewage disposal where Applicant can demonstrate to the satisfaction of the Council that extension of public sewer service is infeasible and that adequate alternative means of sewage disposal can be achieved.

4. Consistency with Municipal Planning Program. The proposed development shall be generally consistent with the Elverson Borough Comprehensive Plan.

5. Single Plan. The tract of land to be developed shall be under single ownership or, if in multiple ownership, shall be developed according to a single plan with common authority and responsibility.

C. Permitted Uses.

2. Multiple-Family Dwellings.
3. Age Restricted Retirement Community Congregate Facility, restricted to occupancy by households where the head of household is age 55 or older, in any combination of the following uses:

   a. Individual residential dwelling units in any combination of single-family detached, two-family or multi-family dwellings.
   b. Age Restricted Retirement Community Congregate Facility in accordance with Section 1204 where Applicant can demonstrate to the satisfaction of the Council that such facilities are clearly intended for use principally by residents and staff of the congregate facility, which may include the following accessory uses:

      1) Kitchen and Dining facilities.
      2) Community meeting room subject to Section 1204.E.
      3) Management office and similar support services.
4) Medical offices and/or clinics not operated as the principal location of any medical practice servicing the general public.
5) Indoor and outdoor recreational facilities.
6) Maintenance shop, emergency power generation, central laundry, central kitchen.
7) Retail/service areas primarily for the residents and staff, including but not limited to limited facilities such as vending machines, sale of minor convenience items such as toiletries, hair cutting/salon, or spa.
8) Residential dwelling unit for full-time on-site community manager.

4. Convenient commercial facilities to serve the residents of the Site Responsive Residential Community may be provided if the development contains a minimum of one hundred (100) dwelling units and may include any use permitted by right in the C-Commerce District. Convenience commercial facilities shall comply with the development standards set forth in Section 1226.E.1.c. as well as with the area and bulk provisions of Article 7.

5. Open space uses as set forth in Section 1226.F.1.b of this Article.

D. Area and bulk regulations.

1. Minimum Common Open Space. The minimum common open space provided shall not be less than forty (40) percent of the gross tract area. Common open space shall comply with all standards and criteria established in Sections 1226.E and F below.

2. Establishment of Net Tract Area. For purposes of establishing the maximum permissible number of lots or dwelling units on any tract utilizing the Site Responsive Residential Community Option, the net tract area shall include all areas within the legal property lines of a tract, excluding the following:

   a. Any existing area that has been set aside as a permanent right-of-way or easement for a public or private street.

   b. Any existing area comprising permanent drainage or stormwater management easements.

   c. An area equivalent to seventy five (75) percent of any area comprised of one or more of the following areas and excluding any area already excluded by subsections D.1 or D.2 above:

      1) Any floodplain areas as regulated by the most current Floodplain Ordinance adopted by the Borough.

      2) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection; the Borough reserves the right to retain a qualified consultant to ascertain the extent of jurisdictional wetlands, reasonable and necessary charges therefor to be borne by the Applicant.

      3) Any area of slope exceeding twenty five (25) percent, as measured between consecutive two-foot contour intervals.
3. Permitted Density Calculation. Except where bonus density is permitted in accordance with the provisions of Section 1226.D.4, the maximum permissible number of lots or dwelling units on any tract utilizing the Site Responsive Residential Community Option shall be calculated by multiplying the net tract area by the appropriate multiplier stipulated below. Where Convenience Commercial and/or Age Restricted Retirement Community development is proposed, the land area necessary to meet the area and bulk requirements for such uses shall be excluded from the net tract area used to calculate maximum permissible residential density under this Section.

a. Where Single-Family Detached Dwellings are provided, the multiplier on that portion of any tract devoted to Single Family Detached Dwellings shall be:

   1) In the SR and SRR District:  2
   2) In the TC and C District:  4

b. Where Two-Family Dwellings are provided, the multiplier on that portion of any tract devoted to Two-Family Dwellings shall be:

   1) In the SR and SRR District:  4
   2) In the TC and C District:  6

c. Where Multiple-Family Dwellings are provided, the multiplier on that portion of any tract devoted to Multiple-Family Dwellings shall be:

   1) In the SR and SRR District:  6
   2) In the TC and C District:  10

d. Various portions of any single tract may be planned for development in accordance with differing density options as provided above. In such event, Applicant shall demonstrate that appropriate land areas including required open space, and measured as a proportion of the total net tract area, can be identified to separately apply to each density multiplier utilized. No land area used for calculation under any one option shall also be used for calculation under another option.

e. Applicant is advised that the maximum number of units calculated under the provisions herein, including potential bonus density, may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria, and regulations herein.

4. Bonus Density Calculation for Open Space Resource Conservation. In order to promote conservation of significant open space resources, the maximum density or number of lots or dwelling units permitted on any tract of land proposed for development under the Site Responsive Residential Community Option may be increased over and above the base maximum calculated as above, where additional common open space is provided meeting the criteria established in subsections a-d, below, as follows: For each additional percentage point of eligible open space, calculated as a percentage of gross tract area, the maximum number of units may be increased by two (2) percent. This density bonus shall be calculated as a percentage of the maximum number of units originally calculated under Section 1226.D.3. Density bonus calculation shall be rounded to the nearest whole number; fractions of one half (0.5) or greater shall be rounded up.
As an example, if on a tract required to provide forty (40) percent minimum common open space an applicant can designate sixty (60) percent of gross tract area meeting all criteria for minimum common open space, they may be entitled to a forty (40) percent bonus in dwelling units. This would be calculated by multiplying the twenty (20) percent increment of additional open space (60% - 40%) times 2 (20 X 2 = 40). If such an Applicant were originally entitled to forty (40) units under 1226.D.3, this would translate into a bonus of 16 units (40% X 40 units = 16).

a. In order to be eligible for calculation of bonus density, open space must comprise open space area(s) fully in addition to the minimum required common open space area, established in accordance with Section 1226.D.1.

b. Open space eligible for calculation of bonus density must meet all criteria for common open space stipulated in Section 1226.F.

c. Open space eligible for calculation of bonus density must comprise one (1) or more of the following resource categories:

1) Existing woodland as depicted on Map 6-C in the Elverson Borough Comprehensive Plan.

2) Scenic resources as depicted on Map 7-A in the Elverson Borough Comprehensive Plan.

d. Conservation of open space used toward calculation of bonus density must be guaranteed through establishment of restrictions and management criteria satisfactory to the Borough Council.

5. Residential Area and Bulk Calculations. Under the Site Responsive Residential Community Option, no minimum lot area is prescribed, rather, the following lot and yard area regulations shall apply to any principal residential structure or any other permitted building; at the time of conditional use application, Applicant shall indicate for each permitted use, including potential accessory uses, the limits of the building envelope within which compliance with these provisions is feasible:

a. Minimum separation between buildings, except accessory buildings, at any point shall not be less than twenty (20) feet, except that minimum separation shall not be less than fifty (50) feet measured perpendicularly from the rear wall of any residential structure to any point on any other building not accessory to such residential structure.

b. Minimum separation between accessory buildings and any principal structures to which they are not accessory (i.e., any principal structure on any other lot) at any point shall comply with subsection 1226.D.5.a above.

c. No exterior windows, doors, or other openings shall be permitted in any portion of any principal or accessory structure located less than five (5) feet from any lot line.

d. Where any portion of any principal or accessory structure is located less than five (5) feet from any lot line, a perpetual easement providing for maintenance of such structure, and measuring no less than five (5) feet in width from the affected walls,
shall be provided on the adjacent lot(s). This provision shall not apply to lot line(s) separating two-family or multiple-family dwelling units on the interior of the same principal structure.

e. Minimum setback from the edge of cartway (or outside edge of curb, if applicable) of any street shall be not less than twenty five (25) feet, except as provided under subsection f below.

f. All proposed dwelling units in a development utilizing the Site Responsive Residential Community Option shall be situated so that they are set back a minimum of thirty (30) feet from the pre-development perimeter boundary of the tract. Existing dwellings and dwellings resulting from the conversion of existing buildings shall be exempt from this requirement except that additions to such existing structures shall not further reduce any setback which is less than thirty (30) feet.

g. Maximum length of any residential building, including rows of attached townhouses or other multiple-family buildings, shall not exceed one hundred sixty (160) feet. Residential buildings other than Single-Family Detached and Two-Family Dwelling Units shall comply with the architectural design provisions of Section 1226.E.2

h. Maximum depth of any section of any residential building shall not exceed seventy five (75) feet.

i. Maximum building height: Three (3) stories or thirty five (35) feet, exclusive of basements, whichever is less.

j. Maximum impervious coverage. Maximum impervious coverage limitations shall be established for each building lot and open space lot in accordance with the following schedule:

1) Lots less than 5,000 square feet in area: 60%

2) Lots less than 10,000 square feet in area: 50%

3) Lots greater than or equal to 10,000 square feet and less than 20,000 square feet in area: 35%

4) Lots greater than or equal to 20,000 square feet and less than one (1) acre in area: 25%

5) Lots greater than or equal to one (1) acre and less than five (5) acres in area: 20%

6) Lots greater than or equal to five (5) acres and less than twenty (20) acres in area: 15%

7) Lots greater than twenty (20) acres in area: 10%

k. While conformance to these area and bulk regulations is not dependent upon any specific minimum lot area or dimensions, Applicant shall be required to demonstrate to the satisfaction of the Borough Council that any lots established under the provisions of this Section are of appropriate size and shape relative to the following:
1) Establishment of suitable private yard areas.

2) Management of any adjacent open space areas.

E. Conservation and Development Design Standards.

1. General Development Standards.
   a. All applicable standards provided in Articles 10, 11, 12, 13, and 14 of this Ordinance shall apply to any development utilizing the Site Responsive Residential Community Option.
   
   b. Placement of buildings and design of internal circulation systems shall minimize adverse impact to existing Borough streets.
   
   c. Convenience Commercial Facilities. Where permitted as a condition of conditional use approval, all convenience commercial facilities shall comply with the following standards:
      1) There shall be direct vehicular access only to an arterial or collector street either within or abutting the development.
      
      2) Only 3,500 square feet of gross leasable commercial floor area shall be allowed for each one hundred (100) dwelling units of a mixed residential community.
      
      3) One sign not exceeding sixteen (16) square feet shall be permitted for each 3,500 square feet of commercial floor area.
      
      4) The architectural style of the commercial building(s) shall be similar in size, scale, color, and exterior siding material as residential dwellings within the development.
      
      5) Commercial facilities shall not be built until occupancy permits have been issued for at least one hundred (100) dwelling units.
   d. Age Restricted Retirement Community. Area and bulk regulations for residential dwelling units within an Age Restricted Retirement Community, including calculation of permitted density, shall comply with those otherwise applicable to residential dwelling units developed pursuant to this Section and Section 1204 as applicable.

2. Architectural Design. It is not the intention of the Borough to govern specific architectural design nor to link conditional use approval to any specific architectural design criteria.
   
   a. Applicant shall provide drawings illustrating the general character of the intended exterior design, including principal exterior materials, of all structures other than Single-Family Detached and Two-Family Dwelling Units to be built on lands developed in accordance with this Section.
   
   b. Where the Borough Council determines that architectural design as presented by Applicant is an essential means by which the proposed development complies with
the objectives of this Section, the Borough Council may require, as a condition of approval, establishment of appropriate means to guarantee general adherence to the intended architectural character.

b. Applicant shall address proposed means of long-term maintenance of exterior building facades and landscaping to the satisfaction of the Borough Council, for example, including where appropriate establishment of covenants and/or home-owners association documentation. In granting conditional use approval, the Borough Council may establish appropriate conditions to require provision for long term maintenance of exterior building facades and landscaping.

3. Open Space Resource Protection Standards. In utilizing the Site Responsive Residential Community Option, the proposed design shall limit disturbance of all open space resources identified in the required site analysis and accompanying material submitted in accordance with Section 1701.D.

a. Where applicable, the applicant shall comply with the specific objectives of the Elverson Borough Comprehensive Plan.

b. Historic resources shall be preserved to the greatest degree practicable, through incorporation into development plans and design, including historic structures, ruins or sites, historic road or other transport traces, paths and trails, and any other historic landscape features. The applicant is encouraged to maintain sufficient landscaped or buffer area surrounding historic structures to retain the integrity of the historical landscape setting. The applicant may demonstrate mitigation of impacts to historical landscape setting through introduction of vegetation or other screening in harmony with such landscape setting and through retention of view lines which visually link historic structures to their landscape setting.

c. Lands within floodplain areas as regulated by the most current Floodplain Ordinance adopted by Elverson Borough.

d. The applicant shall demonstrate compliance with applicable state and/or federal regulation of streams and wetlands. For any proposed activity requiring the submission of a wetland delineation report, stream or wetland encroachment permit, or mitigation plan to the Pennsylvania Department of Environmental Protection (DEP) and/or U.S. Army Corps of Engineers or successor agencies, copies of all such documentation shall be submitted to Elverson Borough.

e. Mature trees and woodland tree masses, including any individual free-standing trees over nine (9) inches caliper diameter at breast height, hedgerows, native flowering trees and shrubs, fencelines, rock outcroppings and other noted landscape features shall be inventoried and shall be preserved to the greatest degree feasible.

b. Removal or disturbance of woodland tree masses shall not occur on more than thirty five (35) percent of the total area they occupy, except where the Borough Council is satisfied overall community planning and open space resource protection objectives are best served through allowance for additional disturbance.
F. Open Space Designation and Management Standards.

1. General Standards for Open Space Designation.

   a. Areas designated as common open space shall be consistent with the Elverson Borough Open Space, Recreation, and Environmental Resources Plan. The location and layout of common open space shall be configured so as to serve residents adequately and conveniently and to promote adherence to the resource protection standards in Section 1226.E above, and shall further conform to the following conditions:

   1) A portion of the designated common open space equal in area to no less than fifteen (15) percent of the gross tract area shall exclude areas comprised of designated floodplain areas, wetlands, and slopes in excess of fifteen (15) percent.

   2) No portion of the common open space shall be measured as contributing to the minimum required common open space or to any open space utilized in calculation of any density bonus where:

      a) Within twenty five (25) feet of any structure except structures devoted to permitted open space uses.

      b) Composing stormwater management facilities. At the discretion of the Borough Council, areas devoted to stormwater management facilities may be included within the minimum common open space where the applicant can demonstrate to the satisfaction of the Borough Council that such facilities are designed to:

         i. Promote recharge of the groundwater system.

         ii. Be available and appropriate for active or passive recreational use or scenic enjoyment.

         iii. Otherwise conform to the purposes, standards, and criteria for open space set forth in this Section.

         For example, a long low berm graded to reflect natural contour could be designed to: 1) blend into the scenic landscape; 2) permit passive recreational use over the top of it; while 3) providing a relatively large linear area for seepage of stormwater into the groundwater system.

   3) Subject to the provisions of measurement of minimum required common open space stipulated herein, sewage service, stormwater management, and/or water supply facilities may be located entirely or partially within common open space areas. Where such facilities are so located, easements satisfactory to the Borough Council shall be established to require and enable maintenance of such facilities by the appropriate parties.
b. Areas designated for common open space purposes may be used for any of the following:

1) Crop or pasture land, subject to submission of conservation plan approved by the Chester County Conservation District.

2) Woodland, meadow, wetland, wildlife habitat, game preserve, or similar conservation-oriented area.

3) Land application of wastewater, where permitted in accordance with the Elverson Borough Sewage Facilities Plan, and where the Borough Council is satisfied that adequate provision(s) for the long-term management and maintenance of the wastewater system are guaranteed.

4) Public, common, or private park or outdoor recreation area subject to the specific terms of conditional use approval set by the Borough Council. Any change in recreational use(s) from that permitted in accordance with the original grant of conditional use approval shall require additional approval as a conditional use.

5) Common open space shall be interconnected with open space areas on abutting parcels wherever possible including, where appropriate, provisions for pedestrian pathways for general public use to create linked systems within the Borough.

6) Where deemed appropriate by the Borough Council, common open space areas shall be provided with sufficient perimeter parking, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle, and maintenance and vehicle traffic, and containing appropriate access improvements.

7) At the discretion of the Borough Council, a portion of the required common open space may be utilized to meet the recreational requirements of the Elverson Borough Subdivision and Land Development Ordinance.

8) Where development under the Site Responsive Residential Community Option is planned to occur in two or more development phases, a proportionate amount of common open space shall be permanently recorded with each phase.

2. Standards for Ownership of Common Open Space. Except to provide for permitted open space uses, common open space shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Borough and duly recorded in the Office of the Recorder of Deeds of Chester County. Subject to such permanent restrictions, common open space land in any open space development may be owned by a homeowners’ association, the Borough, a land trust or other conservation organization recognized by the Borough, or by a similar entity, or may remain in private ownership.

a. Offer of Dedication. The Borough may, but shall not be required, to accept dedication in the form of fee simple ownership of restricted open space land provided:

1) Such land is accessible to the residents of the Borough.
2) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance and recording fees.

3) The Borough agrees to and has access to maintain such lands.

b. Homeowners association. The common open space land and associated facilities may be held in common ownership by a Homeowners' Association. The Association shall be formed and operated under the following provisions:
   1) The developer shall provide a description of the Association including its bylaws and methods for maintaining the common open space.
   2) The Association shall be organized by the developer and operating with financial subsidization by the developer, before the sale of any lots within the development.
   3) Membership in the Association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the Association from developer to homeowners shall be identified.
   4) The Association shall be responsible for maintenance and insurance on common open space, enforceable by liens placed by the Homeowners' Association. Maintenance obligations also may be enforced by the Borough which may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the common open space to collect unpaid taxes.
   5) The members of the Association shall share equitably the costs of maintaining and developing such common open space. Shares shall be defined within the Association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).
   6) In the event of a proposed transfer, within the methods here permitted, of common open space land by the Homeowners' Association, or of the assumption of maintenance of such land by the Borough, notice of such action shall be given to all property owners within the development.
   7) The Association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space.
   8) The Homeowners' Association may lease common open space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
      a) That the residents of the development shall at all times have access to the common open space contained therein (except that access to land that is actively farmed shall be limited to times of the year with the fields are fallow).
      b) That the common open space to be leased shall be maintained for the purposes set forth in this Ordinance.
c) That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Borough, at the election of the developer and/or Homeowners’ Association, as the case may be.

d) The lease shall be subject to the approval of the Borough Council and any transfer or assignment of the lease shall be further subject to the approval of the Borough Council. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Borough.

