
Boyertown Borough and Colebrookdale and Pike Townships Joint Zoning Ordinance

Berks County, Pennsylvania

Effective Date - November 7, 2010

This Ordinance was prepared under the direction of the Boyertown Area Joint Planning Commission, with staff assistance from the Berks County Planning Commission.

This project was funded partially by the following sources: the Berks County Conservancy, Berks County, and the Pennsylvania Land Use Planning Technical Assistance Program, as administered by the Pennsylvania Department of Community and Economic Development.



Community Planning and Zoning Consultants

Urban Research and Development Corporation
Bethlehem, Pennsylvania
In Association With

The Brandywine Conservancy Environmental Management Center

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USING THIS ORDINANCE: AN OVERVIEW

These two pages describe the most efficient way to use this Ordinance. These pages are general descriptions but are not part of the actual Ordinance.

Start by using the following parts of the Zoning Ordinance:

- Please contact the applicable Zoning Officer to make sure you have the latest version of the Zoning Ordinance Text and Map.
- Turn to the **Table of Contents** and the **Index** (at the end of the document) to find the pages and sections that apply to your particular situation. You may wish to photocopy the Table of Contents to highlight the relevant sections.
- Consult the **Zoning Map** at the end of this Zoning Ordinance to determine the zoning district that includes your lot.
- Turn to Section 306, the **Table of Permitted Uses By Zoning District**, which indicates the uses permitted in each zoning district. A use is permitted in three ways:
 - a) by right,
 - b) by special exception (the Zoning Hearing Board must approve the use, as described in Section 116), or
 - c) as a conditional use (the Board of Supervisors, Board of Commissioners or Borough Council must approve the use, as described in Section 117).
- Turn to Section 307, the **Table of Lot and Setback Requirements By Zoning District**. This table states the required minimum size of each lot and the required minimum distance that buildings must be from streets and other lot lines in each zoning district.
- Regularly refer to the **Definitions** in Section 202 to determine the meaning of specific words.

If a lot is already being legally used for a particular purpose and that use is not permitted in the zoning district according to Section 306, that use is called a "**Non-Conforming Use**". In almost all cases, a lawful Non-Conforming Use can continue, can expand within limits, can change to another use within limits, and can be sold. See Section 806 -"Non-Conformities."

Certain specific uses must comply with **additional regulations**. The "principal uses" (which are the primary use of a property) are listed in alphabetical order in Section 402 and the "accessory uses" (which are secondary uses, such as low-intensity businesses in a home) are listed in alphabetical order in Section 403. For example, additional regulations are listed for sheds,

garages and other structures typically found on a residential lot under "Residential Accessory Structures" in Section 403.

If your lot may be flood-prone, see the municipal Floodplain Ordinance and Floodplain Mapping. For Colebrookdale Township, the text of the Floodplain regulations are in Section 510 of this Ordinance.

Turn to the following sections for regulations concerning parking, signs and buffer yards:

- Many uses must provide minimum numbers of off-street **Parking** spaces under Section 601 of this ordinance. The parking standards are listed in a table.
- If **Signs** are proposed within public view, Article 7 must be met. This article lists the types, heights and sizes of signs that are permitted.
- Certain uses are required to provide an open **Buffer Yard** with **Evergreen Screening** to buffer nearby homes and adjacent residentially zoned land from nuisances. See Section 803.

The following additional considerations should be kept in mind when using this Ordinance:

- An applicant may apply to the municipal **Zoning Hearing Board** for a **Zoning Variance** if he/she is not able to comply with a provision of this Zoning Ordinance. An application fee is required to compensate the municipality for legal advertisements and other costs. See Section 111, which includes the standards that must be met under State law in order to be granted a variance. Generally, under the PA. Municipalities Planning Code, variances are not permitted unless an applicant proves a legal "Hardship".
- Generally, if one or more new lots will be created, or existing lot lines will be altered, or one or more new principal non-residential buildings are proposed, then the requirements and approval procedures of the municipal **Subdivision and Land Development Ordinance** will also apply. This is a separate ordinance available at the applicable municipal office.
- If there will be disturbance of the ground, it will be necessary to use certain measures to control **soil erosion**. In such case, contact the County Conservation District.
- If there will be impacts upon stormwater runoff, see any applicable municipal Stormwater Management Ordinance.

Any questions concerning the Zoning Ordinance should be directed to the municipality's **Zoning Officer**. The Zoning Officer also administers applications for permits.

BOYERTOWN BOROUGH AND COLEBROOKDALE AND PIKE TOWNSHIPS
JOINT ZONING ORDINANCE
TITLE; SEVERABILITY; ENACTMENT

1. **TITLE.** A New Ordinance: a) dividing Boyertown Borough, Colebrookdale Township and Pike Township into districts with varying regulations; b) permitting, prohibiting, regulating and determining the uses of land, watercourses and other bodies of water, the size, height, bulk, location, erection, construction, repair, expansion, razing, removal and use of structures, the areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as yards and other open areas to be left unoccupied; c) establishing the maximum density and intensity of uses; d) providing for the administration and enforcement of this Ordinance in accordance with the Pennsylvania Municipalities Planning Code, including provisions for special exceptions and variances to be administered by a Zoning Hearing Board; and e) establishing provisions for the protection of certain natural features.
2. **SHORT TITLE.** This Ordinance shall be known and be cited as the "Boyertown Borough and Colebrookdale and Pike Townships Joint Zoning Ordinance" of 2010.
3. **SEVERABILITY.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. The Board of Supervisors, Board of Commissioners and Borough Council hereby declare that they would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid. If the entire Zoning Ordinance should be declared invalid, then the Ordinance for the applicable municipality that was in effect immediately prior to the enactment of this new Zoning Ordinance shall automatically be re-instated as the Zoning Ordinance for that municipality.
4. **REPEALER.** The pre-existing Boyertown Borough, Colebrookdale Township and Pike Township Zoning Ordinances, as amended, are hereby repealed, in addition to the repeal of any other Township or Borough ordinances or resolutions or parts thereof that were adopted prior to this Ordinance that are clearly in direct conflict with this Ordinance.
5. **ENACTMENT.** Under the authority conferred by the Pennsylvania Municipalities Planning Code, as amended, the Borough Council of Boyertown Borough, Board of Commissioners of Colebrookdale Township and Board of Supervisors of Pike Township hereby enact and ordain into an Ordinance the attached document on September 29, 2010 by Boyertown, on October 4, 2010 for Colebrookdale Township and on November 2, 2010 for Pike Township. This Ordinance shall become effective in 5 calendar days from the date of enactment by the last of the three municipalities to enact this Ordinance.

Dates of Final Public Hearings: Pike Township - November 2, 2010
Boyertown Borough - September 29, 2010
Colebrookdale Township - October 4, 2010

BOYERTOWN BOROUGH

President, Borough Council

Attest

Mayor

COLEBROOKDALE TOWNSHIP

President, Board of Commissioners

Attest

PIKE TOWNSHIP

Chairperson, Board of Supervisors

Attest

ARTICLE 1
ADMINISTRATION AND ENFORCEMENT

101. **APPLICABILITY OF THIS ORDINANCE.** This Zoning Ordinance shall apply throughout Boyertown Borough, Colebrookdale Township and Pike Township in Berks County, Pennsylvania. Any activity regulated by this Ordinance shall only occur in such a way that conforms with the regulations of this Ordinance. See Section 103.A.
102. **PURPOSES AND COMMUNITY DEVELOPMENT OBJECTIVES.** This Ordinance is hereby adopted:
- 102.A. in accordance with the requirements and purposes (including Sections 604 and 605 or their successor section(s), which are included by reference) of the Pennsylvania Municipalities Planning Code, as amended,
 - 102.B. in accordance with goals, objectives, policies and geographic descriptions of the Boyertown Area Comprehensive Plan, which are hereby included by reference, and the goals and recommendations of the Berks County Comprehensive Plan, and
 - 102.C. to carry out the following major objectives:
 - 1. to make sure that development carefully relates to natural features and historic resources, and to avoid development that is beyond the capacity of or too intense for environmentally sensitive land,
 - 2. to minimize disturbance of waterway valleys and steep woodlands,
 - 3. to avoid overextending groundwater supplies, and to encourage groundwater recharge,
 - 4. to protect the quality of groundwater and surface waters,
 - 5. to encourage the continuation of farming,
 - 6. to promote compatibility between land uses,
 - 7. to seek coordinated development and roads across municipal borders,
 - 8. to provide for a variety of residential densities and meet legal obligations to provide opportunities for all housing types within the jurisdiction of this Joint Zoning Ordinance,
 - 9. to promote development that retains the rural character of the outlying areas,
 - 10. to encourage rehabilitation and avoid demolition of historic buildings,
 - 11. to direct higher density development to areas that are physically suitable, accessible by major roads and that have the potential of central water and sewage services,
 - 12. to coordinate development with future central water and sewage service areas in consideration of environmentally sensitive areas,
 - 13. to direct industrial development to locations that will minimize conflicts with homes,
 - 14. to direct commercial businesses to existing commercial areas, while avoiding new uncoordinated commercial areas that would cause traffic congestion and safety problems and conflicts with homes, and
 - 15. to strengthen the downtown and promote new commercial and industrial development in appropriate areas that will provide additional tax revenue and job opportunities.
103. **PERMITS AND CERTIFICATES.**
- 103.A. Applicability.
 - 1. Any of the following activities or any other activity regulated by this Ordinance shall only be carried out in conformity with this Ordinance.