9) Homeowners’ Association documentation demonstrating compliance with the provisions herein shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission, Applicant shall provide draft Homeowners’ Association documentation with sufficient detail to demonstrate feasible compliance with this Section.

c. Condominiums. The common open space and associated facilities may be held in common through the use of condominium agreement(s), approved by the Borough Council. Such agreement shall be in conformance with the Uniform Condominium Act of 1980. All common open space shall be held as "common elements" or "limited common elements." To the degree applicable, condominium agreement(s) shall comply with the provisions of Section 1226.F.2.b above, set forth for Homeowners’ Associations. Condominium agreement(s) shall be filed with the Final Subdivision and Land Development Plans. At the time of Preliminary Plan submission, Applicant shall provide draft condominium agreement(s) with sufficient detail to demonstrate feasible compliance with this Section.

d. Dedication of Easements. The Borough may, but shall not be required to, accept easements for public use of any portion or portions of common open space, title of which is to remain in common ownership by condominium or homeowners association, provided:

1) Such land is accessible to Borough residents.
2) There are no costs of acquisition other than any costs incidental to the transfer of ownership, such as title insurance.
3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners association and the Borough.

e. Transfer of Easements to a private conservation organization. With the permission of the Borough, an owner may transfer easements to a private, nonprofit, organization recognized by the Borough, among whose purpose it is to conserve open space and/or natural resources, provided that:

1) The organization is acceptable to Borough Council, and is a bona fide conservation organization with perpetual existence.
2) The conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions.
3) A maintenance agreement acceptable to the Borough Council is entered into by
the developer and the organization.

f. Private ownership of common open space.

1) Common open space may be retained in ownership by the Applicant or may be transferred to other private parties subject to compliance with all standards and criteria for restricted open space herein.

2) All or portions of the designated common open space, where permitted by the Borough Council, may be included within or divided among one or more of the individual lots. Where deemed appropriate, the Borough Council may require that responsibility for maintenance of common open space be conferred upon and/or divided among the owners of one (1) or more individual lots.

3. Required open space management plan.

a. Any application for conditional use approval of the Site Responsive Residential Community Option, under this Article, shall contain a conceptual plan for the long term management of the common open space which is to be created as part of the development. Such a plan shall include a discussion of (1) the manner in which the common open space will be owned and by whom it will be managed and maintained; (2) the conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the common open space, including conservation plan(s) approved by the Chester County Conservation District where applicable; (3) the professional and personnel resources that will be necessary in order to maintain and manage the property; (4) the nature of public or private access that is planned for the common open space; and (5) the source of money that will be available for such management, preservation and maintenance on a perpetual basis. The adequacy and feasibility of this conceptual management plan as well as its compatibility with the open space resource protection objectives of Section 1226.E shall be a factor in the approval or denial of the Conditional Use application by the Borough Council.

b. The conceptual management plan shall be transformed into a more detailed open space management plan and presented to the Borough for review and approval with the Preliminary Subdivision and Land Development Plan. The Borough Council may require that the management plan be recorded, with the Final Subdivision and Land Development Plans, in the Office of the Recorder of Deeds of Chester County. In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application to the Borough Council, so long as the proposed change is feasible and consistent with the purposes of preservation of open space set forth in this Section and so long as the plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Borough without the consent of the Borough Council, and the approval of the Borough Council in that regard shall not be unreasonably withheld or delayed.

4. Open space performance bond.

a. All landscape improvements, plantings, accessways, and recreational facilities within common open space shall be provided by the developer as applicable. A performance bond or other securities shall be required to cover costs of all
installation of proposed improvements in the common open space. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements in accordance with the Borough Subdivision Ordinance.

b. An appropriate portion of the performance bond or other security will be applied by the Borough should the developer fail to install the planting or recreational facilities.

SECTION 1227  SELF-SERVICE STORAGE FACILITY

A. Each storage unit shall have individual access.

B. The maximum building height shall be one (1) story.

C. Outdoor storage of items may be permitted when approved by Conditional Use in accordance with Article 17, including but not limited to boats, automobiles, motorcycles, construction equipment, RVs, ATVs, or any other property.

D. The minimum aisle width between buildings shall be:

1. Where a building fronts on one-way internal streets: Twenty (20) feet
2. Where a building fronts on two-way internal streets: Thirty (30) feet.

E. If a managerial/business office is established on the site, a minimum of four (4) parking spaces must be provided adjacent to the office.

F. No business activities, other than rental of storage units, shall be conducted on the premises.

G. The use shall be subject to review by Borough police and fire officials regarding security and fire protection.

H. Storage of explosive, radioactive, toxic, highly flammable, or otherwise hazardous materials shall be prohibited.

I. All storage shall be within closed buildings built on a permanent foundation of durable materials except when approved by Conditional Use in accordance with Section 1227.C. Trailers, box cars or similar impermanent or movable structures shall not be used for storage.

J. The entrance shall be a minimum of twenty (20) feet in width that shall be unobstructed by vehicles or equipment and be composed of an automated or locked gate that restricts access only to the owner or persons renting or leasing units in the facility.

K. The storage of partially dismantled, wrecked and/or inoperative vehicles shall not be permitted.

L. Exterior lighting shall be limited to security lighting and a lighting plan shall be submitted for approval by the Borough Council.
M. Self-storage facilities shall be expressly used for the storage of property, all other uses or activities are prohibited, including, but not limited to: auctions, commercial wholesale or retail sales, garage sales, servicing or repair of vehicles, boats, or trailers, or the operation of power tools.

SECTION 1228 SUPPLEMENTAL DWELLING UNIT

A. Purpose. The purpose of allowing supplemental dwelling units is to provide the opportunity for the creation of small dwelling units designed to meet housing needs by allowing more efficient use of housing stock and accessory buildings in the Borough.

B. Only single-family detached dwellings and their accessory buildings qualify for the establishment of a supplemental dwelling unit.

C. The area and bulk regulations of the applicable Zoning District shall apply to the lot on which a supplemental dwelling unit is located.

D. The supplemental dwelling unit shall be located in one (1) of the following configurations:

1. Attached to or within the principal dwelling. The supplemental unit may be a conversion of existing floor area or an enlargement to the principal dwelling. Enlargement shall comply with all applicable area and bulk requirements. Entrance to the supplemental unit shall be either through the principal dwelling or via a separate entrance located at the rear or side of the unit.

2. Contained within a detached accessory structure on the same lot. The minimum distance between principal and accessory buildings shall be ten (10) feet.

E. There shall be no more than one (1) supplemental dwelling unit per lot.

F. The supplemental dwelling unit shall remain accessory and incidental to the principal dwelling. The supplement unit shall have a minimum floor area of four hundred (400) square feet, but shall not exceed thirty-five (35) percent of the existing dwelling total floor area at the time of application.

G. One of the dwelling units shall be occupied by the owner of the lot on which both dwelling units are located.

H. One (1) off-street parking space shall be provided for each supplemental dwelling unit, in addition to parking requirements for the principal dwelling.

SECTION 1229 VEHICLE FUELING STATION

A. A site circulation plan shall be devised and include the following information:

1. Location and dimensions of all structures and fuel pumps.

2. Location and dimension of parking, landscaping areas and signage.

3. Description of internal circulation and external access.
B. Parking shall not be permitted between the main entrance of the building and the refueling bays.
C. Minimum fuel pump setbacks shall be:
   1. Twenty (20) feet from the front yard setback line.
   2. Thirty (30) feet from all parking areas.
D. Minimum width at the building line shall be two hundred fifty (250) feet.
E. A buffer yard/screen in accordance with this Ordinance and the Subdivision Ordinance.

SECTION 1230 VEHICLE SALES, SERVICE, OR REPAIR
A. No vehicle sales, service, or repair shall be located within fifty (50) feet of any residence or residentially zoned lands.
B. All service and/or repair activities shall be conducted within a wholly-enclosed building.
C. All exterior vehicle storage areas shall be screened from view of any adjoining residential district or use.
D. If gasoline pumps are to be installed, all requirements for a vehicle fueling stations shall be satisfied.
E. Any use involving the generation of waste grease and/or oil shall be required to install traps to collect these waste products. Such uses shall also demonstrate a regular and proper means of disposal of such greases and/or oils, as required by applicable State and/or Federal regulations.
F. No outdoor stockpiling of tires or outdoor storage of trash is permitted. An area enclosed by a wall or fence, screened from view of adjoining properties, shall be provided whenever outdoor storage is required. No materials may be stored so as to create a fire hazard.
G. Satisfactory provision shall be made to minimize harmful or unpleasant effects such as noise, odors, fumes, glare, vibration and smoke.
H. Stored and/or repaired vehicles shall remain no longer than sixty (60) days from the date of arrival.
I. The demolition or storage of junked vehicles is prohibited.
J. All automotive repairs or services activities, except those performed at fuel pumps, shall take place within a completely enclosed building. Vehicles waiting for repairs shall not be stored outdoors for more than ten (10) days.
K. Junked vehicles may not be stored in the open at any time and any junked vehicles shall be stored within an enclosed or fenced area.
L. There shall be no greater than two (2) parked vehicles per service bay in an open area or within a required parking space or lot, any additional vehicles shall be in an enclosed or fenced area.
SECTION 1231   WIRELESS COMMUNICATIONS FACILITIES (WCF)

A. Purposes and Findings of Fact.

1. The purpose of this ordinance is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Elverson Borough (referred to herein as the "Borough"). While the Borough recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.

2. By enacting these provisions, the Borough intends to:

   a. Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services.

   b. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations.

   c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Borough, including facilities both inside and outside the public rights-of-way.

   d. Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities.

   e. Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services co-locate their commercial communications antennas and related facilities on existing towers.

   f. Ensure the structural integrity of commercial communications antenna support structures through compliance with applicable industry standards and regulations.

   g. Promote the health, safety and welfare of the Borough's residents.

B. General and Specific Requirements for Non-Tower Wireless Communications Facilities.

1. Regulations Applicable to all Non-Tower WCF located within the Borough.

   a. Permitted in All Zones Subject to Regulations. Non-Tower WCFs are permitted in all zoning districts subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Borough.

   b. Non-Conforming Wireless Support Structures. Non-Tower WCF shall be permitted to co-locate upon non-conforming Tower-Based WCF and other nonconforming
structures. Co-location of WCF upon existing Tower-Based WCF is encouraged even if Tower-Based WCF is non-conforming as to use within a zoning district.

c. Standard of Care. Any Non-Tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.

d. Wind. All Non-Tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).

e. Aviation Safety. Non-Tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

f. Public Safety Communications. No Non-Tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

g. Radio Frequency Emissions. No Non-Tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

h. Removal. In the event that use of a Non-Tower WCF is discontinued, the owner is required to notify the Borough immediately upon cessation or abandonment of the operation. The Non-Tower WCF owner shall then have ninety (90) days in which to dismantle and remove the communication tower from the property. At the time of issuance of the permit for the construction of the communication tower, the owner shall provide financial security in form and amount acceptable to the Borough to secure the expense of dismantling and removing said structure.

i. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Non-Tower WCF is filed with the Borough, the Borough shall notify the WCF Applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the WCF Applicant in writing of such decision. If additional information was requested by the Borough to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the Borough's ninety (90) day review period.

j. Insurance. Each Person that owns or operates a Non-Tower WCF shall provide the Borough with a certificate of insurance evidencing general liability coverage in the
minimum amount of $1,000,000 per occurrence and property damage coverage in the minimum amount of $1,000,000 per occurrence covering the Non-Tower WCF.

k. Indemnification. Each Person that owns or operates a Non-Tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the Non-Tower WCF. Each Person that owns or operates a Non-Tower WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a Non-Tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys’ fees, reasonable expert fees, court costs and all other costs of indemnification.

l. Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:

(1) The Non-Tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

(2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.

(3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents in accordance with the requirements of Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).

m. Reservation of Rights. In accordance with applicable law and as set forth in more detail in subsequent design and development standards below, the Borough reserves the right to deny an application for the construction or placement of any Non-Tower WCF for numerous factors, which include but are not limited to, visual impact, design, and safety standards.

n. Engineer Signature. All plans and drawings for a tower and Antenna shall contain a seal and signature of a professional structural engineer licensed in the Commonwealth of Pennsylvania.

o. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the WCF Applicant shall provide to the Borough financial security sufficient to guarantee the removal of the Tower-Based WCF. Said financial security shall remain in place until the Tower-Based WCF is removed.

2. Regulations Applicable to all Non-Tower WCF that do not Substantially Change the physical dimensions of the Wireless Support Structure to which they are attached.

a. Permit Required. WCF Applicants proposing the modification of an existing Tower-Based WCF shall obtain a zoning permit from the Borough. In order to be considered
for such permit, the WCF Applicant must submit a permit application to the Borough in accordance with applicable permit policies and procedures.

b. Related Equipment. Ground-mounted Related Equipment greater than three (3) cubic feet shall not be located within fifty (50) feet of a lot in residential use or zoned residential.

c. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Non-Tower WCF or one thousand dollars ($1,000), whichever is less.

3. Regulations Applicable to all Non-Tower Wireless Communications Facilities that do Substantially Change the Wireless Support Structure to which they are attached:

a. Permitted in All Zoning Districts Subject to Regulations. Non-Tower WCFs are permitted in all zoning districts subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough.

b. Prohibited on Certain Structures. No Non-Tower WCFs greater than ten (10) feet in height shall be located on single-family detached residences, single-family attached residences, or any residential accessory structure.

d. Permit Required. Any WCF Applicant proposing the construction of a new Non-Tower WCF, or the modification of an existing Non-Tower WCF, shall first obtain a permit from the Borough. New construction and modifications shall be prohibited without a permit. After receipt of the permit application, the Borough Zoning Officer shall determine whether zoning relief is necessary under the Zoning Ordinance.

e. Historic Buildings (Resources). No Non-Tower WCF may be located upon any property within three hundred (300) feet, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Borough, or has been designated by the Borough to be of historical significance.

f. Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The WCF Applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.

g. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Non-Tower WCF, as well as related inspection, monitoring and related costs.

4. Regulations Applicable to Non-Tower WCF located outside the Public Rights-of-Way that do Substantially Change the Wireless Support Structure to which they are attached.
a. Development Regulations. If feasible, Non-Tower WCFs shall be co-located on existing Wireless Support Structures, such as existing buildings or Tower-Based WCFs, subject to the following conditions:

1) The total height of any Wireless Support Structure and mounted WCF shall not exceed the maximum height permitted in the underlying zoning district, unless the WCF Applicant obtains a variance.
2) In accordance with industry standards, all Non-Tower WCF Applicants must submit documentation to the Borough justifying the total height of the Non-Tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
3) If the WCF Applicant proposes to locate the Related Equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
4) A security fence of not less than six (6) feet and not more than eight (8) feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.

b. Design Regulations.

1) Non-Tower WCFs shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Borough.
2) Antennae, and their respective accompanying Wireless Support Structure, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
3) Non-Commercial Usage Exemption. Borough residents utilizing satellite dishes and Antennae for the purpose of maintaining television, phone, and/or internet connections at their respective residences shall be exempt from the design regulations enumerated in this Section of the Zoning Ordinance.

c. Removal, Replacement, Modification.

1) The removal and replacement of Non-Tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of Antennae.
2) Any material modification to a WCF shall require notice to be provided to the Borough, and possible supplemental permit approval to the original permit or authorization.

d. Inspection. The Borough reserves the right to inspect any WCF to ensure compliance with the provisions of the Zoning Ordinance and any other provisions found within the Borough Code or state or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
5. Additional Regulations Applicable to all Non-Tower WCF located in the Public Rights of Way (ROW).

a. Co-location. Non-Tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles. If co-location is not technologically feasible, the WCF Applicant shall locate its Non-Tower WCFs on existing poles that do not already act as Wireless Support Structures with the Borough’s approval.

b. Design Requirements:

1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.

2) Antennae and Related Equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.

c. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Non-Tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.

d. Equipment Location. Non-Tower WCFs and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:

1) In no case shall ground-mounted Related Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or within an easement extending onto a privately-owned lot.

2) Ground-mounted Related Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.

3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.

4) Any graffiti on any Wireless Support Structures or any Related Equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.

5) Any proposed underground vault related to Non-Tower WCFs shall be reviewed and approved by the Borough.
6) No Non-Tower WCF may be located upon any ROW within three hundred (300) feet of, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Borough, or has been designated by the Borough to be of historical significance.

e. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

1) The construction, repair, maintenance or installation of any Borough or other public improvement in the Right-of-Way.

2) The operations of the Borough or other governmental entity in the right-of-way.

3) Vacation of a street or road or the release of a utility easement.

4) An Emergency as determined by the Borough.

C. General and Specific Requirements for All Tower-Based Wireless Communications Facilities.

1. Regulations Applicable to all Tower-Based Wireless Communications Facilities in the Borough.

a. Standard of Care. Any Tower-Based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any Tower-Based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.

b. Notice. Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the Application, the WCF Applicant shall mail notice to all owners of every property within five hundred (500) feet of the proposed facility. The WCF Applicant shall provide proof of the notification to the Borough.

c. Conditional Use Authorization Required. Tower-Based WCFs are permitted in certain zoning districts by conditional use and only in such location within such districts and at a height necessary to satisfy their function in the WCF Applicant's wireless communications system. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this Section unless it
proves the necessity for such height. The WCF Applicant shall demonstrate that the antenna/tower/pole for the Tower-Based WCF is the minimum height necessary for the service area.

1) Prior to the Borough Counsel’s approval of a conditional use authorizing the construction and installation of Tower-Based WCF in a zoning district where the same is a permitted conditional use, it shall be incumbent upon the WCF Applicant for such conditional use approval to prove to the reasonable satisfaction of the Council that the WCF Applicant cannot adequately extend or infill its communications system by the use of equipment such as repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF Applicant shall further demonstrate that the proposed Tower-Based WCF must be located where it is proposed in order to serve the WCF Applicant's service area and that no other viable alternative location exists.

2) The conditional use application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.

3) The conditional use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all state and federal laws and regulations concerning aviation safety.

4) Where the Tower-Based WCF is located on a property with another principal use, the WCF Applicant shall present documentation to Borough Council that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.

d. Engineer Inspection. Prior to the Borough’s issuance of a zoning permit authorizing construction and erection of a Tower-Based WCF, a structural engineer registered in Pennsylvania shall issue to the Borough a written certification of the proposed WCF’s ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.

e. Visual Appearance and Land Use Compatibility. Tower-Based WCF shall employ Stealth Technology which may include the tower portion to be painted silver or another color approved by Borough Council, or shall have a galvanized finish. All Tower-Based WCF and Related Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. Borough Council shall consider whether its decision will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the
greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.

f. Co-Location and Siting. An application for a new Tower-Based WCF shall not be approved unless Borough Council finds that the wireless communications equipment planned for the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building, or on Borough property. Borough Council may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the commercial communications antenna(s) on an existing structure as set forth in this Section. The WCF Applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one quarter (1/4) of a mile radius of the site proposed, sought permission to install an Antenna on those structures, buildings, and towers and was denied for one of the following reasons:

1) The proposed Antenna and Related Equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.

2) The proposed Antenna and Related Equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.

3) Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.

4) A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.

g. Permit Required for Modifications. To the extent permissible under applicable state and federal law, any WCF Applicant proposing the modification of an existing Tower-Based WCF, which increases the overall height of such WCF, shall first obtain a permit from the Borough. Non-routine modifications shall be prohibited without a permit.

h. Gap in Coverage. A WCF Applicant for a Tower-Based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of Tower-Based WCFs.

i. Additional Antennae. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate Antennae on Tower-Based WCFs where technically and economically feasible. The owner of a Tower-Based WCF shall not install any additional Antennae without obtaining the prior written approval of the Borough.

j. Wind. Any Tower-Based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry
Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended).

k. Site plan. A full site plan shall be required for all Tower-Based WCFs, showing all existing and proposed structures and improvements, for a minimum of five hundred (500) feet from the Tower-Based WCF, including but not limited to Antenna and related support structures, building, fencing, buffering and ingress and egress.

l. Height. Any Tower-Based WCF shall be designed at the minimum functional height. All Tower-Based WCF Applicants must submit documentation to the Borough justifying the total height of the structure. The maximum total Height of a Tower-Based WCF, which is not located in the public ROW, shall not exceed one hundred twenty (120) feet, as measured vertically from the ground level to the highest point on the structure, including Antennae and subsequent alterations. Should the WCF Applicant prove that another provider of wireless communications services has agreed to co-locate antennae on the WCF Applicant's Tower-Based WCF and requires a greater tower height to provide satisfactory service for wireless communications than is required by the WCF Applicant, the total Height of such Tower-Based WCF shall not exceed one hundred fifty (150) feet, unless the WCF Applicant secures a variance from the Zoning Hearing Board which may be given at the Board's sole discretion.

m. Related Equipment. Either one single-story wireless communications equipment building not exceeding five hundred (500) square feet in area or up to five (5) metal boxes placed on a concrete pad not exceeding ten (10) feet by twenty (20) feet in area housing the receiving and transmitting equipment may be located on the site for each unrelated company sharing commercial communications antenna(s) space on the Tower-Based Wireless Communications Facility.

n. Public Safety Communications. No Tower-Based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

o. Maintenance. The following maintenance requirements shall apply: Any Tower-Based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents, and utilize the best available technology for preventing failures and accidents in accordance with the requirements of Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).

p. Radio Frequency Emissions. No Tower-Based WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

q. Historic Buildings or Districts. Tower-Based WCF shall not be located upon a property within three hundred (300) feet of, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be
so listed, or is included in the official historic structures and/or historic districts list maintained by the Borough.

r. Signs. All Tower-Based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.

s. Lighting. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Borough Secretary.

t. Noise. Tower-Based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

u. Aviation Safety. Tower-Based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

v. Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the Tower-Based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Ordinance. The WCF Applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.

w. Timing of Approval. Within thirty (30) calendar days of the date that an application for a Tower-Based WCF is filed with the Borough, the Borough shall notify the WCF Applicant in writing of any information that may be required to complete such application. All applications for Tower-Based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the Borough shall advise the WCF Applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period.

x. Non-Conforming Uses. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Ordinance.

y. Removal. In the event that use of a Tower-Based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
1) All unused or abandoned Tower-Based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.

2) If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.

3) Any unused portions of Tower-Based WCFs, including Antennae, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a Tower-Based WCF previously removed.

z. Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a Tower-Based WCF, as well as related inspection, monitoring, and related costs.

aa. FCC License. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.

bb. Reservation of Rights. In accordance with applicable law, the Borough reserves the right to deny an application for the construction or placement of any Tower-Based WCF for numerous factors, including but are not limited to, visual impact, design, and safety standards.

c. Insurance. Each Person that owns or operates a Tower-Based WCF greater than forty (40) feet in height shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of $5,000,000 per occurrence and property damage coverage in the minimum amount of $5,000,000 per occurrence covering the Tower-Based WCF. Each Person that owns or operates a Tower-Based WCF forty (40) feet or less in height shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of $1,000,000 per occurrence and property damage coverage in the minimum amount of $1,000,000 per occurrence covering each Tower-Based WCF.

dd. Indemnification. Each Person that owns or operates a Tower-Based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the

ee. Tower-Based WCF. Each Person that owns or operates a Tower-Based WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of Tower-Based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damage reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
ff. Engineer Signature. All plans and drawings for a tower and Antenna shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.

gg. Financial Security. Prior to receipt of a zoning permit for the construction or placement of a Tower-Based WCF, the WCF Applicant shall provide to the Borough financial security sufficient to guarantee the removal of the Tower-Based WCF. Said financial security shall remain in place until the Tower-Based WCF is removed.

2. Regulations Applicable to Tower-Based Wireless Communications Facilities located outside the Public Rights-of-Way:


1) Location. No Tower-Based WCF shall be located in an area in which utilities are primarily located underground, except as permitted by this Section of the Zoning Ordinance.

a) The following regulations shall apply to Tower-Based WCFs greater than forty (40) feet in height:

(1) Such Tower-Based WCFs may be located in the following zoning districts by conditional use:

(a) (C) Commerce District.
(b) (LI) Limited Industrial District

(2) Such Tower-Based WCFs shall not be located in, or within seventy five (75) feet of, any area in which utilities are underground.

2) Sole Use on a Lot. A Tower-Based WCF shall be permitted as a sole use on a lot, provided that the underlying lot is a minimum of six thousand (6,000) square feet. The lot shall meet the minimum lot area of the district in which it is located. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal one hundred ten (110) percent of the proposed Height of the Tower-Based WCF unless it is demonstrated to the reasonable satisfaction of the Borough Council that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining property line uses and their occupants or street right-of-way line pedestrians and traffic.

b. Combined with Another Use. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:

1) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.

2) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the Tower-
Based WCF and guy wires, the equipment building, security fence, and buffer or screen planting if the proposed WCF is greater than forty (40) feet in height.

3) Minimum Setbacks. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or street right-of-way line shall equal one hundred ten (110) percent of the proposed Height of the Tower-Based WCF unless it is demonstrated to the reasonable satisfaction of the Borough Council that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining property line uses and their occupants or street right-of-way line pedestrians and traffic.

c. Design Regulations:

1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Borough.

2) To the extent permissible by law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough.

3) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's Antennae and comparable Antennae for future users.

4) Any Tower-Based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.

d. Surrounding Environns:

1) The WCF Applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.

2) The WCF Applicant shall submit a soil report to the Borough complying with the standards of Appendix I: Geotechnical Investigations, ANSIIEIA-222-E, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

e. Fence/Screen:

1) A security fence having a minimum height of six (6) feet and a maximum height of eight (8) feet shall completely surround any Tower-Based WCF greater than forty (40) feet in height, as well as guy wires, or any building housing WCF equipment.

2) Landscaping. Landscaping shall be required to screen as much of a newly constructed Tower-Based WCF as possible. The Borough Council may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Council, it
achieves the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible.

f. Accessory Equipment:

1) Ground-mounted Related Equipment associated to, or connected with, a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technologies, as described above.

2) All Related Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

g. Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.

h. Parking. For each Tower-Based WCF greater than forty (40) feet in height, there shall be two off-street parking spaces.

i. Inspection. The Borough reserves the right to inspect any Tower-Based WCF to ensure compliance with the Zoning Ordinance and any other provisions found within the Borough or state or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

3. Regulations Applicable to Tower-Based Wireless Communications Facilities located in the Public Rights-of-Way:

a. Location and Development Standards.

(1) Such Tower-Based WCFs shall not be located in underground utility areas and shall not be located within the front facade zone of any structure.

(2) No Tower WCF may be located upon any Right-of-Way within three hundred (300) feet of, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Borough, or has been designated by the Borough to be of historical significance.

b. Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements
shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.

c. Equipment Location. Tower-Based WCFs and Related Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:

1) In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb.

2) Ground-mounted equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.

3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.

4) Any graffiti on the tower or on any Related Equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.

5) Any underground vaults related to Tower-Based WCFs shall be reviewed and approved by the Borough.

d. Design Regulations.

1) The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the Borough.

2) Tower-Based WCFs in the public ROW shall not exceed forty (40) feet in height.

3) To the extent permissible under state and federal law, any height extensions to an existing Tower-Based WCF shall require prior approval of the Borough, and shall not increase the overall height of the Tower-Based WCF to more than forty (40) feet.

4) Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant’s Antennae and comparable Antennae for future users.

e. Relocation or Removal of Facilities. Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an Emergency, an owner of Tower-Based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
1) The construction, repair, maintenance or installation of any Borough or other public improvement in the Right-of-Way.

2) The operations of the Borough or other governmental entity in the Right-of-Way.

3) Vacation of a street or road or the release of a utility easement.

4) An Emergency as determined by the Borough.

D. General and Specific Regulations for Wireless Communications Facilities upon municipal use land or public land.

1. Tower-Based WCF may be permitted upon public lands owned by the Borough, regardless of the underlying zoning districts, when approved by conditional use pursuant to the conditional use procedures and standards as provided in the sections above governing Tower-Based WCF approvals, and subject to the following additional criteria:

   a. Where a previously approved Tower-Based WCF is located upon public land owned by the Borough, antenna(s) of providers other than the entity owning the tower may collocate on the tower, if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1.

   b. When required by Borough Council, the Tower-Based WCF shall be architecturally screened and landscaped to simulate other structures existing in the Borough, such as light poles, flagpoles, drum silos or trees (stealth features), and shall be painted one or more colors (blue, green or remain galvanized) as directed by Borough Council.

   c. The location of the Tower-Based WCF within the public land owned by the Borough shall be at the absolute discretion of Borough Council should it grant the conditional use application and shall be an express condition thereof.

   d. The Borough may enter into separate agreements and fee arrangements with Tower-Based WCF Applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.

2. Non-Tower WCF may also be permitted upon public lands owned by the Borough, regardless of the underlying zoning district, subject to those regulations and restrictions as set forth in the preceding sections governing all Non-Tower WCF and subject to the following additional criteria:

   a. Borough Council at their discretion can modify certain standards and regulations to allow a reasonable use of Borough owned property to accommodate Non-Tower WCF.

   b. Where a previously approved Tower-Based WCF or other Wireless Support Structure is located upon public land owned by the Borough, antenna(s) of providers other than the entity owning the tower may co-locate on the Wireless Support Structure, if the proposed co-location meets all of the requirements set forth in the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. § 11702.1.
c. Subject to applicable law, the location of the Non-Tower WCF within the public land owned by the Borough shall be at the absolute discretion of the Borough.

d. The Borough may enter into separate agreements and fee arrangements with Non-Tower-Based WCF Applicants beyond those permit fees and reimbursement costs set forth in previous sections of this Zoning Ordinance.
ARTICLE 13
Signs

SECTION 1301 PURPOSE

The purpose of this Article is to provide for the regulation of signs in Elverson Borough, as a proper exercise of the municipal police power, to protect the public health, safety, welfare, and aesthetics in accordance with the following objectives:

A. To control the size, location, alternation, maintenance, and illumination of signs in the Borough in order to reduce hazards to pedestrian and vehicular traffic.

B. To encourage signs which are well-designed, pleasing in appearance, and compatible with the Borough’s urban context while providing latitude for a variety of sign types in order to enhance the economic value as well as the visual character of properties within the Borough.

C. To establish standards designed to encourage signs which are compatible with the Borough’s small town character, appropriate to the type and intensity of the activity to which they pertain, expressive of the identity of individual proprietors, and legible in the circumstances in which they are seen; and to prohibit the erection of signs that do not meet these criteria.

D. To prohibit the construction of and require the removal of signs which constitute a hazard, blighting influence, or are inconsistent with the Borough’s character.

E. Signs in Elverson Borough shall generally be smaller in size and match the character of the urban context and historical nature as identified by the Borough Comprehensive Plan including the goals and objectives therein. For example, Signs should encourage visitors to patronize Elverson businesses by enhancing and maintaining an inviting, pedestrian friendly streetscape in addition to maintaining the integrity of and minimizing impacts on historic and scenic resources. Inappropriate signage is considered a scenic intrusion in the Comprehensive Plan.

SECTION 1302 GENERAL REGULATIONS

The following regulations shall be observed in all districts:

A. No sign shall be erected in any district without a permit, except where exempt as stated in Section 1303.C.

B. No sign except traffic signs and similar regulatory notices of a duly constituted governmental body shall be erected within the legal right-of-way of any public street, except as specifically authorized by other ordinances and regulations of the Borough.

C. No sign which emits smoke, visible vapors, particles, sound, or odor shall be permitted.

D. No moving, flashing, or rotating signs which may distract motorists shall be permitted.

E. No artificial light or reflecting device shall be used as a part of a sign where such light or
device interferes with, competes for attention with, or may be mistaken for a traffic signal.

F. No sign shall be located in a position that will impede or cause danger to vehicular or pedestrian traffic or interfere with traffic though causing glare, confusion, or competing for attention with traffic control devices, or blocking of sight distances for street, intersections, sidewalks or driveways.

G. No sign shall infringe upon the required clear sight distance in Section 1103.

H. No sign shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted in the Zoning District in which the property is located except as permitted for Off-Site Signs in accordance with Section 1304.J.

I. No sign shall be erected advertising a business, articles, or merchandise for sale other than on the same premises, except for Off-Site Signs in accordance with Section 1304.J. and Billboards where permitted in accordance with Section 1304.K.

J. No sign shall be attached to a utility pole or other public infrastructure or hung across a public street except as placed or permitted by the Borough.

K. All distances provided for in this Article shall be measured along straight lines from the nearest edge of a sign or sign structure.

L. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window, or fire escape.

M. No signs shall be attached to a stand-pipe, fire escape, utility pole, other public infrastructure, or hung across a public street except as placed or permitted by the Borough.

N. Signs shall not be mounted on roofs or extend above the roof line of the building to which it is attached.

O. The outdoor storage or parking of a vehicle on a property shall not be used as a sign for a business, home occupation, or any other use. No vehicle which contains advertising on its exterior shall park in a location visible from a public right-of-way continuously for more than two (2) weeks.

P. Sign construction, maintenance, removal, abandonment.


   a. Every sign shall be constructed of a durable material and kept in good condition, repair, and safe from collapse.

   b. No sign shall be maintained within the Borough, except for legal nonconforming signs as permitted by this Ordinance, that is in violation of this Ordinance or the Borough Building Code, determined to be a nuisance, in such a state of disrepair as to have the appearance of neglect, or is illegible.

   c. Whenever a sign is determined to be in violation of this Ordinance or the Borough Building Code, becomes structurally unsafe, or endangers the safety of a building or
premises or the general public, certified written notice shall be given to the owner of
the sign or the owner of the premises on which such sign is located, that such sign
shall be made safe or removed by the business or property owner within five (5) days
of receipt of such notice. A sign shall be considered unsafe upon the lapse of the
insurance required by Section 1303.A.

d. If, after five (5) days of receipt of such notice as specified in Section 1302.P.1.c,
above, such sign is not made safe or removed by the business owner or property
owner, the issue with the sign shall be corrected or the sign shall be removed by the
Borough after ten (10) working days of receipt of such notice at the expense of the
owner of the property on which it is located.

2. Abandonment. No person shall maintain or permit to be maintained on any premises
owned or controlled by him a sign which has been abandoned. An "abandoned sign,"
for the purposes of this Article, is a sign erected on and/or related to the use of a
property which becomes vacant and unoccupied for a period of six (6) months or
more or any sign which was erected for a prior occupant or business or any sign which
relates to a time, event or purpose which is past. Any such abandoned sign shall be
removed by the landowner or person controlling the property or by the Borough upon
notification at the owner’s expense if the sign becomes a threat to the public health,
safety, or welfare.

Q. Sign Area. The gross sign area shall be the entire area within a single continuous perimeter
enclosing the extreme limits of such sign, and in no case passing through or between
adjacent elements of the same. Such perimeter shall not include any structural elements
lying outside the limits of such sign and not forming an integral part of the display. In the
case of an open sign, made up of individual letters, figures or designs, the space between
such letters, figures or designs shall be included computing the area of a double-face sign,
only one side shall be considered provided that both faces are identical. In “V” shaped
structures the interior angle of which exceeds forty-five (45) degree, both sides shall be
considered in computing the sign area. See Figure 13-1

Figure 13-1

![Figure 13-1](image-url)

R. Illumination.

1. The following regulations shall apply to signs when illumination is proposed:

   a. Signs shall be illuminated with steady, stationary, shielded light sources directed
      solely onto the signs without causing glare. There shall be no illumination of a
      flashing or intermittent type, except as permitted for electronic changing message
      signs as permitted by Section 1302.R.2.
b. Lighting of signs shall not shine directly upon adjacent properties nor within the normal line of vision of pedestrians or motorists using streets or sidewalks within public rights-of-way.

c. Lighting shall be shielded so that the source of light shall not be visible from any point off the lot on which the sign is located, except for digital signs as permitted by this Section.

d. Internally illuminated signs shall be permitted through the use of either translucent materials or backlighting so long as the source of the lighting complies with all other requirements of this Ordinance. Illumination shall be permitted for individual or groups of letters on a sign face or individual internally illuminated letters or backlit letters, but backlighting of an entire sign face shall not be permitted. See examples in Section 1306 on page 13-14.

e. Strings of bulbs are not permitted, except as part of a holiday celebration or temporary seasonal decorations.

f. No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for a traffic signal.

g. Neon window signs may be permitted in cases where they are custom designed to be compatible with the building's historic and/or architectural character and exterior color.

h. All signs shall comply with the applicable requirements of the UCC.

i. In addition to the regulations of this Section, illumination of signs shall comply with Section 1108.

2. Digital and electronic changing message signs. Such signs may be permitted for non-residential uses and shall comply with all other requirements of this Chapter and the following regulations:

a. Displayed messages shall be visible for a minimum of six (6) seconds.

b. A change in displayed message shall occur within one (1) second.

c. No visual scrolling, movement, fading, or dissolving is permitted and messages shall not overlap.

d. The sign shall be equipped with automatic day/night dimming to reduce the illumination intensity of the sign from one (1) hour after sunset to one (1) hour prior to sunrise.

e. The sign shall be equipped with an automatic shut off in case of failure or error that would result in the sign projecting a full intensity all white image for an extended period of time.

f. The use of animation, sound, and full-motion video is prohibited.
g. The size of electronic changing message signs shall be limited to one third (1/3) of
the size of the sign or twelve (12) square feet, whichever is less.