Boyertown, Colebrookdale and Pike Joint Zoning Ordinance of 2010

- a. Erection, construction, movement, placement or extension of a structure, building or sign,
 - b. Change of the type of use or expansion of the use of a structure or area of land,
 - c. Creation of a lot or alteration of lot lines, and/or
 - d. Creation of a new use.
2. Zoning Permit. A Zoning Permit indicates that a zoning application complies with this Ordinance to the best knowledge of the applicable municipal staff.
- a. A Zoning Permit is required to be issued prior to the start of any of the following activities:
 - 1) Erection, construction, movement, placement or expansion of a structure, building or sign,
 - 2) Change of the type of use or expansion of the use of a structure or area of land,
 - 3) Creation of a new use, and/or
 - 4) Demolition of a building.
 - b. The Municipality may, at its option, issue combined or separate Building Permits and Zoning Permits and/or may utilize a single or separate applications for the permits.
3. Certificate of Occupancy.
- a. A Certificate of Occupancy is required for certain buildings and uses under the Construction Code. The Municipality may require that the Certificate of Occupancy for a new principal building or a new or expanded principal use shall also be signed by the Zoning Officer. In such case, the Zoning Officer's signature shall certify that the activity complies with this Ordinance, to the best knowledge of the Zoning Officer.
 - b. Upon the request of an applicant, the Township may issue a temporary Certificate of Occupancy. In regards to zoning matters, such temporary certificate shall be issued with a time limit, to allow an applicant time to complete final matters regarding zoning ordinance compliance, such as plantings being allowed to be delayed until the weather is more favorable.
 - c. See also Section 103.G.

103.B. Reserved.

103.C. Types of Uses.

1. Permitted by Right Uses. The Zoning Officer shall issue a permit under this Ordinance in response to an application for a use that is "permitted by right" if it meets all of the requirements of this Ordinance.
2. Special Exception Use or Application Requiring a Variance. A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only in response to a written approval by the Zoning Hearing Board following a hearing.
3. Conditional Use. A use requiring zoning approval by the Board of Commissioners, Board of Supervisors or Borough Council under Section 117.

103.D. Applications.

1. Submittal. All applications for a Zoning Permit or a decision by the Zoning Hearing Board or Governing Body shall be made in writing on a form provided by the Municipality. Such completed application, with required fees, shall be submitted to a designated Municipal staff-person.

2. Site Plan. The applicant shall submit a minimum of 2 copies of a site plan with the application if the application involves a new principal building, expansion of a principal building or addition of 3 or more parking spaces. The site plan shall be drawn to scale and show the following:
 - a. locations, dimensions and uses of existing and proposed structures, parking and loading areas, and locations of existing and proposed uses of areas of land, with existing features clearly distinguished from proposed features,
 - b. notes showing the dimensions of all buildings from lot lines and street rights-of-way,
 - c. locations of any watercourses and any 100 year floodplain,
 - d. proposed lot areas, lot widths and other applicable dimensional requirements,
 - e. locations and widths of existing and proposed sidewalks, and
 - f. well and primary and alternate septic system locations. See Section 309.

3. Additional Information. Any application under this Ordinance shall include the following information, unless the Zoning Officer determines such information is unnecessary to determine compliance with this Ordinance:
 - a. the address of the lot,
 - b. name and address of the applicant, and of the owner of the property if different from the applicant,
 - c. a description of the proposed use of the property,
 - d. all other applicable information listed on the official Municipal application form,
 - e. if the applicant is incorporated, a partnership, or a limited liability corporation, the legal names and day telephone numbers, residential address and business address of officers/principals/partners of such organization, with date of submission, and
 - f. such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this Ordinance.

4. Submittals to the Zoning Hearing Board or Governing Body. In addition to the information listed in part "3." above, an application requiring a site plan and action by the Zoning Hearing Board or Governing Body shall also include the following information, unless the Zoning Officer determines that such information is unnecessary to determine compliance with this Ordinance:
 - a. the present zoning district and major applicable lot requirements,
 - b. for a non-residential use:
 - (1) a description of the proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards,
 - (2) a list of the maximum hours of operation,
 - c. the existing directions of stormwater flow (and any proposed revisions), and any proposed methods of stormwater management,
 - d. a listing of any sections of this Ordinance being appealed. challenged, from which a variance is sought, or under which a special exception or conditional use approval is sought, with the reasons for any request,
 - e. approximate locations of principal buildings and locations of streets and alleys and zoning district boundaries within 100 feet of the boundaries of the tract, and description of uses of adjoining properties (such as "drug store" or "single family detached dwelling"),
 - f. heights, locations, methods of illumination and intensity of exterior lighting and sign lighting,
 - g. name and address of person who prepared the site plan,
 - h. signed acknowledgment of the site plan by the applicant, and

- i. such additional information required under applicable sections of this Ordinance.
 5. Ownership. No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application (see definition of "landowner" in Article 2).
- 103.E. Issuance of Permits.
1. At least 1 copy of each permit application and any other zoning approval shall be retained in Municipal files. Applicants may also be required to submit copies of State permits for municipal files.
 2. PennDOT Permit. Where necessary for access onto a State road, a Municipal zoning or building permit shall be automatically conditioned upon issuance of a PennDOT Highway Occupancy Permit.
- 103.F. Revocation of Permits; Appeal of Permit or Approval.
1. Revocation. The Zoning Officer shall revoke, withhold or suspend a permit or approval issued under the provisions of the Zoning Ordinance in case of one or more of the following:
 - a. any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based; (Note: The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties.)
 - b. upon violation of any condition lawfully imposed by the Zoning Hearing Board upon a special exception use or variance or by the Governing Body upon a conditional use;
 - c. any work being accomplished or use of land or structures in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; and/or
 - d. for any other just cause set forth in this Ordinance.
 2. Appeals. A party with legitimate standing, or as otherwise provided by State law, may appeal decisions under this Ordinance within the provisions of the State Municipalities Planning Code. Any such appeal shall occur within the time period established in the State Municipalities Planning Code (As of the adoption date of this Ordinance, such provisions were in Sections 914.1 and 1002.A.).
- 103.G. Temporary Uses and Structures.
1. The following types of temporary uses or structures shall be allowed:
 - a. The following types of customary, routine and accessory short-term special events shall be allowed under the following standards:
 - (1) Only a well-established nonprofit organization or a permitted place of worship proposing a temporary use to clearly primarily serve a charitable, public service or religious purpose shall be eligible to conduct commercial-type activities in a district where a commercial use would not otherwise be permitted.
 - (a) Such uses are intended to include bazaars and festivals by places of worship, Christmas Tree Sales by Boy Scouts, a bake sale by a youth sports team and similar activities.
 - (2) Such total events shall be limited to a maximum of 45 days for Christmas Tree Sales and 12 total days per calendar year for all other activities.
 - (3) The applicant may be required to prove to the Zoning Officer that sufficient parking and traffic control will be available for the special event, without obstructing parking that is required to serve other uses on the site.

- b. Temporary storage and office trailers are allowed that are necessary to serve on-site construction, while such construction is actively underway under a valid Municipal permit.
- c. A Temporary Permit may be issued for such other activities that the applicant proves to the Zoning Officer are clearly routine, customary, temporary and not in conflict with existing uses within the vicinity.
- d. A temporary zoning permit may be issued for occupancy of one dwelling unit on a lot while a second new dwelling unit is under construction on the lot. Such permit shall be valid for one year unless extended by the municipality. The first dwelling unit shall be removed within 60 days after the new dwelling unit is occupied.

2. Time Period. The Zoning Officer shall state a reasonable maximum time period on the temporary permit. If no time limit is stated, then a 7 day maximum period shall apply. A temporary permit may be renewed for just cause.

3. Temporary Retail Sales. Except as provided for in subsection 103.G.1.a.(1) above, and except for agricultural sales allowed by Section 306 (such as retail sales of agricultural products), and except as allowed by the "Garage Sale" provisions of Section 403, a lot shall only be used for temporary retail sales if all of the following conditions are met:

- a. The property is located within a zoning district that allows retail sales.
- b. The operator shall have received any business permits required by the Municipality.
- c. No more than 4 off-street parking spaces shall be obstructed that are required to serve permanent uses on the lot.
- d. Any signs visible from a public street shall comply with this Ordinance.
- e. If food or beverages are sold that are not pre-packaged, the applicant shall prove compliance with State health regulations, including having on-site facilities for workers to wash their hands. Proper bathroom facilities shall also be available for workers.
- f. Any tent or building shall meet applicable minimum setbacks.
- g. A permit under this Ordinance shall be required from the Municipality, which shall be displayed while the activity is open for business.
- h. The activity shall not obstruct safe sight distances.