S. Temporary Sign Regulations.

1. Permits shall not be issued for a period in excess of six (6) months.

2. Any free standing sign shall be located a minimum of five (5) feet from any lot line.

3. Signs shall be removed immediately upon expiration of the permit or cessation of the
activity to which they pertain, whichever is sooner.

4. The site or building on which the sign was erected shall be restored to its original
condition upon removal of the sign.

SECTION 1303   SIGN PERMITS, BOND, AND LICENCE

A. Except for signs included under Sections 1303.B and 1303.C below, all signs shall require a
permit in accordance with the following:

1. Applications for sign permits shall be filed in duplicate and on forms furnished by the
Borough and shall be accompanied by detailed plans and specifications and such other
information deemed necessary by the Zoning Officer to determine the location and
details of sign construction.

2. Permit fees shall be collected prior to the issuance of a permit. Permit fees shall be as
designated by the Borough Council.

3. No permit shall be issued until a license and a bond or liability insurance policy as herein
provided, and the property owners consent and signature have been filed.

4. Before any permit will be issued for any sign projecting over any public property or right-
of-way, a liability insurance policy or an indemnity bond in an amount and form
satisfactory to the Borough, shall be posted and maintained for the life of the sign.

5. The Borough Zoning Officer shall approve or deny applications for sign approval permits
within thirty (30) working days from the date of the filing of the complete application with
the required fee. If an application is denied, the applicant shall receive notification in
writing stating the reason for denial along with the specific provision or provisions of this
Ordinance that were not met by the application.

6. The Zoning Officer is hereby authorized to revoke any sign permit upon failure of the
holder thereof to comply with any provisions of this Ordinance.

B. Maintenance of or changes to signs. The following shall not require a permit:

1. Regular maintenance of the sign, including electrical, repainting, or cleaning.

2. The repair of the sign that in no way changes the sign from the original approved
application.
3. Minor changes to a sign, such as changes to the information on or text of a sign, deemed by the Borough Zoning Officer to be insignificant to the sign. Changes to the size, shape, location, structure, or mounting do not constitute minor changes and shall require the submission of a sign permit.

C. Exempt Signs. No permit shall be required for the following signs. These signs shall conform to all other regulations set forth in Sections 1303.A and B, above.

1. Traffic signs and other directional, information or public services signs such as those advertising the availability of restrooms, telephone or similar public conveniences.

2. Signs advertising meeting times and places of non-profit service or charitable clubs and organizations, provided that such signs do not advertise any commercial establishment, activity, organization, product, good, or service, excepting public utilities. Such signs shall be limited to one sign per use and shall not exceed twelve (12) square feet.

3. Agricultural signs.

4. Address signs.

5. Trespassing signs.

6. Real estate signs.

7. Traffic direction signs.

8. Political signs.

9. Legal notices.

10. Portable signs.

11. Temporary professional signs.

12. Temporary signs, all other undefined.

SECTION 1304 SIGN CLASSIFICATION, SIZE, AND DISTRICT APPLICABILITY

Signs shall be classified, defined, regulated, and permitted as follows:

A. Traffic Signs. Signs regulating traffic, naming streets, or describing conditions, which are officially erected by the Commonwealth of Pennsylvania or the Borough of Elverson.

1. Permitted in all zoning districts.

2. Dimensional Requirements. As deemed appropriate by the Commonwealth of Pennsylvania or the Borough of Elverson.

B. Traffic Direction Signs. A sign which is designed and erected solely for the purpose of traffic or pedestrian direction for visitors on a property, including but not limited to exit and entrance signs, circulation direction, safety or warning signs, and information or public services signs such as those advertising the availability of rest rooms, telephone, or similar
public conveniences, but shall not be used for advertisement

1. Permitted in all zoning districts.

2. Dimensional Requirements. Not to exceed two (2) square feet.

3. Signs shall be on the same lot as the use to which the sign relates.

4. Signs are limited to appropriate information such as that listed in Section 1304.B, above, the definitions herein, and in Article 2 and shall not contain any advertising.

C. Identification Signs. Signs which display the name of a particular non-commercial or non-industrial building or use, such as a place of worship, educational use, or park.

1. Permitted in all zoning districts.

2. Dimensional Requirements. Not to exceed twelve (12) square feet.

3. No more than one (1) such sign shall be permitted per street frontage on a single lot or tract, as applicable.

D. Address Signs. A sign limited to the provision of the official numerical identification address of the property on which it is located.

1. One (1) sign shall be permitted per official address for a property in any zoning district. Where more than one (1) address is located on a property, each address may have one (1) sign or all of the address signs may be placed on one (1) sign totaling the combined sign area for all of the applicable uses.

2. Dimensional Requirements. Not to exceed two (2) square feet.

E. Residential Development Sign. A sign which displays the name of a residential development in any zoning district.

1. One (1) freestanding ground sign for each street frontage or at each access to a subdivision, development, or complex shall be permitted which may indicate the name and address, provided the sign shall not exceed fifteen (15) square feet.

2. Multi-family Uses may have, in addition to or in replacement of signs in Section 1304.E.1 above, one (1) development identification sign mounted as a wall sign that shall not exceed nine (9) square feet, on a multi-family building for identification purposes displaying the name and/or address of the building.

F. Trespassing Signs. Any sign indicating the private nature of property, a street, or driveway, or a sign restricting or prohibiting some particular activity.

1. Permitted in all zoning districts.

2. Dimensional Requirements. Not to exceed two (2) square feet.
G. Home Occupation Signs. Signs used to indicate a home occupation pursuant to Section 1213.

1. Permitted in all zoning districts.

2. Dimensional Requirements. Not to exceed four (4) square feet.

3. No more than one (1) such sign shall be permitted per home occupation on the property where the use is located only.

H. Temporary Signs. A sign that is not permanently affixed to the ground or a structure and/or which is intended to be displayed for a limited time. Temporary signs typically are mounted in a standard metal or wire frame with legs that may be pressed into the ground. Such signs may include specific types of temporary signs or temporary signs to be placed at the property owners discretion for personal expression or interest.

1. General Regulations.
   a. Permitted in all zoning districts.
   b. Temporary signs shall be placed a minimum of five (5) feet from any lot line or street cartway (edge of pavement).
   c. Signs shall be removed immediately upon completion of the associated active work or event.
   d. Temporary signs shall be firmly anchored into or secured to the ground either by posts to be pressed into the ground or other similar method, but shall not be permanently affixed.

2. Agricultural Signs. Signs advertising the sale of farm products grown on the premises.
   a. Dimensional Requirements. Not to exceed twelve (12) square feet.
   b. No more than one (1) such sign shall be permitted per street frontage on a single lot or tract, as applicable.

3. Professional Signs. A temporary sign of a contractor, architect, or artisan displayed on a temporary basis on the premises at which the services are being performed.
   a. Dimensional Requirements. Not to exceed six (6) square feet.
   b. No more than one (1) such sign shall be permitted on a single lot or tract, as applicable.

4. Temporary Event Signs. A temporary sign noting a special event such as a fair, event, yard sale, or a seasonal activity such as the sale of Christmas trees.
   a. Dimensional Requirements. Not to exceed twelve (12) square feet.
   b. No more than one (1) such sign shall be permitted per street frontage on the property
such event or activity shall take place.

c. Signs may be placed not more than seven (7) days prior to the sale or event and shall be removed before the end of the day of the sale or event.

5. Real Estate Signs. A temporary sign which advertises the sale, rental, or lease of the property on which they are placed.

a. Dimensional Requirements. Not to exceed six (6) square feet.

b. No more than one (1) such sign shall be permitted per street frontage on a single lot.

6. Political Signs. A temporary sign pertaining to political views, an individual seeking election or appointment to a public office, or a forthcoming public election or referendum.

a. Signs shall be approved by the property owner on which the signs are placed.

b. Such signs may be placed sixty (60) days prior to and shall be removed within five (5) days after the event or election for which the sign is intended has occurred.

c. Dimensional Requirements - Not to exceed six (6) square feet.

d. No more than two (2) such signs shall be permitted per street frontage on a single lot.

7. Portable Signs. A temporary sign that is not fixed, attached, or anchored in a permanent position, that is capable of being readily moved or relocated, including but not limited to, sandwich boards, placards, or other similar signs mounted on a frame or chassis on wheels or supported by legs but not pressed or extended into the ground or other surface.

a. Portable signs shall be placed on the same lot as the use for which the sign is associated.

b. The sign area of a portable sign shall not exceed six (6) square feet and shall not exceed three (3) feet in height.

c. Not more than two (2) such signs shall be placed on a premise.

d. Signs shall be located a minimum of five (5) feet from any lot line or street cartway (edge of pavement).

e. Portable Signs shall comply with all other applicable regulations of this Ordinance, and shall not be placed to impede pedestrian traffic or constitute a hazard to or impede pedestrians or automobile circulation.

f. Such signs shall be permitted to be placed for viewing during the regular business hours of the associated use, and shall be removed from public view and placed indoors or in a secure location when the associated business is closed.
8. Temporary New Construction Signs. A temporary sign indicating that the premise is in the process of being subdivided and/or developed for the construction of dwellings or other buildings and/or uses that may include the name of the subdivision, development, or developer.

a. One temporary (1) ground sign shall be permitted for each street the subdivision, development, or property fronts upon.

b. Dimensional requirements. Sign area shall not exceed fifteen (15) square feet.

c. Such signs shall be removed within five (5) days after dedication of streets to the Borough or upon substantial improvement of the project.

9. Temporary Signs, all other temporary signs not specifically defined.

a. Dimensional requirements. Sign area shall not exceed six (6) square feet.

b. In addition to specific temporary sign types listed under this Section 1304.H, Temporary Signs shall be permitted for each use and shall be approved by the owner of the property on which the signs are placed at the owner’s discretion.

c. Not more than one (1) undefined temporary sign shall be permitted on a lot at any given time.

10. Temporary Window Signs. See Section 1304.I.3.e.2.

I. Non-Residential Signs. Signs used to attract attention to a permitted use on the same premises. Such signs normally include the identifying name, type of business or entity, and trademark of the establishment.

1. Permitted for nonresidential uses within the zoning districts unless otherwise noted herein.

2. Signs Number of signs permitted. In order to limit sign clutter, two (2) signs of two (2) different types as permitted by Section 1304.I.3.a-d are permitted on any one (1) property. For example, one (1) wall sign and one (1) freestanding ground sign would be permitted however one (1) freestanding ground sign and one (1) freestanding pole sign would not be permitted.

3. Permitted Sign types and regulations.

    a. Wall Signs. A sign mounted on the wall of a building shall not exceed twenty five (25) square feet. Mounted signs shall be installed parallel to the supporting wall and project not more than twelve (12) inches from the face of such wall. No more than one (1) wall sign shall be permitted per use.

    b. Projecting Signs. A sign projected perpendicularly from the face of a building to which it is attached shall extend no more than forty two (42) inches, with a minimum height of ten (10) feet from ground level, and have a maximum area of twenty five (25) square feet. No more than one (1) projecting sign shall be permitted per use.
c. Free standing Signs. A permanent, detached sign not attached to any building, erected as signage for the associated use or uses on the same parcel within the limits of the front yard of the property to which they pertain. No more than one (1) free standing sign shall be erected within the limits of the front yard of the property to which it pertains only, regardless of how many individual uses are located on the property. Free standing signs shall have a maximum area of twenty five (25) square feet, provided however that free standing signs advertising multiple use of a single property shall permit and additional twelve (12) square feet of sign face per additional use.

1) Ground Sign. A freestanding sign, other than a pole sign, placed directly on the ground with no gaps or space between the ground and the sign, and permanently attached thereto, without supports or pylons, independent from any building or structure. Ground Signs shall not exceed four (4) feet in height to the top of the sign from the average ground level at the base of the sign.

2) Pole Sign. A freestanding sign, other than a ground sign, including any sign supported by poles, uprights, or braces placed upon, or in, or supported by the ground independent from any building or structure. Pole Signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign to the ground by one (1) or more poles, posts, or other similar structure. Freestanding pole signs shall not exceed sixteen (16) feet in height. Pole signs shall not be permitted within the (TC) Town Center District.

d. Awning Signs. A sign painted, stitched, or otherwise attached to the cover of an architectural projection from a wall over a window or entrance. No more than one (1) awning sign shall be permitted per use. Such sign shall be limited to establishment name, logo, and street number. Such sign shall be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside. Letters shall not exceed ten (10) inches in height. A minimum of eight (8) feet above sidewalk level shall be permitted for pedestrian clearance.

e. Window Signs. A sign which is visible to persons in vehicles or to pedestrians, on adjoining property or public sidewalks, and located on the outside or inside of a window in a building or structure, to direct attention to a use conducted in or product sold in the structure. For purposes of this definition, “window” means any translucent and/or transparent surface in a building or structure.

1) Permanent Window Signs. A permanent sign affixed to, etched, or painted upon the interior or exterior surface of a window or otherwise displayed through or upon a window including permanent signs hung directly inside or mounted onto a window pane.

2) Temporary Window Signs. A temporary sign that may be placed on a window or door or are visible to persons in vehicles or to pedestrians that may be temporarily affixed by suction cups, adhesives, wires, or hung from the ceiling, placed on a window sill, or any other temporary method of placement but not permanently painted, affixed, or otherwise placed.
3) Sign area. A maximum of twenty five (25) percent of the total window area may be covered by a combination of Permanent Window Signs and Temporary Window Signs.

J. Off-Site Signs.

1. Off-site signs shall be permitted on properties that front upon Main Street (Route 23) or Conestoga Road (Route 401) within the Borough for the purposes of providing advertisement for businesses that do not front upon Main Street (Route 23) or Conestoga Road (Route 401) but are within the vicinity and accessed from side streets or access roads perpendicular to Main Street (Route 23) or Conestoga Road (Route 401). Properties that front upon Main Street (Route 23) or Conestoga Road (Route 401) upon which off-site signs may be permitted shall not be permitted to utilize such off-site signs to advertise for the on-site use of the property, off-site signs shall be explicitly permitted to advertise for uses on another property as permitted herein.

2. Where such signs are permitted, there shall be not more than one (1) off-site sign on an individual property which shall not exceed twelve (12) square feet in area except where there is more than one (1) use being advertised, an additional ten (10) square feet may be added to the sign for each additional use, however no off-site Sign shall exceed a maximum of sixty (60) square feet.

3. The applicant(s) must present a lease, proof of ownership, or other agreement with the property where the off-premise sign will be located for approval by the Borough, proving the applicant(s) may construct, have contracted, or use the off-premise sign and any agreements for the location, construction, use, maintenance, or removal of such sign.

4. An off-site sign shall be a independent sign from any other permitted sign on a property and shall be a separated from any other sign a minimum of twice the greatest dimension of either the off-site sign or the nearest sign thereto. For example, if there is one (1) ground sign on a property in addition to an off-premise sign that is five (5) feet in height, the off-site sign shall be separated a minimum of ten (10) feet from the ground sign and shall not infringe upon the visibility of the ground sign.

5. Only associated one (1) off-site sign shall be permitted per use.

6. Off-site signs shall be separated by a minimum distance of two (200) hundred feet.

7. No off-site sign shall interfere with the visibility of any other permitted sign on a property or violate any other provision of this Ordinance.

8. Signs shall be a minimum of five (5) feet from any lot line and shall not infringe upon the required clear sight distance in accordance with Section 1103.

K. Billboard Signs. A sign used to direct attention to a business, commodity, service or entertainment not conducted, sold or offered upon the premises where such sign is located.

1. Location. Billboards shall be permitted within the Borough south of Conestoga Road (Route 401) when approved by conditional use within all applicable zoning districts.
2. Dimensional Requirements. Sign area shall not exceed three hundred (300) square feet and in no case shall the face of the billboard exceed twenty (20) feet in height or thirty (30) feet in length.

3. Billboards shall in no case exceed thirty five (35) feet in height.

4. Billboards shall have a separation distance from any other billboard a distance of a minimum of five hundred (500) feet.

5. No billboards shall be located within one hundred (100) feet of any property line, or any other structure.

6. No billboards shall be located within five hundred (500) feet of any street intersection.

7. Such signs may be externally lit, but shall comply with the lighting provisions of this Ordinance and shall comply with the IESNA (Illuminating Engineering Society of North America) recommended practices and criteria contained in the IESNA Lighting Handbook, including but not limited to “full cutoff” fixtures. All lighting fixtures shall be aimed to illuminate the advertising copy only and so as to not project or reflect light onto a neighboring use or property.

8. Billboards may be a digital sign or an electronically changing message sign, in which case, they shall also meet the applicable regulations in Section 1302.R of this Article.

9. Billboards shall meet all other applicable Borough, state, and federal regulations.

SECTION 1305 NONCONFORMING SIGN REGULATIONS

Nonconforming signs shall be in accordance with Article 15.
SECTION 1306  SIGN DEFINITIONS AND ILLUSTRATIONS

In addition to the definition of Sign in Article 2 and definitions otherwise incorporated within the Sections of this Article, the following additional definitions and illustrations apply to this Ordinance:

A. Abandoned Sign. A sign erected on, or related to, the use of a property which becomes vacant and unoccupied for a period of time, or any sign which relates to a time, event, or purpose which has past.

B. Digital Sign. An advertising sign that utilizes digital or video light emitting diodes (LEDs) or similar electric methods to create an image display area.

C. Double-Faced Sign. A sign which displays a message, information, or advertising on both faces of the sign.

D. Electronically Changing Message Sign. A digital sign or portion thereof displaying frequent message changes that are rearranged electrically without physically altering the face or surface of such signs.

E. Illuminated Sign. A sign designed to project or reflect artificial light from an internal or external source. Illumination may occur through an external source which may directly or indirectly illuminate a sign, an internal source which may provide illumination through transparent or translucent materials, or digitally through light emitting diodes (LEDs) or similar technology.

F. Nonconforming Sign. A sign that does not conform to the zoning requirements at the time of enactment of this Ordinance, or as a result of subsequent amendments thereto where such sign was lawfully in existence prior to the enactment of such ordinance or amendment or as a result of action by the Zoning Hearing Board.

G. Permanent Sign. A sign that is intended for long term use attached to a building, structure, or the ground through mounting, bolting, concrete footings, or other similar means that enable the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign.

H. Illustrations of Sign Types. The following illustrations provide examples for each sign type but shall not be used directly for the regulation of each sign in terms of size, shape, color, or other criteria:
Address sign.

Awning Sign.

Billboard.

Digital / Electronic Changing Message Sign.

Freestanding Ground Sign.
Freestanding Pole Sign.

Home occupation sign.

Identification Sign.

Illuminated Signs, Permitted
Illuminated Signs, Not Permitted

Multiple Use Sign (Wall, projecting, Freestanding Ground, Freestanding Pole).