103.H. Compliance with Municipal Subdivision and Land Development Ordinance Approval. If a application under this Ordinance would also be regulated by the Municipal Subdivision and Land Development Ordinance ("SALDO"), then any permit or approval under this Zoning Ordinance shall automatically be conditioned upon obtaining a required approval under the SALDO. See the definitions of "Land Development" and "Subdivision" in the SALDO.

- 1. For example, if an applicant applies for a single family detached dwelling on a proposed new lot, the construction permit for such dwelling shall not be valid until after the lot is granted final subdivision approval and the lot is officially recorded by the County Recorder of Deeds.

104. GENERAL PROCEDURE FOR PERMITS.

104.A. After receiving a proper application, the Zoning Officer shall either: 1) issue the applicable permit(s) or 2) deny the application(s) as submitted, indicating one or more reasons.

104.B. After the permit under this Ordinance has been issued, the applicant may undertake the action specified by the permit, in compliance with other Municipal Ordinances.

105. INTERPRETATION AND USES NOT REGULATED.

- 105.A. Minimum Requirements. Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply. The provisions of this Ordinance are in addition to any other applicable Municipal Ordinance.
- 105.B. Uses Not Specifically Regulated. If a use clearly is not permitted by right, a conditional use or as a special exception use by this Ordinance within any Zoning District, the use is then only allowed if approved under this Section 105.B. The Zoning Hearing Board may permit such use as a special exception use in the GI/Q district only if the applicant specifically proves to the clear satisfaction of the Zoning Hearing Board that all of the following conditions would be met:
1. the proposed use would be no more intensive in negative impacts and nuisances than uses allowed in the GI/Q District, considering the standards in Section 805.F.,
 2. the use would meet the standards that would apply under Section 116.C. to a special exception use, and
 3. the use is not specifically prohibited in the GI/Q District.
- 105.C. Interpretation of Ordinance Text and Boundaries.
1. The Zoning Officer shall literally apply the wording of this Ordinance and the location of all District boundaries to particular applications. In any case, the Zoning Officer may also request an advisory opinion from the Municipal Solicitor to aid in the Zoning Officer's determination.
 2. If an applicant disagrees with the Zoning Officer's determination and believes that the Ordinance should be interpreted in the applicant's favor, the applicant may appeal to the Zoning Hearing Board. See Section 111.
 3. In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.
- 105.D. Undefined Terms/ Interpretation of Definitions. See Section 201.
- 105.E. Interpretation of Zoning Boundaries. See Section 304.

106. ENFORCEMENT, VIOLATIONS AND PENALTIES. All of the enforcement, violations and penalty provisions of the State Municipalities Planning Code, as amended, are hereby incorporated into this Ordinance by reference. (Note - As of the adoption date of this Ordinance, these provisions were primarily in Sections 616.1, 617 and 617.2 of such Act.)

- 106.A. Violations. Any person who shall commit or who shall permit any of the following actions violates this Ordinance:
1. Failure to secure a zoning permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, or the excavation of land to prepare for the erection, construction or alteration of any structure or portion thereof.
 2. Placement of false statements on or omitting relevant information from an application for a zoning permit.
 3. Undertaking any action in a manner which does not comply with a zoning permit.
 4. Violation of any condition imposed by a decision of the Zoning Hearing Board in granting a variance or special exception or other approval.
 5. Violation of a requirement of this Ordinance.

- 106.B. Enforcement Notice. If the Municipality has reason to believe that a violation of a provision of the Zoning Ordinance has occurred, the Municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in Section 616.1 of the State Municipalities Planning Code. Prior to sending an official enforcement notice, the Zoning Officer may at his/her option informally request compliance.
- 106.C. Time Limits. An official enforcement notice shall state the deadline to complete bringing the property into compliance with this Ordinance, and shall state that the applicant has 30 days from the receipt of the notice to appeal to the Zoning Hearing Board.
- 106.D. Causes of Action; Enforcement Remedies. The Causes of Action and Enforcement Remedies provisions of the State Municipalities Planning Code, as amended, are hereby incorporated by reference. (Note - As of the adoption date of this Ordinance, such provisions were in Section 617 of such law.)
1. Enforcement Action. If the enforcement notice is not complied with promptly, the Zoning Officer shall notify the Board of Supervisors, Board of Commissioners or Borough Council. Such Governing Body may request the Municipal Solicitor to institute in the name of the Municipality any appropriate action or proceeding at law or in equity to prevent, restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the structure, building, sign, landscaping or land in violation of the provisions of this Ordinance or the order or direction made pursuant thereto. The Board of Supervisors, Board of Commissioners or Borough Council may also direct the Zoning Officer or Municipal Solicitor to institute a civil enforcement proceeding before a district justice. Note: If an applicant has properly appealed the Enforcement Notice in a timely manner to the Zoning Hearing Board, such appeal may, under State law, result in a stay in action by the Municipality.
 2. Violations and Penalties. Any person who has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Municipality, pay a judgment of not more than five hundred dollars per calendar day of violation plus all court costs, including the reasonable attorney's fees incurred by the Municipality as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless a District Justice determining that there has been a violation further determines that there was a good faith basis for the person violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid over to the Municipality for the general use of the Municipality.
 3. Remedies. In case any building, structure, sign or landscaping is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any building, structure, sign or land is used; or any hedge, shrub, tree or other growth is maintained in violation of this chapter or of any of the regulations made pursuant thereto or any of the permits or certificates of use and occupancy issued under this chapter or any conditions imposed upon the grant of a special exception or variance by the Zoning Hearing Board or upon the grant of a conditional use, then, in addition to any other remedies provided by law, any appropriate action or proceeding may be instituted or taken to prevent or restrain such unlawful erection, construction, reconstruction,

alteration, repair, conversion, maintenance or use or to prevent any illegal act, conduct, business or use in and about such premises.

106.E. Enforcement Evidence. In any appeal of an enforcement notice to the Zoning Hearing Board, the Municipality shall have the responsibility of presenting its evidence first.

107. **FEES AND FINANCES**.

107.A. A municipal fee schedule for permits and applications may be established and amended by written resolution of the applicable Board of Supervisors, Board of Commissioners or Borough Council. No application or appeal shall be considered filed until all fees are paid.

107.B. The following shall apply unless an alternative financing arrangement is approved by two or more municipalities through an Inter-Municipal Agreement:

1. Each municipality shall be responsible for all expenses for administering and enforcing this Ordinance within its own boundaries, and for related appeals.
2. If a substantive challenge is made to this Ordinance or a curative amendment is filed, the municipality that is directly affected shall be responsible for the costs of defending against such a challenge.
3. If a municipality requests that the other municipalities adopt an amendment to this Ordinance, the municipality that made the original request for the amendment shall be responsible for all costs of legal advertisements and related costs for the amendment.

108. **AMENDMENTS TO THIS ORDINANCE**. This Zoning Ordinance may be amended in compliance with the procedural requirements of Section 609 of the Pennsylvania Municipalities Planning Code, or its successor section.

108.A. The process to start consideration of a proposed zoning ordinance amendment may be initiated by a majority vote of any municipal Planning Commission, Board of Supervisors, Board of Commissioners or Borough Council. Such vote may or may not occur in response to a request of an individual, organization, committee, landowner or other entity.

108.B. In addition, any proposed amendment to this Ordinance shall be submitted to the Joint Municipal Planning Commission for review a minimum of 30 days prior to the public hearing on such proposed amendments.

108.C. The Governing Bodies, Joint Municipal Planning Commission and municipal Planning Commissions shall submit any comments regarding the proposed zoning ordinance amendment to the Board of Commissioners, Board of Supervisors and Borough Councils of each of the affected municipalities. Any comments shall recommend whether to adopt or not adopt the proposed amendment. Such comments shall be provided not later than the date of the last public hearing on the amendment. Failure to provide comments within such time frame shall be construed as a recommendation to adopt the proposed amendment. The Board of Commissioners, Board of Supervisors and Borough Councils may decide to hold one joint public hearing or separate public hearings on the proposed amendment.

108.D. A zoning ordinance amendment shall only go into effect 5 days after the date of enactment by the Borough Council, Board of Commissioners or Board of Supervisors of the last of the three municipalities to enact the amendment.

109. **CURATIVE AMENDMENTS.** The applicable provisions of the State Municipalities Planning Code shall apply. (Note: As of the adoption date of this Ordinance, these provisions were primarily in Sections 609.1, 609.2, 810-A, 811-A, 812-A and 916.1 of such Act.)

110. **ZONING OFFICER.**

110.A. **Appointment.** The Zoning Officer(s) shall be appointed by the Board of Commissioners, Board of Supervisors and Borough Council. Each municipality may appoint its own Zoning Officer, or two or more municipalities may appoint a Joint Zoning Officer. The Governing Body may designate other Staff-persons to serve as Assistant Zoning Officer(s). An Assistant Zoning Officer shall not be authorized to issue a Preliminary Opinion. For other matters, Assistant Zoning Officers may serve with the same authority and duties as the Zoning Officer. The Zoning Officer shall not hold any elective office within a Municipality that he is responsible for, but may hold other appointed offices.

110.B. **Duties and Powers.** The Zoning Officer's duties and powers shall be those provided in this Ordinance and the State Municipalities Planning Code and duties and powers that are reasonably implied by such provisions. These duties and powers include but are not limited to the following:

1. administer the Zoning Ordinance in accordance with its literal terms, including to receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits within the provisions of this Ordinance;
2. conduct inspections to determine compliance, and receive complaints of violation of this Ordinance;
3. keep records of applications, permits, certificates, written decisions, and variances granted by the Board, and of enforcement orders, with all such records being the property of the Municipality and being available for public inspection;
4. review proposed subdivisions and land developments for compliance with this Ordinance; and
5. take enforcement actions as provided by the State Municipalities Planning Code, as amended.

110.C. **Inspections.** The Zoning Officer shall conduct inspections as necessary to fulfill his/her duties. Where entrance onto a property is necessary to conduct an inspection, the Zoning Officer shall first seek the permission of the landowner or tenant. In the event such permission cannot be voluntarily obtained, the Zoning Officer shall have the right to take such other legal means as provided under the law to obtain authorization to enter the property, such as an Administrative Warrant.

111. **ZONING HEARING BOARD ACTIONS AND VARIANCES.**

111.A. **Membership of Board.** The Zoning Hearing Board of each municipality shall consist of 3 residents of that municipality appointed by the Board of Commissioners, Board of Supervisors or Borough Council. The existing terms of office shall continue, with terms of office being 3 years for a board with 3 members. The terms of office shall be fixed so that the term of office of one member shall expire each year. Members of the Board shall hold no other office in the municipality. At their option, in place of an individual zoning hearing board, the Governing Bodies of two or more municipalities may appoint a Joint Zoning Hearing Board of 5 members, in accordance with the State Municipalities Planning Code.

1. **Alternate Members.** The Board of Supervisors, Board of Commissioners or Borough Council may appoint alternate members of the Zoning Hearing Board within the applicable provisions of the

State Municipalities Planning Code. (Note: As of the adoption date of this Ordinance, such provisions were in Section 903(b) of such Act).

- 111.B. Vacancies. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- 111.C. Organization. The applicable provisions of the State Municipalities Planning Code, as amended shall apply. (As of the adoption date of this Ordinance, these provisions were in Sections 906(a), (b) and (c) of such Act).
- 111.D. Zoning Hearing Board Jurisdiction and Functions. The Zoning Hearing Board shall be responsible for the following:
1. Appeal of a Determination by the Zoning Officer.
 - a. The Board shall hear and decide appeals where it is alleged by an affected person, entity or the Board of Supervisors, Board of Commissioners, or Borough Council that the Zoning Officer has improperly acted under the requirements and procedures of this Ordinance.
 - b. See time limitations for appeals in Section 111.F.
 2. Challenge to the Validity of the Ordinance or Map, where applicable provisions of the Pennsylvania Municipalities Planning Code, as amended, provide for an application to the Zoning Hearing Board. (Note: As of the adoption date of this Ordinance, these provisions were primarily in Sections 909.1 and 916 of such Act. See also the Pennsylvania Judicial Act as amended.)
 3. Variance.
 - a. The Board shall hear requests for variances to specific provisions of this Ordinance that are filed with the Municipal Staff in writing.
 - b. Standards. The Board may grant a variance only within the limitations of State law. (Note: As of the adoption date of this Ordinance, the Municipalities Planning Code provided that all of the following findings must be made, where relevant:
 - i) There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;
 - ii) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a variance is therefore necessary to enable the reasonable use of the property;
 - iii) Such unnecessary hardship has not been created by the appellant;
 - iv) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
 - v) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.)
 - c. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
 4. Special Exception.

- a. The Board shall hear and decide requests for all special exceptions filed with the Municipal Staff in writing. The Board shall only permit a special exception that is authorized by this Ordinance. See Section 116.
 - b. Conditions. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes and intent of this Ordinance.
5. Persons With Disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Zoning Hearing Board are required under applicable Federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.
- a. Such reasonable accommodations shall be requested in accordance with the U.S. Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
 - b. If the applicant is requesting a reasonable accommodation under the United States Fair Housing Amendments Act of 1988 or the Americans with Disabilities Act, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this Ordinance necessary for a reasonable accommodation, and the manner by which the reasonable accommodation requested may be removed when such person(s) with a protected disability no longer will be present on the property.
 - c. Any modification approved under this Section may be limited to the time period during which the persons with disabilities occupy or utilize the premises.
6. Appeals from a determination under any floodplain provisions of this ordinance, or where a separate municipal floodplain ordinance does not designate any alternative body to hear appeals.
7. Appeals concerning a Zoning Officer's determination in response to a request for a Preliminary Opinion.
8. The Zoning Hearing Board shall also hear any other matters as set forth in the State Municipalities Planning Code, as amended. (Note: As of the adoption date of this Ordinance, such provisions were primarily within Section 909.1 of such law.)
- 111.E. Time Limits for Appeals. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this Ordinance, these provisions were in Section 914.1 of such Act.)
- 111.F. Stay of Proceedings. The Stay of Proceedings provisions of the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this Ordinance, such provisions were in Section 915.1 of such Act.)
- 111.G. Time Limits on Permits and Approvals.
1. After a variance is approved or other zoning approval is officially authorized, then any applicable zoning and building permits shall be secured by the applicant within 12 months after the date of such approval or authorization. The work authorized by such permits shall then be completed within 12 months after the issuance of the permits.

2. Extension. In response to an applicant stating good cause in writing, the Zoning Officer may extend in writing the time limit for completion of work to a maximum total of 36 months after permits are issued.
3. If an applicant fails to obtain the necessary permits or begin construction within the above time periods, or allows interruptions in substantial construction of longer than 12 months, the Zoning Officer may conclusively presume that the applicant has waived, withdrawn or abandoned approvals and permits under this Ordinance and may consider all such approvals and permits to have become null and void.

111.H Multiple Applications. No more than one application for the same property shall be pending before the Zoning Hearing Board for special exception approval at any time.

112. **ZONING HEARING BOARD HEARINGS AND DECISIONS**. The following requirements shall apply to procedures, hearings and decisions of the Zoning Hearing Board.

112.A. Notice of Hearings. Notice of all hearings of the Board shall be given as follows:

1. Ad. Public notice shall be published, as defined by Section 107 of the State Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered.
2. Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. The applicant shall post the property unless the Zoning Officer or his/her designee volunteers to post the property. It is the responsibility of the applicant to make sure that such notice remains posted until the hearing.
3. Persons Given Notice. The Municipality (which shall include its designees) shall provide written notice to the Applicant of the time and place of the hearing. The Municipality should also provide notice to the Chairperson/President of the Governing Body. In addition, the Municipality should provide notice to the last known principal owner of record of each property that is immediately adjacent to or immediately across a street from the subject property, however, failure to provide such notice shall not be grounds for an appeal. Also, such notice shall be given to any other person or group (including civic or community organizations) who has made a written timely request for such notice. Any such notices should be mailed or delivered to the last known address.

112.B. Initiation of Hearings. A hearing required under this Ordinance shall be initiated within 60 days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time.

112.C. Decision/Findings.

1. The Board shall render a written decision on each application within 45 days after the last hearing on that application before the Board, unless the applicant has agreed in writing to an extension of time.
2. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.
3. References shall be provided to the most pertinent section(s) of this Ordinance and/or the State Municipalities Planning Code.

112.D. Notice of Decision. A copy of the final decision shall be delivered or mailed to the applicant or his/her representative or their last known address not later than the time limit established by the State Municipalities Planning Code, as amended. (Note: As of the adoption date of this

Ordinance, such provisions were within Sections 908(9) and 908(10) of such Act, including provisions regarding notice to other parties).

- 112.E. State Law. See also Section 908 of the PA. Municipalities Planning Code.
113. **APPEALS TO COURT**. The provisions for appeals to court that are stated in the State Municipalities Planning Code, as amended, shall apply. (Note: As of the adoption date of this Ordinance, these provisions were in Sections 1001-A, 1002-A, 1003-A, 1004-A, 1005-A and 1006-A of such Act.)
114. **LIMITED PUBLIC UTILITY EXEMPTIONS**. See the provisions of the State Municipalities Planning Code, as amended. (Note: As of the adoption date of this Ordinance, such provisions were within Section 619 of such Act.)
115. **LIMITED MUNICIPAL AND MUNICIPAL AUTHORITY EXEMPTION**. The minimum lot area, minimum lot width, minimum yards, maximum lot coverages and minimum street frontage requirements of this Ordinance shall not apply to uses or structures owned by Boyertown Borough, Colebrookdale Township and Pike Township or by a municipal authority created by any such municipality(ies) for uses and structures that are intended for a public utility, stormwater, public recreation or public health and safety purpose.
116. **SPECIAL EXCEPTION USE PROCESS**.
- 116.A. Purpose. The Special Exception Process is designed to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.
- 116.B. Special Exception Procedure.
1. A Site Plan shall be submitted, which shall contain the information required in Section 103.D. If a fully engineered subdivision or land development plan will be required, it may be submitted separately, such as after a special exception is approved.
 2. The Zoning Officer should provide a review to the Zoning Hearing Board regarding the compliance of the application with this Ordinance.
 3. The Zoning Hearing Board shall follow the procedures provided in Section 112.
 4. The Municipal Staff should offer a special exception application to the Municipal Planning Commission for any advisory review that the Commission may wish to provide. However, the Zoning Hearing Board shall meet the time limits of State law for a decision, regardless of whether the Municipal Planning Commission has provided comments.
- 116.C. Consideration of Special Exception Applications. When special exceptions are allowed by this Ordinance, the Zoning Hearing Board shall hear and decide requests for such special exceptions in accordance with standards established by this Ordinance, including the following:
1. Compliance with this Ordinance. The applicant shall establish by credible evidence that the application complies with all applicable requirements of this Ordinance. The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate this compliance.
 2. Compliance with Other Laws. The approval may be conditioned upon proof of compliance with other specific applicable municipal, state and federal laws, regulations and permits. Required permits or other proof of compliance may be required to be presented to the Municipality prior

to the issuance of any zoning permit, building permit, certification of occupancy and/or recording of an approved plan.