Political signs.

Portable Sign.
Projecting Sign.

Real estate sign.

Residential Development Sign.

Temporary signs, all other undefined.
Temporary New Construction Sign.

Temporary professional sign.

Traffic direction sign.

Traffic sign.
Trespassing sign.

Wall Sign.

Window Sign, Permanent

Window Sign, Temporary
ARTICLE 14
Off-Street Parking and Loading

SECTION 1401 PURPOSE AND APPLICABILITY

A. Purpose.

1. Establish regulations for the layout, location, and amount of off-street parking for land uses within the Borough.

2. Provide adequate parking and loading facilities for all permitted structures and uses.

3. Reduce traffic congestion and promote the allocation of parking and loading spaces to increase public safety and convenience.

B. Applicability.

1. Off-street parking and loading facilities shall be provided whenever:

   a. A new building is constructed or new use established.
   b. An existing use is changed to a use requiring different parking or loading facilities than the prior use.
   c. An existing building or use is altered or enlarged so as to change the amount of parking and loading spaces required.

2. Buildings and uses in existence on the date of adoption of this Ordinance shall not be subject to the provisions of this Article, except as provided in Section 1401.B.1, above.

3. All land uses proposed subsequent to the adoption of this Ordinance shall be in conformance with this Article and the applicable sections of Article 11.

4. Location of Required Parking Spaces.

   a. Required off-street parking spaces shall be located on the same lot as the principal use, unless otherwise provided by this Article.
   b. Off-Street Parking spaces shall be located outside of the public right-of-way.

5. Use of Parking Facilities. Parking facilities shall not be used for any purpose that interferes with the availability for the parking need it is required to serve, unless otherwise provided in this Article.

6. Off-street parking and loading facilities existing at the effective date of this Ordinance shall not subsequently be reduced below the requirements of this Article.

7. All parking and loading facilities required by this Article shall be constructed and subsequently maintained in an attractive, safe, and functional manner for as long as the building or use which they are designed to serve remains in existence.
SECTI ON 1402     PARKING REGULATIONS

A. Construction.

1. All parking spaces, aisles, access driveways, and lots shall have a paved surface subject to the approval of the Borough Engineer. Where appropriate, and where approved by the Borough, the use of permeable pavement and/or specially designed brick or block for parking facilities is encouraged in order to increase on-site water retention for plant material and groundwater supplies and to reduce problems associated with runoff.

2. Parking areas shall include provisions to retain stormwater on the applicant's premises in accordance with the Stormwater Ordinance. Parking facilities shall be designed to prevent pooling or flooding of parking areas, with drainage designed in an acceptable manner to prevent problems off-site with flooding, water flow, or erosion, as approved by the Borough Engineer and in compliance with the Subdivision Ordinance and Stormwater Ordinance.

3. Parking shall meet all regulations and requirements of the Americans with Disabilities Act of 1990 and the Uniform Construction Code (UCC) including but not limited to, required handicapped parking spaces, access ramps, access aisles, and signage.

B. Parking Space and aisle Regulations.

1. Parking spaces.

   a. Each parking space shall have a minimum dimension of nine (9) feet by eighteen (18) feet and shall have convenient access in all seasons. Not more than two (2) feet of a parking space may overhang a perimeter buffer, so long as such overhang does not intrude into a right-of-way or pedestrian walkway, and for such spaces, the area directly below the overhang need not be paved.

   b. Parking space requirements shall be in accordance with the following:

<table>
<thead>
<tr>
<th>Angle of Parking Row</th>
<th>45</th>
<th>60</th>
<th>90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Depth of parking row:</td>
<td>18’</td>
<td>19’</td>
<td>18’</td>
</tr>
<tr>
<td>Width of parking space:</td>
<td>9’</td>
<td>9’</td>
<td>9’</td>
</tr>
</tbody>
</table>

   c. Individual parking spaces shall be clearly marked by durable white or yellow striping a minimum of four (4) inches in width.

   d. Every required off-street parking space shall open directly upon an aisle (travel lane) or an access driveway to provide safe and efficient means of vehicular access to such parking space in accordance with applicable regulations. No off-street parking space shall be created so that a vehicle must back into a street or public right of way to exit the space.

   e. Where on-street parking is permitted parallel parking spaces shall be a minimum of eight (8) feet wide and twenty four (24) feet in length.
2. Aisles (travel lanes). Internal aisles/travel lanes shall be provided and designed to provide clear access to parking spaces, prevent blockage of vehicles entering or leaving the site, and shall be clearly defined by means of painted lines or markings, curbing, or landscaping.

   a. When there is a one-way flow of traffic and individual parking spaces are at an angle greater than sixty (60) degrees there shall be a minimum aisle width of eighteen (18) feet.

   b. When there is a one-way flow of traffic and individual parking spaces are at an angle less than sixty (60) degrees there shall be a minimum aisle width of sixteen (16) feet.

   c. When there is a two-way flow of traffic there shall be a minimum aisle width of twenty-four (24) feet.

C. Parking Lot Design Regulations. Parking lots shall be designed to permit each individual space to open directly into an aisle in accordance with Section 608 of the Subdivision Ordinance.

   1. A maximum of forty (40) parking spaces may be placed together in a single parking area. Parking areas abutting one another shall be separated by a planting strip with a minimum width of five (5) feet.

   2. No parking lot or space shall directly abut a street, and shall at a minimum be separated from the street by a curb or vertical barrier except for access driveways.

   3. Parking lots for over twenty (20) vehicles shall be separated from the street line by a buffer planting strip a minimum of five (5) feet in width.

   4. Parking areas shall be designed to permit each vehicle to proceed to and from a parking space without requiring the moving of any other vehicle.

   5. For the purposes of servicing any property, a maximum of two (2) access driveways shall be permitted for each use, unless otherwise permitted herein.

   6. Parking areas shall be landscaped in accordance with Section 607 of the Subdivision Ordinance.

   7. Parking lot landscaping is intended to promote the public health, safety, and general welfare by providing minimum requirements for installation and maintenance of landscaped areas in connection with parking lots and other vehicular use areas; to protect the character and stability of residential, business, institutional, and industrial areas; and to conserve the value of land and buildings on surrounding properties and neighborhoods.

   8. All parking lots shall comply with the access management requirements in Section 1107, Access and Traffic Control and the requirements of Section 611.D of the Subdivision Ordinance.
D. Parking Requirements.

1. Residential use minimum parking requirements. Required space may include garage space. Where there is a home occupation, the appropriate provisions of Section 1213 also shall apply.

- Single Family Dwelling: 2 Space/Dwelling Unit
- Two Family Dwelling: 2 Space/each Dwelling Unit
- Multiple Family Dwelling: 2 Space/each Dwelling Unit
- Mobile Home Parks: 2 Spaces/Mobile Home

2. Age Restricted Retirement Community. Parking requirements shall be determined by the Borough Council as part of the Conditional Use process, in accordance with requirements for similar uses in accordance with recognized authorization sources (such as, but not limited to the Urban Land Institute or Institute of Transportation Engineers (ITE)), the specific requirements of the facilities and uses, and or/actual experience.

3. Non-residential uses.

   a. There shall be sufficient parking spaces for each use so that there is a minimum of one (1) space provided for each one and one half (1.5) employee(s) on the shift of greatest employment and sufficient spaces, rounded to the nearest whole number, to comply with the application of the appropriate formula listed in Figure 14-1 for each use, unless otherwise stated. Where a specific use is not listed, the most similar use shall apply.

   **Figure 14-1: Off-Street Parking Requirements**

<table>
<thead>
<tr>
<th>Non-Residential Use</th>
<th>Parking Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Use</td>
<td>No additional Spaces required, except as otherwise required herein, including but not limited to Home Occupations.</td>
</tr>
<tr>
<td>Adult Use</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Athletic Equipment or Repair Shop</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Bank or Financial Institution</td>
<td>5/1,000 gsa</td>
</tr>
<tr>
<td>Private Club or Fraternal Institution</td>
<td>1 space for every 3 seats provided for patrons, customers, members, or guests or 1 space per 3 persons permitted at the maximum capacity of the use as established by the fire marshal or other official mechanism, whichever is greater</td>
</tr>
<tr>
<td>Commercial Recreational Use or Facility; Park or Outdoor Recreation</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>a. Indoor Use (Bowling, skating, etc.)</td>
<td>a. 6/1,000 gsa or 1 space per 3 people permitted for the maximum capacity of the use as established by the fire marshal or other official mechanism, whichever is greater</td>
</tr>
<tr>
<td>b. Park or Outdoor Recreational Use</td>
<td>b. 1 space per 4 visitors estimated peak service</td>
</tr>
<tr>
<td>Child Day Care Center (Commercial Day Care)</td>
<td>1 space per 6 students/attendees the facility is licensed, permitted, or intended to serve at maximum capacity or 1 space per 400 gfa, whichever is greater</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>See Section 1213</td>
</tr>
<tr>
<td>Hotel</td>
<td>1 space per rented room</td>
</tr>
<tr>
<td>Self Service Laundromat</td>
<td>10/1,000 gsa or 2 spaces per washing machine whichever is greater</td>
</tr>
<tr>
<td>Kennel</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Lumber Yard</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Medical Office or Clinic</td>
<td>3 spaces per examining room</td>
</tr>
<tr>
<td>Mixed Use</td>
<td>Required spaces shall be the sum of all applicable uses</td>
</tr>
<tr>
<td>Mortuary</td>
<td>8/1,000 gfa</td>
</tr>
<tr>
<td>Office (Business, Administrative, Professional, etc.)</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Office of a Contractor or Salesperson</td>
<td>2/1,000 gfa for areas dedicated to office or meeting space</td>
</tr>
<tr>
<td>Personal Service Shop</td>
<td>3/1,000 gsa</td>
</tr>
<tr>
<td>Restaurant:</td>
<td>5/1,000 gfa for areas for guest reception plus 1 space for every 3 seats provided for patrons, customers, members:</td>
</tr>
<tr>
<td>a. Where establishments provide benches instead of fixed individual seats</td>
<td>a. 3 linear feet of seating shall equal 1 seat</td>
</tr>
<tr>
<td>b. Where no fixed seats are used</td>
<td>b. 75 square feet of gross floor area shall equal 1 seat</td>
</tr>
<tr>
<td>Restaurant, Fast Food:</td>
<td>10/1,000 gfa or 1 space for every 2 seats provided for patrons, customers, members, or guests as follows, whichever is greater:</td>
</tr>
<tr>
<td>c. Where establishments provide benches instead of fixed individual seats</td>
<td>c. 3 linear feet of seating shall equal 1 seat</td>
</tr>
<tr>
<td>d. Where no fixed seats are used</td>
<td>d. 75 square feet of gross floor area shall equal 1 seat</td>
</tr>
</tbody>
</table>
### Retail Store
4/1,000 gsa

### Self-Storage Facility
See Section 1227

### Shopping Center
Sum of all applicable uses

### Spa
3/1,000 gsa

### Studio
3/1,000 gsa

### Vehicle Filling Station (gas station)
1 parking space for fueling and 2 stacking spaces per pump

### Vehicle Repair, or Service
4/1,000 gsa for office/retail space plus 2 Spaces per service bay, however the internal space of a service bay shall not count towards parking requirements

### Vehicle Sales
3/1,000 gsa

<table>
<thead>
<tr>
<th>Public/Institutional Uses</th>
<th>Parking Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age Restricted Retirement Community, Congregate Facility *Or in accordance with Section 1226.</td>
<td>1 space for every 2 rooms for residents, plus 1 space per residential dwelling unit where applicable</td>
</tr>
<tr>
<td>Educational Use:</td>
<td></td>
</tr>
<tr>
<td>a. Elementary or Junior High School:</td>
<td>a. 1.5 spaces per classroom plus 4/1,000 gfa devoted to office or administration plus auditorium requirement</td>
</tr>
<tr>
<td>b. High School:</td>
<td>b. 1 space per classroom plus 4/1,000 gfa devoted to office or administration plus 1 space per 10 students in grades 11 and 12 plus auditorium requirement</td>
</tr>
<tr>
<td>c. Plus Auditorium or Gymnasium space for either use</td>
<td>c. 1 space per 4 fixed seats or 4 people permitted for the maximum capacity of the use as established by the fire marshal or other official mechanism, whichever is greater</td>
</tr>
<tr>
<td>Crematory</td>
<td>4/1,000 gsa</td>
</tr>
<tr>
<td>Institutional; Government; Municipal Use</td>
<td>1 Space per every 2 seats of capacity for public meeting facilities</td>
</tr>
<tr>
<td>Park or Outdoor Recreational Use</td>
<td>See Commercial Recreational Use or Facility; Park or Outdoor Recreation above</td>
</tr>
<tr>
<td>Place of Worship</td>
<td>1 Space per every 3 seats or 1 space per 3 people permitted for the maximum capacity of the use as established by the fire marshal or other official mechanism, whichever is greater</td>
</tr>
<tr>
<td>Wireless Communication Facility</td>
<td>2 Spaces per facility</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Industrial/Manufacturing Uses</th>
<th>Parking Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>1/1,000 gfa and 1 space per company vehicle</td>
</tr>
<tr>
<td>Junkyard</td>
<td>2 spaces per office located on the premises</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1/1,000 gfa and 1 space per company vehicle</td>
</tr>
<tr>
<td>Laboratory, Research, Experimental, or Testing facility</td>
<td>2/1,000 gfa for area devoted to engineering or testing</td>
</tr>
<tr>
<td>Truck Terminal</td>
<td>2/1,000 gfa plus 1 parking space for company</td>
</tr>
</tbody>
</table>
vehicles stored and/or intended for operation in connection with said use.

<table>
<thead>
<tr>
<th>Wholesaling, Warehouse, Distribution</th>
<th>1 space per 1,000 gfa</th>
</tr>
</thead>
<tbody>
<tr>
<td>For all other uses not listed</td>
<td>The requirement for the most similar use shall apply or the applicant shall supply sufficient documentation (such as AASHTO or ITE) to justify requested parking allocation which shall be approved by Borough Council.</td>
</tr>
</tbody>
</table>

b. Reduction of required parking in the TC District. Within the TC District an applicant may request an alternative requirement from the parking requirement in Section 1402.D.3.a by conditional use subject to Article 17 of this Ordinance. Where a change in the number of required off-street parking spaces is considered, the applicant shall provide documentation (such as AASHTO or ITE) to support that the use and/or site does not warrant the spaces required by Section 1402.D.3.a and the Borough Council may approve a reduction which shall not exceed twenty five (25) percent of the stated parking requirement.

4. On-street parking along the frontage of a property shall be included in satisfying the overall parking requirements of the uses on that same property.

SECTION 1403 TC DISTRICT PARKING REGULATIONS AND OPTIONS

A. General Regulations. The following regulations apply within the TC District:

1. No off-street parking or loading shall be allowed in the front yard of any property within the TC District. All parking and loading facilities shall be located either to the side or rear of the principal structure and connected to the front sidewalk by pedestrian walkways or sidewalks. Alternative side or rear entrances to buildings are encouraged in addition to primary entrances along the street frontage.

2. Front access to associated off-street parking facilities shall not be permitted on lots accessible from an alley or a side street of lower functional classification.

3. Off-street surface parking shall not extend more than sixty (60) feet in width along any street frontage.

4. Not more than one hundred thirty (130) percent of the required minimum parking requirement shall be permitted, unless otherwise provided by this Ordinance or when approved by Conditional Use.

5. Connected parking lot requirement. Parking lots constructed after the effective date of this Ordinance shall be required to connect to lots on adjacent parcels in accordance with this subsection, unless other parking alternatives are approved under Section 1403.B, below. This requirement shall not apply where there is a change in use that does not require expansion of an existing parking lot or where there is maintenance on an existing off-street parking lot, but shall apply if an existing lot is expanded and there is an existing parking lot on adjacent parcels. See Figure 14-2

a. Parking lots constructed after the effective date of this Ordinance shall be required to connect to parking lots on adjacent lots in accordance with the following:

1) Where there is no existing parking lot on an adjacent lot, a parking lot shall be
constructed so that such connection may be made in the future if a parking lot is constructed on the adjacent lot.

2) Where there is an existing adjacent lot, the connection shall be established, subject to approval of the owner of the adjacent use.

3) Adjacent parking lots shall be connected through aisles/traffic lanes.

b. Access and Connections.

1) Access. When a new parking lot is developed adjacent to an existing parking lot and the required connections are constructed, existing access drives may be eliminated to reduce the access for the connected lots to the requirement for one (1) off-street parking lot. Any eliminated access drives may be repurposed for parking spaces.

2) Connections. Where a use with an existing off-street parking lot connects to a newly developed/constructed lot and loses required parking spaces due to the connection, the parking requirement for such connecting use may be reduced by the number of spaces lost to make the connection as long as the required off-street parking lots and connections remain, when approved by the Borough.

c. A common access agreement between adjacent uses shall be required and subject to approval by the Borough to maintain the parking lots and the shared access. If a connection is removed due to development on one lot or other reason, the remaining parking lot(s) shall be required to meet access requirements for individual parking lots.

Figure 14-2: Connected Parking

B. The following off-street parking options may be used within the TC District. Parking requirements shall be located on the same lot as the use for which the parking is required, except in cases where it is not feasible due to the Borough’s small size and the limitations of lot sizes and space in the TC District. In the TC District, the following alternatives for off-street parking are permitted when approved by Conditional Use subject to Article 17 of this Ordinance:

1. Shared Off-street Parking Facility. A maximum of fifty (50) percent of required parking spaces for a place of worship, theater, or other use primarily open outside of typical business hours, may be provided and used jointly by banks, offices, retail stores, personal service shops, and similar uses which are normally open, used or operated during typical business hours (8 a.m. to 5 p.m. Monday-Friday). See Figure 14-3

   a. The sharing of parking shall be subject to approval by the Borough Council which shall consider, among other criteria, the hours of operation of the uses which are sharing required parking spaces and the number of spaces involved.
b. The applicant(s) shall submit a site plan and written agreement showing use(s), ownership, maintenance responsibility, and location of the off-street parking facility(ies) ensuring the retention of parking spaces for such sharing of required parking which shall be properly drawn and executed by the parties concerned subject to review and approval of Borough Council. Such approval may be rescinded by the Borough, and additional parking shall be obtained by the owner of the use sharing the parking spaces to meet the required off-street parking standard in the event the Borough determines the joint use of parking results in a public nuisance or adversely affects the public health, safety, or welfare or if there is a change in use of the property that owns the parking lot being shared or other issue which results in negating the ability of the shared parking to fulfill the parking requirement for the use sharing the parking.

c. The lot can be accessed by patrons where safe crossing streets are available, and are located within three hundred (300) feet of the building entrance(s) in which the use(s) is(are) located.

d. Shared facilities shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.

e. Sidewalks for pedestrian safety are available between the parking lot and the associated use.