3. Traffic. The applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion, after considering any improvements proposed to be made by the applicant as a condition on approval.
4. Site Planning. The application shall include proper site layout, internal circulation, parking, buffering, and all other elements of proper design as specified in this Ordinance.
5. Neighborhood. The proposed use shall not substantially harm any adjacent residential neighborhood, after considering any proposed conditions upon approval.
6. Safety. The proposed use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.

116.D. Conditions. In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of this Ordinance. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the building permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this ordinance.

117. CONDITIONAL USE PROCESS.

117.A. Purpose. The conditional use approval process is designed to allow the Board of Commissioners, Board of Supervisors or Borough Council to review and approve certain uses that could have significant impacts upon the community and the environment.

117.B. Procedure. The Board of Commissioners, Board of Supervisors or Borough Council shall consider the conditional use application and render its decision in accordance with the requirements of the State Municipalities Planning Code. (Note – As of the adoption date of this Ordinance, the procedural requirements of Sections 908(1) and 908(10) of the PA Municipalities Planning Code apply for a conditional use.)

1. Submittal. A Site Plan shall be submitted, which shall contain the information listed in Section 103.D. Detailed site engineering (such as stormwater calculations and profiles) are not required at the conditional use stage. If a fully engineered subdivision or land development plan will be required, it may be submitted separately, such as after a conditional use is approved. Or, an applicant may voluntarily choose to submit a subdivision or land development plan for review at the same time as a conditional use application.
2. Reviews.
 - a. The Zoning Officer should provide a review to the Board regarding the compliance of the application with this Ordinance.
 - b. The Municipal Staff shall submit a conditional use application to the Planning Commission for any review that the Commission may wish to provide. However, the Board of Commissioners, Board of Supervisors or Borough Council shall meet the time limits for a decision, regardless of whether the Planning Commission has provided comments.
3. The only uses that shall be approved as conditional uses shall be those listed as conditional uses in Article 3.

117.C. Consideration of Conditional Use Application. The Board of Commissioners, Board of Supervisors or Borough Council shall determine whether the proposed conditional use would meet the applicable requirements of this Ordinance. The same standards shall apply to a conditional use as are listed in Section 116.C. for a special exception use.

117.D Conditions. In approving conditional use applications, the Board of Commissioners, Board of Supervisors or Borough Council may attach conditions they consider necessary to protect the public welfare and meet the standards of this Ordinance. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Ordinance.

118. **LIABILITY**.

118.A. Any review of activity within the floodplain, site plan review, subdivision or land development approval, erosion control review, wetland delineation review, storm water runoff review, review of activity on steep slopes, or any other review, approval or permit under this Ordinance by an officer, employee, board, commission, solicitor, consultant or agency of the Municipality shall not constitute a representation, guarantee or warranty of any kind by the Municipality, or its employees, officials, boards, solicitor(s), consultants or agencies of the practicality or safety of any structure, use or subdivision, and shall create no liability upon nor a cause of action against such entity or person for any damage that may result pursuant thereto.

118.B. If the Zoning Officer mistakenly issues a permit under this Ordinance, the Municipality shall not be liable for any later lawful withdrawal of such permit.

ARTICLE 2 DEFINITIONS

201. **GENERAL INTERPRETATION.** For the purposes of this Ordinance, words and terms used herein shall be interpreted as follows:

- A. Words in the present tense shall include the future tense.
- B. "Used" or "occupied" as applied to any land or building include the words "intended, arranged, or designed to be used or occupied."
- C. "Should" means that it is strongly encouraged but is not mandatory. "Shall" is always mandatory.
- D. "Sale" shall also include rental.
- E. Unless stated otherwise, the singular shall also regulate the plural, and the masculine shall include the feminine, and vice-versa.
- F. If a word or term is not defined by this Ordinance, but is defined in the Subdivision and Land Development Ordinance (SALDO), then the SALDO definition shall apply to this Ordinance. If a word or term is not defined in either this Ordinance or the SALDO, then the word or term shall have its plain and ordinary meaning within the context of the Section. In such case, in case of a dispute, a standard reference dictionary shall be consulted.
- G. The words "such as," "includes," "including," and "specifically" are intended to provide examples. These examples shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
- H. The word "person" includes a firm, company, corporation, partnership, trust, organization or association, as well as an individual.

202. **TERMS DEFINED.** When used in this Ordinance, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

Abut or Abutting. Areas of contiguous lots that share a common lot line, but this term does not include lots entirely separated by a street, public alley open to traffic, or a perennial waterway. See definition of "adjacent."

Accessory Apartment. One dwelling unit that is created within part of a principal dwelling or above a vehicle garage on a residential lot.

Accessory Structure (includes Accessory Building). A structure serving a purpose customarily incidental to and subordinate to and in conjunction with the use of the principal use and located on the same lot as the principal use. Accessory structures include but are not limited to a household garage, household storage shed, detached carport, a household swimming pool, or an accessory storage building to a business use. An "Accessory Building" is any accessory structure that meets the definition of a "building." A portion of a principal building used for an accessory use shall not be considered an accessory building.

Accessory Use. A use customarily incidental to, subordinate to, and in connection with the principal use or building and located on the same lot with such principal use.

Active Adult Residential Community (AARC). A residential development and permitted accessory uses intended for occupancy primarily by persons age 55 years of age and older who desire to and who

are able to live independently. At least 80% of the dwelling units shall be occupied by at least one person who is 55 years of age or older. No person under the age of 18 years may be a permanent resident within the AARC, nor may such person be an overnight guest of any resident for more than 14 consecutive nights.

Adjacent. Two or more lots that share a common lot line or that are separated only by a street or waterway from each other.

Adult Bookstore. A use that has over 10% of the total floor area occupied by items for sale or rent that are books, films, magazines, video tapes, coin- or token-operated films or video tapes, paraphernalia, novelties or other periodicals which are distinguished or characterized by a clear emphasis on matter depicting, displaying, describing or relating to uncovered male or female genitals or "specified sexual activities." This shall include but not be limited to materials that would be illegal to sell to persons under age 18 under State law. If such items are within a separate room, then the 10 percent standard shall apply to the floor area of such room.

Adult Live Entertainment Facility. A use including live entertainment involving persons (which may include, but not be limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) displaying uncovered male or female genitals or nude or almost nude female breasts or engaging in simulated or actual "specified sexual activities" to 3 or more persons and which is related to monetary compensation paid to the person or entity operating the use or to persons involved in such activity.

Adult Movie Theater. A use involving the on-site presentation to 3 or more persons at one time of moving images distinguished by an emphasis on depiction of "specified sexual activities" and that is related to monetary compensation paid by the persons viewing such matter.

Adult Use. This term shall mean Adult Bookstore, Adult Movie Theater, Adult Live Entertainment Facility/Use or Massage Parlor. These terms shall be distinct types of uses, and shall not be allowed as part of any other use.

After Hours Club. A use that permits the consumption of alcoholic beverages by 5 or more unrelated persons between the hours of 2 a.m. and 6 a.m. and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises.

Airport. An area and related support facilities used for the landing and take-off of motorized aircraft that carry people. A "Public Airport" shall be an Airport that does not meet the definition of a "Private Airport." A Private Airport shall be limited to a maximum of 10 total landings and take-offs in any 7 day period, and shall not be available for use by the general public.

Alley. A vehicle right-of-way located to the side or rear of abutting properties and which has a right-of-way of 20 feet or less.

Alterations. As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement or diminution, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Alluvial Soil. Areas subject to periodic flooding as defined in "Berks County Soil Survey Report, Soil Conservation Service, 1970", or successor soil information provided by the U. S. Natural Resource

Conservation Service, including but not limited to the following soils: Atkins (Au), Bowmansville (Bo), Lindside (Lt), Melvin (Ml), Philco (Ph, Pl), Pope (Po), and Rowland (Ro).

Amusement Arcade. A use involving 15 or more token or coin operated entertainment machines, and where the machines are the principal use of the property. This term shall not include an Adult Use.

Animal Cemetery. A place used for the burial of the remains of 5 or more non-cremated animals, other than customary burial of farm animals as accessory to a livestock use.

Antenna. An exterior device or apparatus designed for cellular, digital, telephone, radio, pager, commercial mobile radio, wireless internet, television, microwave or any other wireless communications through sending and/or receiving of electromagnetic waves, including without limitation, omnidirectional or whip antennas and directional or panel antennas. Unless otherwise stated, this term shall not include "standard antenna."

Antenna Height. The vertical distance from the base of the antenna support structure at grade to the highest point of the structure, including any antennas attached thereto or forming a part thereof. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna, Standard. A device, partially or wholly exterior to a building, that is used for receiving television or radio signals for use on-site, or for transmitting short-wave or citizens band radio signals. See "Commercial Communications Antenna."

Apartment. See "dwelling types."

Applicant. The definition in the Pennsylvania Municipalities Planning Code, as amended, shall apply.

Assisted Living Facility. A building, or group of buildings, intended to house persons who require by reason of disability, old age or infirmity require some level of assistance to meet his / her daily basic needs of sustenance, hygiene, and/or medication, but who require a lesser level of assistance than that required by persons in a nursing home.

Auto, Boat and/or Mobile/Manufactured Home Sales. This use is any area, other than a street, used for the outdoor or indoor display, sale or rental of two or more of the following in operable condition: motor vehicles, recreation vehicles, boat trailers, farm machinery, motorcycles, trucks, utility trailers, construction vehicles, boats, or transportable mobile/manufactured homes in a livable condition. This use may include an auto repair garage as an accessory use provided that all requirements of such use are complied with. This use shall not include a mobile/manufactured home park (unless the requirements for that use are also met) or a junkyard. See requirements in Section 402.

Auto Repair Garage. An area where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of "auto service station." An auto repair garage shall include, but not be limited to, a use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding or rebuilding of transmissions. Any use permitted as part of an "auto service station" is also permitted as part of an "auto repair garage." This use shall not include activity meeting the definition of a "truck stop." See requirements in Section 402.

Auto Service Station. An area where gasoline is dispensed into motor vehicles, and where no repairs are conducted, except work that may be conducted that is closely similar in character to the following: sale and installation of oil, lubricants, batteries and belts and similar accessories and safety and emission inspections, and sale of pre-packaged propane. This use may include a "convenience store," provided that all of the requirements for such use are also met. A business that maintains an accessory use of providing motor fuel only for use by vehicles operated by that business shall not, by itself, be considered to be an auto service station. See storage limits and other requirements in Section 402.

Basement. An enclosed level of a building that is not a "story" and that is partly underground.

Bed and Breakfast, Inn. A dwelling and/or its accessory structure which includes the rental of overnight sleeping accommodations and bathroom access for temporary overnight guests, and that meets the maximum number of overnight guests specified in Section 402 for this use, and which does not provide any cooking facilities for actual use by guests, and which only provides meals to overnight guests, employees and residents of the dwelling. Overnight stays shall be restricted to transient visitors to the area, employees and their family. See requirements in Section 402.

Betting Use. A place used for lawful gambling activities, including but not limited to off-track pari-mutual betting and any use of electronic gambling devices. This term shall not regulate State Lottery sales or lawful "Small Games of Chance."

Billboard. A type of Off-Premises Sign. See Article 7.

Boarding House (Includes "Rooming House"). A residential use in which: a) room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or b) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of a hotel, dormitory, motel, life care center, personal care center, bed and breakfast inn, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boarding house shall primarily serve persons residing on-site for 5 or more consecutive days.

Buffer Yard. A strip of land that a) separates one use from another use or feature, and b) is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. A buffer yard may be a part of the minimum setback distance, but land within an existing or future street right-of-way shall not be used to meet a buffer yard requirement. See Section 803.

Building. Any structure having a permanent roof and walls and that is intended for the shelter, work area, housing or enclosure of persons, animals, vehicles, equipment or materials and that has a total area under roof of greater than 50 cubic feet. "Building" is interpreted as including "or part thereof." See the separate definition of "structure." Any structure involving a permanent roof (such as a covered porch or a carport) that is attached to a principal building shall be considered to be part of that principal building.

Building Coverage. The percentage obtained by dividing the total horizontal area covered by all buildings on a lot by the lot area of a lot. For the purposes of this definition, building coverage shall include all buildings that are under a roof.

Building Height. The vertical distance from the average of the finished ground level adjoining a building at all exterior walls to the height of the highest roof surface.

Building, Principal. A building used for the conduct of the principal use of a lot, and which is not an accessory building.

Building Setback. The vertical distance between an existing or proposed building and a lot line or street right-of-way line.

Building Setback Line. A line separating a "yard" from the area within which a building or use is allowed.

Building Width. The horizontal measurement between 2 vertical structural walls of one building that are generally parallel, measured in one direction that is most closely parallel to the required lot width. For attached housing, this width shall be the width of each dwelling unit, measured from the center of each interior party wall and from the outside of any exterior wall. For detached buildings, this width shall be measured from the outside of exterior walls.

Bulk Recycling Center. A use involving the bulk commercial collection, separation and/or processing of types of waste materials found in the typical household or office for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does not primarily involve the processing of non-recycled solid waste, unless the use also meets the applicable requirements for a solid waste transfer facility. This use shall only involve temporary storage of materials. This definition shall not include a "junkyard."

Camp. An area that includes facilities and structures for primarily outdoor recreational activities by organized groups, and/or that involves overnight stays within seasonal cabins or temporary tents by organized groups and/or transient visitors to the area. This term shall only include facilities that are primarily used during warmer months, and which have a maximum impervious coverage of 5 percent. This term shall not include a Recreational Vehicle Campground.

Campground. A development under single ownership of the land with sites being rented, leased or sold through time-share for use for tents or recreational vehicle sites for transient visitors to the area, and which may include associated recreational facilities.

Campground, Recreational Vehicle. A type of campground that involves persons temporarily living within recreational vehicles.

Canopy Trees. The individual trees which collectively form the woodland canopy, not including trees that are invasive species and not including trees with a trunk diameter of less than 6 inches measured 4.5 feet above the ground.

Cemetery. A place used for the burial of 2 or more humans. This ordinance does not regulate remains of cremated humans.

Christmas Tree Farm or Tree Farm. A type of crop farming involving the raising and harvesting of evergreen trees for commercial purposes. This may include the retail sale during November and December of trees that were produced on the premises.

Church. See "Place of Worship."

Clearcutting. The removal of all trees greater than 12 inches diameter at breast height on a site, or any portion thereof greater than one-half acre in contiguous area, during a single forestry operation or within a 3 year period.

Commercial Communications Tower or Antenna. A structure, partially or wholly exterior to a building, used for transmitting or re-transmitting electronic signals through the air, and that does not meet the definition of a "standard antenna." Commercial communications antennae shall include, but are not limited to, antennae used for transmitting commercial radio or television signals, or to receive such signals for a cable system, or to re-transmit wireless telecommunications. A commercial communications tower shall be a structure over 30 feet in height that is primarily intended to support one or more antenna. See standards in Section 402. This term shall not include a "standard antenna."

Commercial District. The GC and TC Districts.

Commercial Use. This term includes but is not limited to: retail sales, offices, personal services, auto sales, auto repair garages and other uses of a similar profit-making non-industrial nature. The sale of goods or services from a vehicle on a lot shall also be considered to be a commercial use.

Community Center. A use that exists solely to provide primarily indoor leisure and educational activities and programs and meeting space to members of the surrounding community and/or certain age groups, and which does not involve substantial use of machinery or noise producing equipment. The use also may include the preparation and/or provision of meals to low-income elderly persons, as accessory to leisure activities. This shall not include residential uses or a "treatment center."

Comprehensive Plan. The Joint Comprehensive Plan for Boyertown, Colebrookdale Township and Pike Township, as amended.

Conditional Use. A use listed as a conditional use under Article 3, which is only allowed after review by the Municipal Planning Commission and approval by the Governing Body, under Section 117.

Condominium. A set of individual dwelling units or other areas of buildings each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which is created under the Pennsylvania Uniform Condominium Act or Uniform Planned Community Act, as amended.

Conservation Easement. A legal agreement granted by a property owner that strictly limits the types and amounts of development that may take place on such property. Such easement shall restrict the original and all subsequent property-owners, lessees and all other users of the land.

Convenience Store. A use that primarily sells routine household goods, groceries, prepared ready-to-eat foods and similar miscellaneous items to the general public, but that is not primarily a restaurant, and that includes a building with a floor area of less than 7,000 square feet. A convenience store involving the sale of gasoline shall be regulated as an "auto service station."

Conventional Development. Development that is not approved under the Open Space Development provisions of this Ordinance. (Note: This type of development typically does not involve the preservation of significant open space.)

Crafts or Artisan's Studio. A use involving the creation, display and sale of arts and crafts, such as paintings, sculpture and fabric crafts. The creation of arts and crafts may also be permitted within a Home Occupation, provided the requirements for such use are met.

Crop Farming. The raising of products of the soil and accessory storage of these products. This term shall include orchards, tree farms, wineries, plant nurseries, raising of fish, greenhouses and keeping of animals in numbers that are routinely accessory and incidental to a principal crop farming use. See "Livestock, Raising of."

Curative Amendment. A process provided in the State Municipalities Planning Code that authorizes certain types of challenges to a Zoning Ordinance.