![Figure 14-3: Shared Parking](image)

2. Off-Site Parking Facility. Required parking spaces may be accommodated off-site on a different lot than the use for which they are required. See Figure 14-4

a. The owner(s) of the use(s) or structure(s) shall submit a plan to the Borough that includes a site plan and agreement showing use(s), ownership, maintenance responsibility, and location of the off-street parking facility(ies) for review and subject to approval by Borough Council.

b. The parking facility fulfills the required parking for the use(s) with which it is associated.

c. Sidewalks for pedestrian safety are available between the parking lot and the associated use.

d. Off-site parking facilities shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.

e. The lot can be accessed by patrons where safe crossing streets are available through crosswalks or other similar means, and are located within three hundred (300) feet of the building entrance(s) in which the use(s) is(are) located.

f. The applicant(s) shall provide sufficient legal documentation to ensure the long-term availability of the parcel to be used for off-site parking. This may be in the form of a deed, lease, contract, easement, or similar instrument, of which the form and
duration shall be subject to the review of the Borough Solicitor and approved by Borough Council.

Figure 14-4: Off-Site Parking

3. Municipal Parking Lots. Municipal parking spaces or parking lots may be counted toward the determination of off-street parking requirements for uses within the (TC) Town Center District when such spaces are located within three hundred (300) feet of a given building for a particular use.

4. Reserve Parking.
   
a. The Borough Council may permit up to a twenty (20) percent reduction in the number of parking spaces required in Figure 14-1 in Section 1402.D.3.a provided that a reserved parking area that can accommodate such future parking is set aside in accordance with the provisions herein.

b. The location of the initial phase of parking and the area set aside for reserved parking shall be clearly indicated on a Land Development Plan in accordance with the Subdivision Ordinance. The reserved parking area shall be clearly noted on the plan for possible future use.

c. The reserved parking area shall not include areas for required yards, setbacks, or areas which would otherwise be unsuitable for parking spaces due to the physical characteristics of the land or other requirements of this Ordinance, such as natural resources protected by Article 10. Required landscaping for the parking area shall not interfere with the potential future use of the reserved parking area. The applicant shall provide a landscaping plan for the reserved area as part of the Land Development Plan submission.

d. The developer shall enter into a written agreement with the Borough Council that, within five (5) years following the issuance of the Occupancy Permit, an assessment of the parking shall be made and additional parking spaces reserved for future use shall be provided at the landowner’s expense should it be determined by the Borough Council that the full parking space requirement, or portion thereof, is necessary to satisfy the need of the use(s).

e. The applicant shall demonstrate through the use of empirical data from other similar built projects and/or studies that a lesser standard can adequately serve the proposed use(s) to the satisfaction of the Borough, or the applicant may pay an agreed upon fee to the Borough for a study to be completed to determine an appropriate standard. In any event, the Borough shall hold in escrow an amount equal to the cost to construct and install the unbuilt parking spaces, and the Land Development Plan shall include calculations for the potential impervious surface area for the potential addition of the reserved parking. If the use is determined to be adequately serviced by the parking provided in accordance with Section 1403.B.4.d,
above, the escrow funds shall be released. If the provided parking is determined, at
the sole discretion of the Borough, to be inadequate, the property owner shall cause
the required parking to be constructed, at their sole expense. After such time as the
required parking has been constructed, the Borough shall release the escrow funds,
less any amount owed to the Borough. If the property owner fails to construct the
required spaces the Borough may use the escrow funds to have the spaces
constructed.

5. Fee-in-lieu of Required Parking permitted in the Town Center (TC) District.

a. As an alternative to the provision of required Off-Street Parking, an applicant for a
nonresidential use may seek a conditional use approval from Borough Council in
accordance with Article 17, to pay a one-time fee in lieu of required parking. It shall
be the preference of Borough Council that required parking be provided on-site or
that, where this proves infeasible, an applicant consider the other options listed in
this Section 1403.B prior to or in conjunction with requesting fee-in-lieu of parking.
Where, in the opinion of the Borough Council in response to the applicant’s request
for conditional use approval, other alternatives in this Section do not present a
feasible means of providing some or all of the Off-Street Parking required by this
Article, the Council may authorize the payment of a one-time fee in lieu of the actual
creation of some or all of the required parking by the applicant.

b. The amount of the fee shall be specified in the parking fee schedule adopted by
resolution of the Borough Council.

b. All fees collected and all interest earned thereon shall be placed in the Borough
General Fund. Such fees and interest shall be used only for the acquisition and/or
lease of land or the improvement of land owned or leased by the Borough for Off-
Street Parking within the Town Center (TC) Zoning District and the installation of off-
street parking on such land. Such collected fees shall be expended for the purposes
set herein within ten (10) years of the receipt thereof.

SECTION 1404  OFF STREET LOADING AND UNLOADING

Loading and unloading spaces shall be located off-street, with proper access from a street or
alley. All required loading berths shall be located in the side or rear yard area of the lot to be
served. Each loading berth shall be separated from internal drives, and not used in the
calculation of parking space requirements.

A. General Requirements.

1. Off-street loading and unloading space, or spaces, with proper and safe access from
street or alley or from a private traffic aisle or access driveway connecting with a street
or alley, shall be provided on the same lot as the use for which it intended to serve,
either within a structure or in the open, except as provided for in Section 1404.D. The
ingress and egress of loading operations shall not require maneuvers in a public street
and shall minimize interference with regular traffic movements.

2. Loading and unloading spaces shall have paved surfaces to provide safe and
convenient access during all seasons.

3. Loading facilities shall not be constructed between the building line and a street right-of-
way line, except as provided in Section 1404.D.
4. Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended, except as provided in Section 1404.D.

5. Alleys may be required to give access for loading areas in the rear of properties.

6. Areas provided for loading and unloading of delivery trucks and other vehicles and for servicing by refuse collection, fuel and other service vehicles shall be so arranged that they may be used without blocking or interfering with the use of any parking space, access driveways, traffic aisle, pathways, sidewalks, streets, or within the front, side or rear yard setbacks, except as provided in Section 1404.D, below.

7. All loading berths and circulation areas which abut a residentially zoned district or residential use shall be buffered and screened in accordance with Section 1105, Landscaping and Screening.

8. All off-street loading berths shall be constructed and maintained for as long as the use for which they are designed to serve remains in existence.

B. Size.

1. For structures and uses that are served only by smaller vehicles such as vans, the minimum size for each berth shall be ten (10) feet in width and twenty (20) feet in length, with a minimum vertical clearance of twelve (12) feet, by approval of Borough Council.

2. For structures and uses that are served by larger vehicles than specified in Section 1404.B.1, such as tractor-trailers, the minimum size for each berth shall be fourteen (14) feet in width and fifty (50) feet in length, with a minimum vertical clearance of sixteen (16) feet.

C. Required Number of Off-Street Loading Berths.

1. Every commercial, industrial, or institutional use shall have a minimum of one (1) off-street loading space except as provided in Section 1404.D. Where there is an aggregate gross floor area of twenty thousand (20,000) square feet or more for each use, one (1) additional off-street loading space shall be provided for each additional twenty thousand (20,000) square feet of gross floor area or part thereof.

2. Where a structure or use includes more than one (1) type of use, the number of berths required shall be the sum of the requirements for each separate use, unless approved under Section 1404.D.

D. Alternatives. Where off-street loading cannot be accommodated on-site due to site constraints that preclude the installation of appropriate off-street loading, turning movements for, or access for applicable delivery vehicles, applicants for a development may submit for one of the following off-street loading alternatives through the Conditional Use approval process in accordance with Article 17:

1. Use of public alleys and streets. The Borough Council may approve the use of public alleys and streets for loading and unloading provided the following conditions are met:
a. The applicant demonstrates that loading and unloading may be conducted without blocking or interfering with vehicular and pedestrian traffic.

b. Loading and unloading shall not generally interfere with the use of on-street parking spaces.

c. Loading and unloading is limited to off-peak hours but no earlier than 7 am.

2. Common loading and unloading facilities. Required off-street loading spaces may be provided cooperatively for two (2) or more uses on the same lot or on adjacent lots.

3. Loading in a required off-street parking space or lot.

   a. The parking space or lot being used is associated with the use being served, unless as approved in conjunction with Section 1404.D.2.

   b. Loading and unloading will not generally interfere with the use of the parking space or lot to fulfill the parking requirements of this Article.
ARTICLE 15
Nonconformities

SECTION 1501      APPLICABILITY

All uses, structures, lots and signs that do not conform to the regulations of the zoning district in which they are located, or other regulation of this Ordinance, but were in lawful existence prior to the effective date of this Ordinance or any amendment thereto, shall be known and regarded as nonconforming and the following regulations shall apply to them.

SECTION 1502      CONTINUATION

The lawful application of a use, structure, lot, or sign existing at the time of adoption of this Ordinance or any amendment thereto, or authorized by a building permit issued prior thereto may be continued in the form evident at the time of adoption of this Ordinance although such use does not conform to the provisions of this Ordinance.

SECTION 1503      NONCONFORMING USES

A. Change of Use.

1. A nonconforming use may be changed to another nonconforming use of substantially the same character with a similar or lessor impact by grant of special exception by the Zoning Hearing Board, after public hearing, that the proposed new use will be of a similar or lessor impact to its neighborhood and surroundings than the use it is to replace. In determining relative impact, the Zoning Hearing Board shall take into consideration criteria including, but not limited to, the following: off-street parking and traffic generated; nuisance characteristics (such as emission of noise, dust, glare and smoke); fire hazards; storage and waste disposal; and hours and manner of operation.

2. Once changed to a use of greater conformity or a conforming use, no structure or lot shall be permitted to revert to a use of less conformity or a nonconforming use.

B. Extension or Enlargement. The nonconforming use of a structure or of a lot shall not be extended or enlarged, so as to use other portions of the structure or lot unless the Zoning Hearing Board shall, by special exception as hereinafter provided, authorize the extension or enlargement of such use of a structure or lot. The Zoning Hearing Board, upon proper application, may grant such special exception provided that:

1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the Borough.

2. The area devoted to the nonconforming use shall not be increased by more than fifty (50) percent and shall occur only one (1) time per nonconforming use.

3. Any lawful nonconforming use of a lot exclusive of a structure and the use contained therein, may be extended upon the lot existing at the time of adoption of this Ordinance or any amendment thereto, provided such extension shall conform to the area and bulk regulations of the district in which it is situated and to all other regulations applicable to such a use in the district or districts in which the use is now permitted. Such extension of a nonconforming use shall be limited to the lot which was in existence at the time of adoption of this Ordinance.
4. Any extension of a structure having a nonconforming use shall conform to the area and bulk regulations of the district in which it is situated and to all other regulations applicable to such a use in the zoning district or districts in which the use is now permitted.

C. Restoration. The use of a structure or lot containing a nonconforming use destroyed by seventy five (75) percent or less, by fire, explosion, windstorm, flood, or natural or criminal acts, or legally condemned due to an involuntary act, may be reconstructed and used for the same nonconforming use, provided that reconstruction of the structure or lot shall be commenced within one (1) year from the date the use of the structure or lot was destroyed or condemned and shall be completed within one (1) year of the date commenced.

D. Discontinuance or Abandonment. If a nonconforming use of a structure or lot is voluntarily discontinued, razed, removed, or abandoned for twelve (12) consecutive months, subsequent use of such structure or lot shall conform with the regulation of the zoning district in which it is located, unless the same or another nonconforming use is approved by the Zoning Hearing Board and that permit application for such use is applied for within the time period of discontinuance or abandonment and any approved use be initiated within sixty (60) days after the Zoning Hearing Board authorization. Abandonment shall mean an intentional relinquishment of a use or structure for a continuous period of one (1) year regardless of interest. Commercial or industrial abandonment shall be measured from the date of the last record of sale or regular occupancy, whichever occurs first. Residential abandonment shall be measured from the last date of regular and permanent occupancy.

SECTION 1504 NONCONFORMING STRUCTURES

A. Extension or Enlargement.

1. Nonconforming structures may be altered, renovated, or enlarged provided that:

   a. Such alteration, renovation, or enlargement does not enlarge the floor area of the structure by more than fifty (50) percent of the floor area of the structure as it existed on the date when the structure became nonconforming.
   b. Only one (1) extension or enlargement shall be permitted per nonconforming structure.
   c. Such alteration, renovation, or enlargement shall not increase any existing nonconformity and the structure otherwise complies with all applicable regulations.
   d. In the case of a nonconforming structure which is occupied by a nonconforming use, such alteration, renovation, or enlargement shall also meet the requirements of 1503.B of this Article.
   e. In the case of a nonconforming structure which is located on a nonconforming lot such alteration; renovation or enlargement shall also meet the requirements of Section 1505.

2. Any alteration, extension, or addition to existing structures shall conform with all area, height, width, yard and coverage requirements for the zoning district in which it is located as well as building code regulations currently in effect.

B. Restoration. Any lawful nonconforming structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, flood, or other natural or criminal acts, or legally condemned due to an involuntary act, may be reconstructed in the same location provided that:
1. The reconstructed structure shall not exceed the height, area, or volume of the original structure except where permitted by Section 1504.A.

2. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be completed without interruption.

SECTION 1505 NONCONFORMING LOTS

A. A lot may be used or a structure may be erected or altered on any lot held in single and separate ownership at the effective date of this Ordinance which is not of the required minimum area or width, or is of such unusual dimensions that the owner would have difficulty in providing the required minimum setbacks for the zoning district in which such lot is situated, provided a special exception is authorized by the Zoning Hearing Board, and provided further that the applicant does not own or control other adjoining property, that when combined, would be sufficient to enable them to comply with the provisions of this Ordinance as amended. In considering a special exception to permit the use of land or erection or alteration of a structure on a lot nonconforming as to area and bulk requirements, the Zoning Hearing Board shall impose the following additional requirements:

1. That the use of the lot shall be required to conform to the permitted uses in the zoning district in which such lot lies.

2. That the height shall be restricted to that specified for other structures within the zoning district in which the lot lies.

3. That the design standards imposed for uses within the zoning district in which the lot lies may be applied to the use of the lot.

4. Such conditions as are necessary to assure compliance with the general purpose and intent of the Zoning Ordinance.

B. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.

SECTION 1506 NONCONFORMING SIGNS

Existing nonconforming signs, signboards, billboards, or advertising devices may be continued, subject to the following:

A. Maintenance. A nonconforming sign may be repainted, repaired (including lighting), or modernized, provided that such repairs or modification do not exceed the dimensions of the existing sign.

B. Alteration or Replacement. No nonconforming sign shall be physically enlarged or replaced. Nonconforming signs, once removed, may be replaced only by conforming signs. A nonconforming sign may be moved, provided that moving such sign would eliminate the nonconformity.

C. The message of a nonconforming sign may be changed, as long as it does not create any new nonconformity.
D. Restoration. Any sign which has been involuntarily destroyed by fire, explosion, windstorm, or other similar active cause, or legally condemned, shall be replaced with a conforming sign.

E. Discontinuance. Whenever any nonconforming use, structure, or lot, or of a combination of use, structure, and lot ceases as prescribed in Section 1503.D, all signs accessory to such use shall be deemed abandoned and shall be removed within three (3) calendar months from the date such use terminates.

SECTION 1507 REGISTRATION OF NONCONFORMING USES, STRUCTURES, AND LOTS

Any owner of a lawful nonconforming use, structure, or lot may register the status of same with the Borough Zoning Officer for purposes of establishing the rights conferred upon nonconformities under this ordinance. Should the Zoning Officer refuse to accept and register the nonconformity as lawful, the property owner may appeal such decision to the Zoning Hearing Board in accordance with the Municipalities Planning Code.
ARTICLE 16
A16 Zoning Hearing Board

SECTION 1601  PURPOSE AND JURISDICTION

A. The purpose of this Article is to establish regulations to govern the establishment, functions, and procedures of the Zoning Hearing Board, hereinafter called “Board” in this Article in accordance with Article IX (9) of the Municipalities Planning Code.

B. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters based on Act 247, the PA Municipalities Planning Code (MPC), as amended.

1. Substantive challenges to the validity of this Ordinance or Zoning Map, except those brought before the Borough Council pursuant to Sections 609.1 and 916.1(a)(2) of the Municipalities Planning Code.

2. Challenges to the validity of this Ordinance or Zoning Map raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance.

3. Appeals from the determination of the Zoning Officer, including, but not limited to the granting or denial of any permit, or failure to act on the application therefore, or the issuance of any cease and desist order.

4. Appeals from a determination by the Borough Engineer or Zoning Officer with reference to the administration of any floodplain ordinance or standards within this Ordinance.

5. Applications for variances from the terms of the Zoning Ordinance, pursuant to Section 1610, or pursuant to Section 910.2 of the Municipalities Planning Code.

6. Applications for special exceptions under the Zoning Ordinance pursuant to Section 1611, or pursuant to Section 912.1 of the Municipalities Planning Code.

7. Appeals from the Borough Zoning Officer’s determination under Section 916.2 of the Municipalities Planning Code.

8. Appeals from the determination of the Borough Zoning Officer or Engineer in the administration of this Ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development, not involving applications under Article V or Article VII of the Municipalities Planning Code.

SECTION 1602  ESTABLISHMENT AND MEMBERSHIP

A. There shall be a Zoning Hearing Board consisting of three (3) residents of the Borough, appointed by the resolution of Borough Council in accordance with Article IX of the Municipalities Planning Code.
B. Terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year.

C. The Board shall promptly notify the Borough Council of any vacancy which occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.

D. Members of the Board shall hold no other elected or appointed office in the Borough nor shall any member be an employee of the Borough.

E. Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

F. The Borough Council may appoint by resolution at least one (1), but no more than three (3) residents of the Borough to serve as alternate members of the Board. The term of office of the alternate member shall be three (3) years, and the alternate member shall hold no other office in the Borough. When seated pursuant to the provisions of Section 1603.C, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance, and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the Borough or be an employee of the Borough. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of said Board nor be compensated pursuant to Section 1604.C, unless designated as a voting alternate member pursuant to Section 1603.C.

SECTION 1603 ORGANIZATION OF THE BOARD

A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.

B. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided in Section 1606.

C. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate alternate members to sit on the Board as may be needed to reach a quorum. Any alternate member shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed, until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this Article shall be made on a case-by-case basis in rotation to declining seniority among all alternates.