Day Care Center, Adult. A use providing supervised care and assistance to persons who need such daily assistance because of their old age or disabilities. This use shall not include persons who need oversight because of behavior that is criminal, violent or related to substance abuse. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care, Child. A use involving the supervised care of children under age 16 outside of the children's own home(s) primarily for periods of less than 18 hours per child during the average day. This use may also include educational programs that are supplementary to State-required education, including "nursery school" or "Head Start" programs. See also the definition of "adult day care center."

- A. The following three types of day care are permitted without regulation by this Ordinance: 1) care of children by their own "relatives," 2) care of children within a place of worship during regularly scheduled religious services, and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are "relatives" of the care giver.
- B. Family Day Care Home (or "Child Day Care as an Accessory Use"). A type of "day care" use that: 1) is accessory to and occurs within a dwelling unit, and 2) provides care for 4 to 6 children at one time who are not "relatives" of the primary care giver.
- C. Group Day Care Home. A type of "day care" use that: 1) provides care for between 7 and 12 children at one time who are not "relatives" of the primary care giver, 2) provides care within a dwelling unit, and 3) is registered with the applicable State agency.*
- D. Child Day Care Center. A type of "day care" use that: 1) provides care for 7 or more children at any one time who are not "relatives" of the primary care giver, 2) does not occur within a dwelling unit, 3) does not meet the definition of a Group Day Care Home, and 4) is registered with the applicable State agency.* See Article 3.

* Note: As of the adoption date of this Ordinance, such agency was the PA. Department of Public Welfare. See also Child Day Care Facility requirements in the Uniform Construction Code.

Density. The total number of dwelling units proposed on a lot divided by the "lot area," except when density is required to be calculated based upon net "buildable site area" under Section 308, or as otherwise stated by another provision of this Ordinance.

DEP. Shall mean the Pennsylvania Department of Environmental Protection and its relevant bureaus.

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 mobile homes; streets, and other paving; utilities; filing, grading, and

excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

Diameter at Breast Height (dbh). The diameter of a tree trunk, measured at 4.5 feet from the ground surface at the point of the highest elevation in contact with the trunk of such tree.

District (or Zoning District). A land area within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

Dormitory. A building used as living quarters for the exclusive use of bona-fide full-time faculty or students of an accredited college or university or primary or secondary school, and which is owned by and on the same lot as such college, university or school.

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

Drive-through Service. An establishment where at least a portion of patrons are served while the patrons remain in their motor vehicles.

Dwelling. A building used as non-transient living quarters, but not including a boarding house, hotel, motel, hospital, nursing home or dormitory. A dwelling may include a use that meets the definition of a "sectional home."

Dwelling Types. This Ordinance categorizes dwellings into the following types:

- A. Conversion Apartment. A new dwelling unit created within an existing building within the standards of Article 4 and where permitted by Article 3 and meeting the floor area requirements of Section 801.
- B. Duplex. A building that includes 2 apartment dwellings and which is not a Twin Dwelling.
- C. Apartments or Multi-Family Dwellings. Two or more dwelling units within a building that do not meet the definition of a single family detached dwelling, twin dwelling or townhouse / rowhouse. The individual dwelling units may be leased or sold for condominium ownership. If a building only includes two apartments, it shall be considered to be a Duplex.
- D. Sectional or "Modular" Home. A type of dwelling that meets a definition of any dwelling type and which was manufactured off-site and then assembled and completed on the site, and that was constructed under the Municipal Construction Codes and not the Federal requirements for Manufactured Housing.
- E. Single Family Detached Dwelling. One dwelling unit in one building accommodating only one family and having open yard areas on all sides.
 1. Mobile/Manufactured Home. For a dwelling constructed after 1977, this term shall mean a dwelling that was constructed under the Federal construction requirements for Manufactured Housing under regulations of the U.S. Department of Housing and Urban Development. For a dwelling constructed before 1977, this term shall mean a type of single family detached dwelling that meets all of the following requirements: a) is transportable in a single piece, or two substantial pieces designed to be joined into one integral unit capable of again being separated for towing, b) is designed for permanent occupancy, c) which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, d) is constructed so that it may be used with or

without a permanent foundation, and e) is not a "Recreation Vehicle." The terms "mobile home" and "manufactured home" have the same meaning. This term is different from a "Sectional home," which is defined above.

- F. Twin Dwelling Unit. One dwelling unit accommodating one family that is attached to and completely separated by a vertical unpierced fire resistant wall to only one additional dwelling unit. One side yard shall be adjacent to each dwelling unit. Each unit may or may not be on a separate lot from the attached dwelling unit.
- G. Townhouse or Rowhouse. One dwelling unit that is attached to 2 or more dwelling units, and with each dwelling unit being completely separated from and attached to each other by unpierced vertical fire resistant walls. Each dwelling unit shall have its own outside access. Side yards shall be adjacent to each end unit.

Dwelling Unit. A single habitable living unit occupied by only one "family." See definition of "family." Each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping and cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. A dwelling unit shall not include two or more separate living areas that are completely separated by interior walls so as to prevent interior access from one living area to another, unless approved as "Unit for Care of Relative".

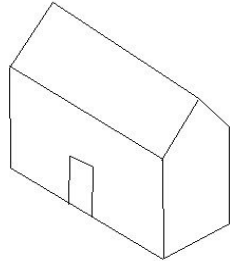
Easement. A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

Emergency Services Station. A building for the housing of fire, emergency medical or police equipment and for related activities. This use may include housing for emergency personnel while on-call.

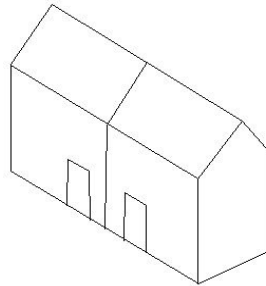
Employees. The highest number of workers (including both part-time and full-time, both compensated and volunteer, and both employees and contractors) present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.

Essential Services or "Essential Public Utility Services." Utility or municipal uses that are necessary for the preservation of the public health and safety and that are routine, customary and appropriate to the character of the area in which they are to be located. Essential services shall include the following and closely similar facilities: sanitary sewage lines, water lines, electric distribution lines, stormwater management facilities, cable television lines, natural gas distribution lines, fire hydrants, street lights and traffic signals. Essential services shall not include a central sewage treatment plant, a solid waste disposal area or facility, commercial communications towers, a power generating station, septic or sludge disposal, offices, storage of trucks or equipment or bulk storage of materials.

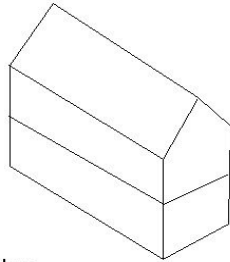
DWELLING TYPES



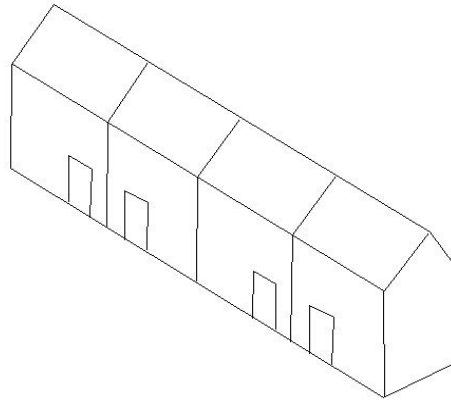
Single Family Detached Dwelling



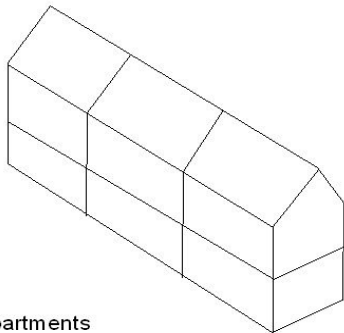
Two Twin Dwelling Units



Duplex



Townhouses or Rowhouses



Apartments

Family. One or more individuals related by blood, marriage or adoption (including persons receiving formal foster care) or up to 4 unrelated individuals who maintain a common household and live within one dwelling unit. However, within the Borough of Boyertown, such limit of 4 unrelated persons shall be reduced to a maximum of 3. A family shall also expressly include numbers of unrelated persons provided by the Group Home provisions residing within a licensed group home, as defined herein. Through those provisions and Section 111.D.5, the Municipality's intent is to comply with the Federal Fair Housing Act, as amended.

Farm. A lot used for the raising of agricultural or dairy products and/or the raising of livestock or poultry for commercial purposes. This term may include one dwelling unit, buildings used for the agricultural activities and the storage of equipment used for the agricultural activities.

Fence. A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier that is constructed of wood, chain-link metal, vinyl or aluminum and/or plastic inserts.

Financial Institution. An establishment primarily involved with loans and monetary, not material, transactions and that has routine interactions with the public.

Floodplain. See definitions of this term and related terms in the municipal Floodplain Regulations. For Colebrookdale Township, see the definitions in Section 510.

Floor Area, Total. The total floor space within a building(s) measured from the exterior faces of exterior walls or from the centerlines of walls separating buildings. Floor area shall specifically include, but not be limited to: a) fully enclosed porches, and b) basement or cellar or attic space that is potentially habitable and has a minimum head clearance of at least 7 feet. Floor area shall not include unenclosed structures.

Forest. Shall have the same meaning as "Woodland," which is defined in this Section.