SECTION 1604 RULES OF PROCEDURE, EXPENDITURES, FEES

A. The Board may make, alter, and rescind rules and forms for its procedure in accordance with the provisions of this Ordinance as to the manner of filing appeals, applications for
special exceptions or variances, and to conduct the business of the Board. In all cases the rules of procedure shall be consistent with Article IX of the Municipalities Planning Code.

B. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

C. Members of the Board, including the alternate member when designated in accordance with Section 1603.C of this Article, may receive compensation for the performance of their duties, as may be fixed by the Borough Council. In no case, however, shall the amount of compensation exceed the rate authorized to be paid to the members of the Borough Council.

D. Any Applicant before the Board shall deposit with the Borough the appropriate filing fee, as established by resolution of the Borough Council.

E. The Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants, or expert witness costs.

F. The Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council once a year.

G. Requests for a variance or special exception may be filed by any landowner, or any tenant with permission of the landowner. The appropriate fee, established by the Borough, shall be paid in advance for each appeal or application for a special exception or variance.

SECTION 1605 MEETINGS

Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Borough Secretary and shall be a public record.

SECTION 1606 HEARINGS

The Board shall conduct hearings and make decisions in accordance with the following requirements:

A. The first hearing before the Board or hearing officer shall be held within sixty (60) days from the date of receipt of the applicant's application, unless the Applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within 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 their case-in-chief within one hundred (100) days of the first hearing. Upon the request of the
applicant, the Board or hearing officer shall assure that the applicant receives at least seven (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 applicants case-in-chief. An applicant may, upon request, be granted additional hearings to complete their case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

B. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

D. The Chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

E. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

F. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

G. 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 the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copies or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

H. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or their representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
I. The Board or hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty five (45) days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Municipalities Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Except for challenges filed under this Ordinance or otherwise, where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same, or fails to commence, conduct, or complete the required hearing as herein provided, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day the Board could have met to render a decision, as provided by this Article. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this Subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

J. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the Applicant personally or mailed to them not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 1607 NOTICE OF HEARINGS

The Board shall fix a reasonable time and place for public hearings and shall give notice thereof as follows:

A. By publishing a notice thereof consistent with the public notice requirements of the Municipalities Planning Code.

B. By mailing a notice thereof to the Applicant, the Zoning Officer, Borough Secretary and any person who has made timely request for same or who shall have registered their names and addresses for this purpose with the Board.

C. By mailing notice thereof to the owner, if their address is known, or to the occupant of every lot on the same street within five hundred (500) feet of the lot in question and of every lot not on the same street within one hundred fifty (150) feet of said lot; provided that failure to mail the notice required by this Section shall not invalidate any action taken by the Board.

D. By posting notice thereof conspicuously on the affected tract of land at least one (1) week prior to the hearing.
E. The notice herein required shall state the location of the lot or building, the general nature of the question involved, the name of the applicant, tax parcel number, and the date, time, and location of the hearing. In addition thereto, the notice may note that a copy of the application, including plans and proposed amendments may be examined by the public at the Borough Hall during regular business hours.

SECTION 1608  RECORDING OF TERMS OF APPROVAL

Where the Board grants approval of a special exception or variance, it shall provide a memorandum to the Applicant, stipulating the terms and conditions of such approval. Such memorandum shall contain a sufficient legal description of the property in question. The Applicant shall execute and provide to the Borough a recordable, notarized copy of the memorandum, and shall consent to its recording by the Borough in the Office of the Recorder of Deeds of Chester County within thirty (30) days following expiration of the appeal period.

SECTION 1609  EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES

Any approval of a special exception or variance request shall be deemed null and void twelve (12) months from the date of such approval if, within that period, no application is made for a building permit, use and occupancy permit, sedimentation and erosion control permit, subdivision or land development approval, or any other approval or permit required by the Borough to proceed with construction, occupancy, or use pursuant to the special exception or variance, unless prior to the expiration of the twelve (12) month period, the Board shall grant an extension.

SECTION 1610  STANDARDS FOR REVIEW OF VARIANCES

A. The Board may grant a variance provided that the specifically enumerated criteria set forth in Section 910.2 of the Municipalities Planning Code are met. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

B. Notwithstanding the variance requirements in Section 1610.A above, the Board will grant reasonable accommodations and permit reasonable modifications where requested by or on behalf of disabled persons. A "reasonable accommodation" is a change in rules, policies, practices or services to enable a person with a disability to use and enjoy a dwelling unit or common space. A "reasonable modification" is a structural modification that is made to allow persons with disabilities the full enjoyment of housing and related facilities. Accommodations or modifications need not be made where to do so would fundamentally alter the programs or create an undue financial and administrative burden.

SECTION 1611  STANDARDS FOR REVIEW OF SPECIAL EXCEPTIONS

In any instance where the Board is required to consider a request for a special exception, the Board must determine that the following standards and criteria are met before granting the request:

A. The size, scope, extent and character of the special exception request is consistent with the Comprehensive Plan of the Borough and promotes the harmonious and orderly development of the zoning district involved.
B. The proposed special exception is an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.

C. The proposed special exception is suitable with respect to traffic and highways in the area and provides for adequate access and offstreet parking arrangements in order to protect major streets and highways from undue congestion and hazard.

D. Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major street or highway.

E. The proposed special exception is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and ensures adequate arrangements for the extension of such services and facilities in specific instances.

F. All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of Article 14 and Sections 1104 and 1107 herein, and Article VI of the Subdivision and Land Development Ordinance relating to access and highway frontage.

G. Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

H. The proposed special exception protects and promotes the safety, health and general welfare of the Borough.

I. The proposed special exception shall comply with the Elverson Borough Subdivision and Land Development Ordinance and all other applicable governmental regulations.

J. The proposed special exception shall comply with any additional criteria of Section 1701.F herein to the extent deemed applicable by the Zoning Hearing Board.

K. Notwithstanding the special exception requirements in Section 1611.A-J above, the Board will grant reasonable accommodations and permit reasonable modifications where requested by or on behalf of disabled persons. A "reasonable accommodation" is a change in rules, policies, practices or services to enable a person with a disability to use and enjoy a dwelling unit or common space. A "reasonable modification" is a structural modification that is made to allow persons with disabilities the full enjoyment of housing and related facilities. Accommodations or modifications need not be made where to do so would fundamentally
alter the programs or create an undue financial and administrative burden.

SECTION 1612 APPEALS TO THE ZONING HEARING BOARD

Appeals to the Board may be filed by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Such appeal shall be taken within the time required by the Municipalities Planning Code or as provided by the rules of the Board, by filing with the Borough Secretary a notice of appeal specifying the grounds thereof. The Borough Secretary shall forthwith transmit to the Board all applicable papers constituting the record for the appeal.

SECTION 1613 APPEALS TO COURT

Appeals from decisions of the Board may be taken by any party aggrieved thereby as provided in the Municipalities Planning Code.
ARTICLE 17
Conditional Use

SECTION 1701 PROCEDURES AND CRITERIA

A. Nothing in this Section shall be construed to relieve the owner or their agent, the developer, or the Applicant for a conditional use approval from obtaining approval in accordance with the Subdivision Ordinance, or other applicable ordinances.

B. The requirements of this Section and the standards for specific types of conditional uses found elsewhere in this Ordinance shall be deemed an element of the definition under which a conditional use permit may be granted. The failure of the Applicant to demonstrate compliance with these requirements, in the discretion of the Borough Council, may be deemed either a basis for establishing conditions or limitations on an approval or the basis for a denial of a conditional use application.

C. General Requirements.

1. Ownership. The tract of land under application for conditional use approval shall be in one (1) ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and shall be under unified control. If ownership of the entire tract is held by more than one (1) person or entity, the application shall identify and be filed on behalf of all of the said owners. Approval of the plan shall be conditioned upon agreement by the Applicant or Applicants that the tract shall be developed under single direction in accordance with the approved plan. No site preparation or construction shall be permitted other than in accordance with the approved plan. If ownership of all or any portion of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such owner or owners shall review the terms and obligations of the approved plan and agree in writing to be bound thereby with respect to development of the tract.

2. Sewer and Water Facilities. Applicant shall demonstrate evidence of adequate water supply and sewage disposal capability. The tract of land shall be served by a water supply system and a sewage system deemed acceptable by the Borough Council upon recommendation of the Borough Engineer. Such facilities shall be designed and constructed in compliance with Sections 617 and 623 of the Subdivision Ordinance and the Elverson Borough Sewage Facilities (Act 537) Plan.

3. Development Stages and Permits. The development of a tract carried out in either a single phase or in stages shall be executed in accordance with a development agreement. The owner, developer, and Borough shall enter into said agreement embodying all details regarding compliance with this Ordinance to assure the binding nature thereof on the overall tract and its development, which agreement shall be recorded with the final development plan.

4. Stormwater Management. The control of erosion and sediment during construction, and the ongoing management of stormwater on the tract, shall be accomplished in accordance with applicable provisions of Article VI of the Subdivision Ordinance and the Borough Stormwater Ordinance.
5. Covenants and Restrictions. The language, terms and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Borough Solicitor.

D. Application.

1. Application for conditional use shall be filed with the Borough on such forms as may be prescribed for said purpose. The application shall be accompanied by a fee as prescribed by the Borough Council by resolution enacted after the approval of this Ordinance. The application shall state the following:

a) The name and address of the applicant.

b) The name and address of the owner of the real estate to be affected by the proposed conditional use application.

c) Evidence of authorization to act on behalf of the property owner(s) where the applicant is other than a legal or equitable owner of the property.

d) A description and location of the real estate on which the conditional use is proposed.

e) A statement of the present zoning classifications of the real estate in question, the improvements thereon, and the present use thereof.

f) A narrative description of the proposed use and a statement of the section(s) of this Ordinance which authorize(s) the conditional use.

2. Development Plan. The application for conditional use approval shall be accompanied by a unified, overall site plan covering the entire tract, regardless of any intended phasing of development. The plan shall be prepared with sufficient detail to adequately illustrate the proposed development uses and non-development uses of the tract, including (where appropriate), reserve areas for possible future expansion; coordinated internal and external vehicular and pedestrian circulation; well related, convenient and efficient parking and loading areas; agreeable surroundings that provide comfort, safety, and convenience for prospective residents, customers, and/or workers; and high quality design in terms of building relationship, facade treatment, signage, lighting, landscaped and planted buffers and screens, as well as other natural and constructed amenities in furtherance of the comprehensive planning objectives of the Borough of Elverson.

3. Site Analysis. The application for conditional use approval shall be accompanied by a Site Analysis Plan, and Traffic Impact Studies where required, conforming to the requirements of Article V of the Subdivision Ordinance.


a) Purpose. A market analysis, while not required, shall be submitted if requested by the Borough Council. If such an analysis is requested, it shall contain information indicating the likelihood of the proposed conditional use meeting with market support.
b) Contents of Market Analysis. A market analysis shall contain the following information:

1) Uses Evaluated. A description of the land uses evaluated as a part of the market analysis shall be provided. Included shall be the nature of the proposed uses in terms of the intended attraction of the proposed use to neighborhood, community, and/or regional populations and markets.

2) Identification of Competition. Existing and approved developments that are likely to be in competition with the proposed use shall be identified. The analyst selected to perform the market study shall determine the area within which existing developments are likely to compete with the proposed use.

3) Analysis. Dependent upon type of use proposed, the market analysis shall include an identification of the trade area to be served, where relevant the supportability of floor area to be devoted to specific use(s), a computation of existing floor areas of a nature similar to the use proposed, and a determination of the net supportable floor area within the trade area or study area defined.

4) Conclusions. The analyst shall proffer an opinion regarding the likelihood of the proposed use meeting with market support. Included in the conclusions shall be a statement regarding the appropriate time frame to consider construction of the development and scheduling of the development. Additionally, the types of tenants (if a leased project) which are likely to meet with market support in the development shall be identified.

E. Procedures.

1. Upon receipt of a complete application for conditional use approval per Section 1701.D, above, the Borough shall submit the application for recommendation to the Planning Commission. Upon receipt of the application, the Planning Commission shall review the conditional use request with the Applicant at its next regularly scheduled meeting or at a special meeting at the discretion of the Planning Commission. If the Planning Commission does not transmit its recommendations to the Borough Council by the date set by the Council for public hearing for consideration of the conditional use application, Council shall proceed to consider such application without the recommendation of the Commission. The Planning Commission may extend its period of deliberation beyond sixty days upon written authorization by the Applicant. Should Applicant submit new or revised plans for development under application for conditional use approval during the period of review by the Planning Commission, the said review period shall start anew and prior plans shall be deemed withdrawn.

2. After review by the Planning Commission, the Borough Council shall hold a public hearing on the conditional use application in accordance with the following procedures:

a) Notice of the hearing shall be given to the public by publication in a newspaper of general circulation in the Borough in accordance with the requirements for public notice established in the Municipalities Planning Code. Abutting property owners shall be notified in writing no less than fourteen (14) days prior to the scheduled hearing. Additionally, like notice thereof shall be given to the Applicant, the Code Enforcement Officer, and to any person who has made timely written request for
same. Notice of the hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the date of the hearing.

b) The Borough Council shall conduct its first hearing on the application within sixty (60) days from the date the application is filed with the Borough, unless the applicant has agreed in writing to an extension of time. The hearings shall be conducted by the Borough Council or the Borough Council may appoint any member or an independent attorney as a hearing officer. Each subsequent hearing before Borough Council or a Hearing Officer 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 their case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Borough Council 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 applicants case-in-chief. An applicant may, upon request, be granted additional hearings to complete their case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

c) The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Borough Council and any other person, including civic or community organizations, permitted to appear by the Borough Council. The Borough Council shall have the power to require that all persons who wish to be considered parties submit written requests on such forms as the Borough Council may provide for that purpose.

d) The Chairman or Acting Chairman of the Borough Council shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

e) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

f) The Borough Council shall keep a record of the hearing proceedings. Copies of the written or graphic material received in evidence shall be made available to any party at cost.

g) Decision.

1) The decision, or, where no decision is called for, the findings shall be made by the Borough Council. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Borough Council and accept the decision or findings of the hearing officer as final.
2) Borough Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty five (45) days after the last hearing before the Borough Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

3) Where the Borough Council fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided herein, 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 hereinafore 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 the public notice requirements of this act. If the Borough Council shall fail to provide such notice, the applicant may do so.

4) A copy of the final decision or, where no decision is called for, of the findings shall be personally delivered to the applicant and the parties before the Borough Council or mailed to them not later than the day following the date of the decision.

h) Appeals from a determination of the Borough Council pursuant to any application for a conditional use shall be only as prescribed and within such times permitted by the applicable provisions of the Municipalities Planning Code.

3. In granting conditional use approval, where such use is authorized under this Ordinance, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of the Municipalities Planning Code and this Ordinance. Conditional uses shall be subject to compliance with particular standards contained in this Ordinance and criteria defined in the application review process. The standards described shall be deemed additional and shall in no way impair any other applicable standard from this or any other Borough ordinance. The Applicant shall be responsible for demonstrating compliance with all standards and criteria required for conditional use approval. The conditions of approval may include, but need not be limited to:

a) Specific modifications to area and bulk requirements as might otherwise be applicable.

b) Provisions for additional utility or traffic safety facilities.

c) Securing of additional easements or property to assure proper site design.

d) Modification to the applicable design standards.
4. The applicant shall have the burden to prove, by a preponderance of the evidence, that the proposed use will comply in all respects with this and other Borough ordinances, County, State or Federal legislation. The Borough Council may retain such consultants as necessary to review and certify the accuracy of submitted plans and documents, reasonable and necessary charges therefor to be borne by the Applicant. When the Applicant does not provide information as required, then it shall be presumed that the proposed use is not in accordance with the requirements applicable for the granting of conditional use approval.

5. Any grant of conditional use approval shall be deemed null and void twelve (12) months from the date of such approval if, within that period, no application is made for a building permit, a use and occupancy permit, or subdivision or land development approval, as appropriate, unless the Borough Council shall grant an extension at its sole discretion.

F. Criteria for Review of Conditional Use Applications. The following criteria shall be used as a guide by the Borough Council in evaluating a proposed conditional use. It shall be the burden of the Applicant to demonstrate compliance with all applicable criteria:

1. Any Applicant for Conditional Use approval shall have the burden of demonstrating to the satisfaction of the Borough Council that provision is made to adequately reduce or minimize any noxious, offensive, dangerous or hazardous feature or features thereof, as the case may be. Council may deny conditional use approval where Applicant has failed to do so or where any use otherwise is deemed to be dangerous or potentially dangerous to the public health, welfare or safety, or which constitutes or may constitute a public hazard whether by fire, explosion or otherwise.

2. The use(s) proposed shall be limited to those authorized as conditional uses within the District in which the lot or parcel is situated. The property subject to conditional use application shall be suitable for the use desired.

3. The size, scope, extent and character of the conditional use desired shall be consistent with the spirit, purposes and intent of the Elverson Borough Comprehensive Plan, Open Space Plan, and Zoning Ordinance.

4. The proposed use at the location set forth in the application shall be in the public interest and serve the public health, safety, morals and general welfare.

5. Consideration of the character and the type of development in the area surrounding the location for which the request is made, and a determination that the proposed use is appropriate in the area and will not injure or detract from the use or value of the surrounding properties or from the character of the neighborhood.

6. The development, if more than one building, will consist of a harmonious grouping of buildings or other structures.

7. There will be no adverse affect of the proposed conditional use upon the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, recreational opportunities, open space and public schools and, where necessary, adequate arrangements for expansion or improvement of such services and facilities are ensured.
8. The design and use of any new construction and proposed change in use of existing buildings will be compatible with the existing designs and uses in the immediate vicinity and that the proposed design or use shall be compatible with the character of the neighborhood.

9. If the development is to be carried out in progressive stages, each stage shall be so planned that the conditions and intent of this Ordinance shall be fully complied with at the completion of any stage.

10. The location and layout of the proposed use is suitable with respect to probable effects upon highway traffic, and assures adequate access arrangements in order to protect major streets and highways from undue congestion and hazard. The proposed use will not lower the level of service on adjacent road segments and intersections as defined by the most recent edition of the Highway Capacity Manual from the Transportation Research Borough Council. As a policy, proposed projects should incorporate designs which assure safe and efficient access and maintain a level of service "C", as a minimum, on all adjacent road segments and intersections.

11. The interior traffic circulation shall provide safe and convenient circulation for all users, including pedestrian and vehicular modes of transit. Applicant shall demonstrate that sufficient safeguards such as parking, traffic control, screening, and setbacks can be implemented to remove any potential adverse influences the use may have on adjoining uses. In addition, all emergency access design considerations shall be addressed and incorporated into the proposed plan.

12. The adequacy of sanitation and public safety provisions, where applicable, and the necessity to provide a certificate of adequacy of sewage and water facilities from a governmental health agency in any case where required or deemed necessary.

13. Sufficient land area shall be available to be able to effectively screen the proposed conditional use from adjoining different uses if required by the Borough Council.

14. Consideration of any other development impacts and/or proposed mitigation identified by the submitted site analyses.

15. Consideration of likelihood of market success of proposed use(s), as indicated by market analyses, where required.

16. The Borough Council shall consider additional standards and criteria set forth in Section 1611, "Standards for Review of Special Exception," to the degree the Borough Council deems such standards to be applicable to review of the conditional use application.

17. Uses shall meet the provisions and requirements of the Subdivision Ordinance and all other applicable ordinances and regulations whether or not propounded by Elverson Borough.

18. The Borough Council may impose such conditions, in addition to those required, as are necessary to assure that the intent of the Zoning Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of buildings, screen plantings and its maintenance as a sight or sound screen, the minimizing of noise, glare,
and noxious, offensive or hazardous elements, and adequate standards of parking and sanitation.
ARTICLE 18
Administration

SECTION 1801  PURPOSE AND APPLICATION

A. The purpose of this Article is to outline procedures for the administration and enforcement of the Zoning Ordinance. It does not include the process necessary to subdivide property which is contained in the Subdivision Ordinance of the Borough of Elverson. The procedures for securing zoning permits, building permits, sign permits, use and occupancy permits and the duties and responsibilities of the Zoning Officer and Building Code Official are outlined in this Article. The Article also establishes a fine for the violation of any aspect of this Ordinance, fees associated with this Article, and the process for Conditional Uses.

B. Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used or occupied, except in conformity with the regulations established in this Ordinance for the district in which such land, building or structure is located.

C. In cases of mixed occupancy, the regulations for each use shall apply to the portion of the building or land so used.

SECTION 1802  ZONING OFFICER

For the administration of the Zoning Ordinance, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed. The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance. Zoning Officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment as directed by Borough Council.

A. Duties of the Zoning Officer shall be:

1. To receive and review all applications for permits to determine compliance with this Ordinance, including but not limited to building, zoning, sign, special exceptions, variances, conditional uses, and use and occupancy permits and any other requests on matters relative to the administration of this Ordinance, and forward them to the appropriate approving body when necessary.

2. To keep a complete official Borough record and file of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and applications for permits with accompanying plans and documents, and any action taken thereon at Borough Hall.

3. To issue permits for uses and/or structures by special exception and/or variance only after approval for such uses and/or structures has been so ordered by the Zoning Hearing Board or Borough Council in accordance with the regulations of this Ordinance, or by a court of appeals, subject to any stipulations contained in such order.

4. To permit uses and/or buildings by conditional use only after approval for such uses
and/or buildings has been so ordered by the Borough Council in accordance with the regulations of this Ordinance, or by a court of appeals, subject to any stipulations contained in such order.

5. To inspect nonconforming uses, buildings and lots and to keep a filed record of such nonconforming uses and buildings as a public record and to examine them periodically.

6. To conduct inspections or investigations to determine compliance or non-compliance with the provisions of this Ordinance

7. To report violations of the Ordinance to the Borough Council and to issue stop, cease and desist orders and to require, in writing, correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this Ordinance, when approved by Borough Council. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of violation of this Ordinance.

8. To gather and present any facts, records or other information to the Borough Council or Zoning Hearing Board when requested to do so.

9. Upon the request of the Borough Council or the Zoning Hearing Board, gather and present to such bodies facts, records, and any similar information on specific requests to assist such bodies in reaching its decision.

10. To be responsible for the keeping up-to-date of this Ordinance and the Zoning Map, filed with the Borough and to include any amendments thereto.

11. To be responsible for the administration of the Borough Floodplain Ordinance.

SECTION 1803 VIOLATIONS

It shall be a violation of this Ordinance to undertake any action which is contrary to the terms of this Ordinance.

SECTION 1804 ENFORCEMENT NOTICE

A. If it appears to the Borough that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section. By means of the enforcement notice, the Zoning Officer may order discontinuance of illegal use of land or structures; removal of illegal structures or additions, alterations, or structural changes thereto; or discontinuance of any illegal work being done.

B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

C. An enforcement notice shall, at minimum, state the following:

1. The name of the owner of record and any other persons against whom the Borough
intends to take action.

2. The location of the property in violation.

3. The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.

4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time, in accordance with the procedures set forth in this Ordinance.

6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with the possibility of sanctions, as provided in Section 1805.

SECTION 1805 CAUSES OF ACTION

A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall be signed, shall state fully the causes and basis thereof, and shall be filed with the Zoning Officer. The Zoning Officer shall record properly such complaint, investigate, and take action thereon.

B. In case any building, structure, landscaping, screen, hedge, tree, shrub or other growth, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, the Borough Council or the Zoning Officer upon approval of Borough Council, or any aggrieved owner or tenant of real property who shows that their property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping, screen, hedge, tree, shrub, other growth, or use of land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.

C. Where any action authorized in Section 1805.B, above, is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun, by serving a copy of the complaint upon the Borough Council. No such action may be maintained until such notice has been given.

SECTION 1806 ENFORCEMENT REMEDIES

A. 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 proceeding commenced by the Borough pay a judgment of not more than five hundred dollars ($500) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied, or be payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the 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 magisterial district judge
determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the magisterial district judge. 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 to the Borough.

B. In addition to the above remedies, the Borough Council may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Ordinance.

SECTION 1807 FEES AND EXPENSES

A. Permit applications. Fees for application for building permits, grading permits, demolition permits, use and occupancy permits, sign permits, conditional use, variance, special exception, zoning or similar permits shall be paid in full at the time of application in accordance with a fee schedule adopted by resolution of the Borough Council. Such schedule may be revised, as necessary, by resolution of the Borough Council.

B. Applications or appeals before the Borough Council or Zoning Hearing Board.

1. Upon submission of an application or appeal before the Borough Council or the Zoning Hearing Board, the Applicant shall deposit an amount of money in accordance with a schedule of Applicant expenses, adopted by resolution of the Borough Council. The Zoning Officer shall determine in which category an application falls and, therefore, what amount is due.

2. If, at any time, the charges then made against the Applicant's deposit shall render the balance insufficient to ensure payment of all expenses that may accrue in the disposition of the pending appeal or application, the Borough Manager shall obtain from the Applicant additional deposits to assure adequate funds to pay such expenses as they may accrue. Prior to final disposition of the matter, the amount of the deposit shall not be less than fifteen (15) percent of the initial deposit amount. The failure of the Borough Manager to require and obtain additional deposits from time to time shall not relieve the Applicant from liability for expenses in excess of deposits.

SECTION 1808 MUNICIPAL LIABILITY

The granting of any permit under this Ordinance shall create no liability upon, nor a cause of action against, any Borough official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.

SECTION 1809 APPEALS

Any person aggrieved by any decision of the Board, or any officer of the Borough may, within thirty (30) days after entry of the decision of the Board as provided in 42 Pa.C.S. Section 5572, or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as set forth in Section 1804, appeal to the Court of Common Pleas of Chester County by petition, duly verified, setting forth that such decision is arbitrary,
SECTION 1810 PERMITS REQUIRED

A. Zoning Permit. A zoning permit shall be required prior to any of the following, to establish compliance with the regulations of this Ordinance:

1. All construction as mandated by the Building Code and all other applicable Borough codes and ordinances.
2. The erection of or structural alteration or addition to any building, structure, sign, or portion thereof.
3. The use of or changing the use of a building or land.
4. The change or expansion of a nonconforming use and/or structure.
5. The addition of an accessory use including but not limited to a home occupation to an existing residential principal use or conducted as part of a new residential use.
6. The demolition of any building.

B. Building Permit.

1. A building permit shall be required prior to the following:
   a. All new construction in excess of the amount as stated in the Borough fee schedule.
   b. The erection, addition, alteration, or demolition of any building, structure, or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, expansion, or demolition of any building or structure or portion thereof until a permit has been duly issued therefore.

2. Applications for building permits shall be accompanied by proof of an approved zoning permit or in conjunction with a zoning permit in accordance with Section 1810.A where applicable, before the permit shall be accepted for review by the Borough.

3. All applications for a building permit shall comply with the requirements of the Borough Building Code.

C. Sign Permit. A sign permit shall be required prior to the erection, alteration, enlargement, or relocation of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement, or relocation of any sign, sign structure, or any portion thereof until a permit, if required, has been duly issued, and until all requirements of Article 13, Signs, are met.

D. Use and Occupancy Certificate. It shall be unlawful for any person to use or occupy any building, structure, or land until a certificate of occupancy has been duly issued. Certificates for use and occupancy shall be in accordance with the requirements of the Building Code and this or any other applicable ordinance, and shall be required prior to any of the following:

1. Use or occupancy of any building or other structure hereinafter erected, altered, or enlarged for which a building permit is required.
2. Change in use of any building or structure.
3. Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use of occupancy permit.

E. Floodplain Permit. Floodplain Permits shall be in accordance with the Borough Floodplain Ordinance.

SECTION 1811 APPLICATION FOR PERMITS

A. Applications.

1. Applications for permits shall be made to the Zoning Officer, Building Officer, or Code Enforcement Officer as applicable, in writing on such forms provided by the Borough, by the owner or lessee of any building, structure or land, or an authorized representative. Applications shall include a description of the proposed work and/or use and occupancy of a building, structure, or land, and any additional plans, documents, and information as may be necessary or required to ascertain compliance with this Ordinance, and any other applicable ordinance or code.

2. Applications found to be incomplete shall not be accepted or processed and the applicant shall be informed of such insufficiency within fifteen (15) business days from the submission of a permit to the Borough.

B. Zoning Permit. The application shall be accompanied by plot plans in duplicate drawn to scale showing the actual dimensions and shape of the lot to be built upon and the size, location and dimensions of all existing and proposed buildings, structures, or uses, as applicable.

C. Building Permit.

1. The application shall be accompanied by plots plans in duplicate drawn to scale in sufficient clarity that the Building Code Official can clearly determine the information being displayed including accurately showing the exact size, location, and dimensions of any existing or proposed buildings or other structures on the lot in question and upon abutting land within fifty (50) feet of the side and rear lines of such lot.

2. Prior to the issuance of any building permit, the Building Code Official shall review the history of repairs made due to flood-related damage to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

D. Sign Permit. The application shall be accompanied by plot plans in duplicate drawn to scale showing the lot and the size and location of all buildings or structures on the premises in question, and the dimensions and location of the proposed sign on the property. A drawing, figure, or picture of the proposed sign shall be required showing dimensions, mounting hardware, illumination, and other details as may be necessary to ascertain compliance with this Ordinance.

E. Use and Occupancy Certificate. No application is required and certificates shall be granted in accordance with Section 1812.D below.

F. Floodplain Permit. Floodplain Permits shall be in accordance with the Borough Floodplain Ordinance.
SECTION 1812    ISSUANCE OF PERMITS

Upon receipt of an application, the Zoning Officer, Building Officer, or Code Enforcement Officer shall review it to determine compliance with this Ordinance, the Building Code (UCC), and any other applicable ordinances or permits in addition to inspecting the premises as necessary. With the exception of use and occupancy permits as set forth below or as otherwise specified, within fifteen (15) days after receipt of a complete application, the Borough shall either approve or disapprove the application accordingly. If the application is disapproved, the Borough shall provide to the applicant, in writing, the reasons for the disapproval and shall inform the applicant of the right to appeal the decision to the Zoning Hearing Board and/or the Building Code (UCC) Appeals Board as applicable.

A. Zoning Permit.

1. Upon approval of a complete application and the payment of the fee as required by Sections 1807 and 1811, the Zoning Officer shall issue a Zoning Permit. The Zoning Permit shall be issued for zoning only; a building permit shall be required prior to commencing any construction, where applicable.

2. A zoning permit shall be conspicuously posted on the affected tract or parcel(s) of land after approval while proposed work is undertaken, prior to the establishment of a new use, or when change in use of land or a building occurs.

3. A zoning permit shall expire if work or a change in use is not commenced within one (1) year from the date of the permit, and a new permit shall be required before such work or change of use commences, provided, however, that the Zoning Officer may extend the zoning permit for one (1) additional six (6) month period if the applicant is actively engaged in completing the project.

4. The Zoning Permittee shall be authorized to proceed with the work as described on the approved application after obtaining a building permit if required by this Ordinance. The Zoning Officer shall revoke any permit or approval issued under the provisions of this Ordinance in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with the information contained in the Zoning Permit application or with the provisions of this or any other applicable ordinance.

B. Building Permit.

1. Upon approval of a complete application and the payment of the fee, as required by Sections 1807 and 1811, the Building Code Official shall issue a Building Permit Placard which shall be visibly posted on the premises during the entire time the proposed work is being undertaken.

2. A Building Permit shall expire one (1) year from the date of issuance, provided that it may be extended at the discretion of the Building Code Official for one (1) six (6) month period.

3. The Building Permit holder shall be authorized to proceed with the work as described on the approved application. The Building Code Official shall revoke any permit or approval issued under the provisions of this Ordinance in any case where there has been a false
statement or misrepresentation of fact in the application or where it is determined that
the work being performed is not in compliance with the information contained in the
Building Permit application or with the Building Code or the provisions of this or any
other applicable ordinance.

4. Upon completion of the erection, addition to, or alteration of any building, structure, or
portion thereof, authorized by any building permit obtained in compliance with this
ordinance and prior to use or occupancy, the holder of such permit shall notify the
Zoning Officer of such completion.

C. Sign Permit.

1. Upon approval of a complete application and the payment of the fee as required by
Sections 1807 and 1811, the Zoning Officer shall issue a Sign Permit.

2. A Sign Permit shall expire one (1) year from the date of issuance, provided that it may
be extended at the discretion of the Zoning Officer for one (1) six (1) month period.

3. The Sign Permit holder shall be authorized to proceed with the work as described on the
approved application. The Zoning Officer shall revoke any permit or approval issued
under the provisions of this Ordinance in any case where there has been a false
statement or misrepresentation of fact in the application or where it is determined that
the work being performed is not in compliance with the information contained in the Sign
Permit application or with the Building Code or the provisions of this or any other
applicable ordinance.

D. Use and Occupancy Certificate.

1. A use and occupancy certificate in addition to the payment of the fee prior to or
concurrently with an application for a building permit shall not be issued until completion
of the construction work authorized by the approved zoning and/or building permit.
Upon notification by the applicant that the construction work has been completed, the
Building Code Official shall inspect the property and either issue or deny the use and
occupancy certificate.

2. It shall be the duty of the applicant for a zoning and/or building permit to secure the
issuance of the required use and occupancy permit, by giving notice of completion as
aforesaid, notwithstanding the fact that the applicant may be constructing the building
structure, addition, or alteration for the use of another, and further to notify such
proposed occupant of the requirements of this Section prior to transfer of ownership or
commencement of leasehold of the property.

G. Floodplain Permit. Floodplain Permits shall be in accordance with the Borough Floodplain
Ordinance.
ARTICLE 19
A19 Amendments

SECTION 1901  POWER OF AMENDMENT

The Elverson Borough Council may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map, by proceeding in accordance with the Municipalities Planning Code (MPC) and, where not inconsistent therewith, by proceeding in the following manner.

SECTION 1902  PUBLIC HEARING AND NOTICE

Prior to voting on enactment of an amendment, Borough Council shall fix the time and place of a public hearing on the proposed change, amendment or repeal, and cause notice thereof to be given as follows:

A. Borough Council shall publish notice thereof consistent with the public notice requirements of the Municipalities Planning Code. The notice shall state the particular nature of the matter to be addressed through the proposed amendment, a reference to a place in the Borough where copies of the proposed amendment may be examined without charge or purchased at a charge not exceeding the cost thereof, and the time and place set for the public hearing.

B. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor and setting forth all the provisions in reasonable detail. If the full text is not included, then the following shall apply:

1. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.

2. An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners.

C. Where the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by the Borough in accordance with Section 609(b) of the Municipalities Planning Code to notify potentially interested citizens. The affected tract or area shall be posted a minimum of one (1) week prior to the date of the hearing.

D. In addition to the requirement that notice be posted under Section 1902.C, above, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

E. At the public hearing, full opportunity to be heard shall be given to any resident and all parties in interest.

F. If after public hearing held upon the amendment, the proposed amendment is changed
substantially, or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice as provided in this Section, prior to proceeding to vote on the amendment.

G. Borough Council also shall re-advertise any proposed amendment where the scheduled date of enactment is more than sixty (60) days following the date of the last advertisement of the proposed amendment.

SECTION 1903 CITIZENS PETITION

Whenever the owners of fifty one (51) percent or more of the area in any zoning district shall present to the Borough Council a petition, duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of any of the regulations or restrictions prescribed by this Ordinance for their zoning district; or a change or modification of the Zoning Map with reference to such zoning district, it shall be the duty of Borough Council to hold a public hearing thereon and cause notice to be given in the manner prescribed in Section 1902.

SECTION 1904 PLANNING COMMISSIONS REFERRAL

A. Any proposed amendment, other than one originated by the Borough Planning Commission, shall be referred by the Borough Council, a minimum of thirty (30) days prior to the hearing on the amendment, to the Borough Planning Commission which shall consider, among other factors, whether or not such proposed change or amendment would be, in the view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this Ordinance is based, as the same may be modified from time to time. The Commission shall transmit its conclusions on any proposed amendment, together with its reasons therefore, to the Borough Council. The Borough Council shall take such conclusions and recommendations into consideration but shall not be bound thereby.

B. All proposed amendments shall be submitted by the Borough Council to the Chester County Planning commission for review and comment, in accordance with the terms of Article VI of the Municipalities Planning Code. The Borough Council shall not act upon the proposed amendment until a report is received from the County Planning Commission or the time period for such a response has elapsed. The Borough Council shall not be bound by the recommendations of the County Planning Commission.

C. Within thirty (30) days after enactment, a copy of the amendment shall be forwarded to the Chester County Planning Commission.
This map was digitally compiled for internal maintenance and developmental use by the
Chester County Bureau of Land Records & DCIS/GIS Department, 1997/2016. Draft Zoning Districts -
Elverson Borough, May 2018.

Zoning Map
Elverson Borough
CHESTER COUNTY, PENNSYLVANIA

Municipalities
Parcels
Roads

Zoning Districts

Commerce (C)
Town Center (TC)
Limited Industrial (LI)
Site Responsive (SR)
Site Responsive/Recreation (SRR)
Mobile Home Park Overlay

ADOPTED
September 4, 2018

Data Source: Municipal Borders, Parcels, Roads,
Railroads, Streams - Chester County Bureau of Land Records &
DCIS/GIS Department, 1997/2016. Draft Zoning Districts -
Elverson Borough, May 2018.