Forest Canopy. The aerial cover formed by the crowns of trees with a trunk diameter of more than 6 inches at a height of 4.5 feet above the ground.

Forest Interior Habitat (FIN). The portion of "woodland" which is located more than 300 feet from the outermost drip line of all trees along the edge of the subject woodland area. Generalized mapping of Forest Interior Habitat is indicated on the Woodland Classification Map.

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

Garage Sale. The accessory use of any lot for the occasional sale or auction of only common household goods and furniture and items of a closely similar character.

Glare. A sensation of brightness within the visual field which causes annoyance, discomfort or loss in visual performance, visibility and/or ability to focus.

Governing Body. The Borough Council of Boyertown Borough, the Board of Commissioners of Colebrookdale Township and/or Board of Supervisors of Pike Township, as applicable.

Government Facility, Other than Municipally-Owned. A use owned by a government, government agency or government authority for valid public health, public safety, recycling collection or similar governmental purpose, and which is not owned by Boyertown, Colebrookdale Township or Pike Township or an authority created solely or jointly by one or more of those 3 municipalities. This term shall not include uses listed separately in the table of uses in Article 3, such as "publicly owned recreation." This term shall not include a prison.

Group Home. A dwelling unit operated by a responsible individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the persons served due to age, emotional, mental, developmental or physical disability. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the Federal Fair Housing Act as amended. Group homes must be licensed where required by any appropriate government agencies (such as by the PA Department of Public Welfare), and a copy of any such license must be delivered to the Zoning Officer prior to the initiation of the use. A Group Home typically involves an individual residing on the premises for more than 30 days at a time.

- A. Group homes shall be subject to the same limitations and regulations by this Ordinance as the type of dwelling unit they occupy.
- B. It is the express intent of the Municipality to comply with all provisions of the Federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term.
- C. A Group Home shall not include a "Treatment Center."

* NOTE: The Federal Fair Housing Act Amendments defined "handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21." This definition was subsequently adjusted by Section 512 of the Americans With Disabilities Act to address certain situations related to substance abuse treatment.

Hazardous Substances. A product or waste, or combination of substances that because of the quantity, concentration, physical or infectious characteristics, if not properly treated, stored, transported, used or disposed of, or otherwise managed, would create a potential threat to public health through direct or indirect introduction into ground water resources and the subsurface environment which includes the soil and all subsequent materials located below. Such hazardous material includes, but is not limited to materials which are included on the latest edition of one or more of the following lists:

- A. "Hazardous Substances" as defined pursuant to Section 311 of the Federal Clean Water Act, or its successor provisions.
- B. "Hazardous Substances" as defined pursuant to the Federal Comprehensive Environmental Response, Compensation and Liability Act, or its successor provisions.

Hazardous Substances, Extremely. Hazardous substances included on the list of "Extremely Hazardous Substances" in 29 Code of Federal Regulations Part 355, or its successor provisions and that are stored or used in quantities above the threshold reportable limits in such regulations.

Hedgerow. A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along

roads, fence lines, property lines, or between fields, and may occur naturally or be specially planted (such as a windbreak). A hedgerow may also meet the definition of “Woodland”.

Height. See "Building Height." To measure the height of any structure that is not a building, it shall be the total vertical distance from the average elevation of the proposed ground level to the highest point of a structure. For height of signs, see Article 6 entitled "Signs."

Heliport. An area used for the take-off and landing of helicopters, and related support facilities. A Private Heliport shall be limited to 15 total take-offs and landings in any 7 day period, and which is not open to the general public. A Public Heliport is one that does not meet the definition of a Private Heliport.

Heritage Tree. This term only applies in Pike Township. See the Pike Township Subdivision and Land Development Ordinance.

Higher Value Species. Any tree(s) of the following species where greater than or equal to 12 inches diameter at breast height (dbh):

Trees, Botanical Name	Common Name
Acer saccharium	Sugar Maple
Carya cordiformis	Bitternut Hickory
Carya glabra	Pignut Hickory
Carya ovata	Shagbark Hickory
Carya tomentosa	Mockernut Hickory
Fraxinus americana	White Ash
Juglans nigra	Eastern Black Walnut
Quercus alba	White Oak
Quercus bicolor	Swamp White Oak
Quercus coccinea	Scarlet Oak
Quercus montana	Chestnut Oak
Quercus palustris	Pin Oak
Quercus rubra	Northern Red Oak
Quercus velutina	Black Oak

Home Occupation. A routine, accessory and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building and that meets all of the Home Occupation requirements. A Minor Home Occupation shall be a Home Occupation that meets the additional requirements for a Minor Home Occupation. The term Minor Home Occupation includes but is not limited to the term "No-Impact Home Occupation," as defined in the State

Municipalities Planning Code. A Major Home Occupation shall be a Home Occupation that does not meet the requirements for a Minor Home Occupation.

Note: In most cases, under Section 306, a Minor Home Occupation is permitted by right, while a Major Home Occupation typically needs special exception approval from the Zoning Hearing Board.

Homeowners Association. Any incorporated nonprofit organization operating under recorded land agreements through which: 1) each lot and/or homeowner in a planned residential or other described land area is automatically a member; 2) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and 3) the charge if unpaid becomes a lien against the property.

Hospital. A use involving the diagnosis, treatment or other medical care of humans that includes, but is not limited to, care requiring stays overnight. A medical care use that does not involve any stays overnight shall be considered an "Office." A hospital may involve care and rehabilitation for medical, dental or mental health, but shall not primarily include housing or treatment of the criminally insane or persons actively serving an official sentence after being convicted of a felony. A hospital may also involve medical research and training for health care professionals.

Hotel or Motel. A building or buildings including rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than 90 days shall be considered a "boarding house" and shall meet the requirements of that use. See "bed and breakfast" use. A hotel or motel may also include a restaurant, meeting rooms, nightclub, newsstand, amusement arcade, gift shop, swim club, exercise facilities, tavern and similar customary accessory amenities, and provided any such use shall only be allowed as a principal use of the property if such use is allowed by the applicable district regulations.

Hunting and Fishing Club. Land owned by an organized group of persons formed as a club that is used for hunting, fishing, and similar types of passive recreation, and which involves no buildings except those for the recreational, lodging, eating and sanitary facilities for members and invited guests and routinely accessory storage buildings.

Hydric Soil. A soil that is classified by the U.S. Natural Resource Conservation Service as a "hydric soil" or that is further delineated by professional analysis acceptable to the Township. A hydric soil is a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophytic vegetation.

Industrial District. The GI/Q and LI zoning districts.

Impervious Coverage. The percentage that results from dividing the land area on a lot covered by all "impervious surfaces" by the total land area of the lot, or divided by Net Buildable Site Area where required under Section 308.

- A. For a townhouse development, the maximum impervious coverage may be measured as a maximum for the entire development after completion, after the deletion of street rights-of-way (or cartway where a street right-of-way where not exist), as opposed to regulating each individual townhouse lot.

Impervious Surfaces. For the purposes of this Ordinance, impervious surfaces shall be defined as areas covered by buildings, paving or concrete, or other man-made surfaces that have a runoff coefficient of 0.7 or greater. Areas of stone regularly used for vehicle parking and movement shall be considered impervious for the purposes of restricting impervious coverage under the zoning ordinance. In case of doubt, the Municipal Engineer shall determine whether a surface is impervious.

Improvement. Construction or erection of any kind of structure, utility, and roadway, including but not limited to, grading and other land modifications which will permit the construction or erection of any kind of structure, utility, and roadway.

Invasive Alien Species. Plant species not native to local natural communities that grow and spread aggressively and displace native plants. Also called "exotics," these species tend to reproduce prolifically and out-compete native plants for light, space, and nutrients, reducing plant diversity and wildlife habitat. Such species include but are not limited to the following: Rosa multiflora (Multiflora Rose, a shrub), Eleagnus umbellata (Autumn Olive, a shrub), Lonicera japonica (Japanese Honeysuckle, a vine), Lonicera spp (Amur, Morrow, Bells, or Tartarian honeysuckle, non-native shrubs), Celastrus orbiculatus (Oriental Bittersweet, a vine), Acer platanoides (Norway Maple, a tree), Pyrus calleryana (Callery pear, a tree), Ulmus pumila (Siberian elm, a tree), Ampelopsis brevipedunculata (Porcelain-berry, a vine), Ligustrum obtusifolium (Privet, a shrub) Ailanthus altissima (Tree-of-Heaven, a tree), Viburnum plicatum (Doublefile viburnum, a shrub) and Polygonum perfoliatum (Mile-a-Minute Weed, a vine).

Junk. Any discarded, unusable, scrap or abandoned man-made or man-processed material or articles stored outside of a completely enclosed building and which covers over 200 square feet of land area. Examples of junk include: scrap metal, used furniture, used appliances, used motor vehicle parts, worn-out machinery and equipment, used containers, and scrap building materials. Junk shall not include: a) solid waste temporarily stored in an appropriate container that is routinely awaiting imminent collection and proper disposal, b) toxic substances, c) yard waste or tree trunks, d) items clearly awaiting imminent recycling at an appropriate location, e) building materials awaiting imminent use at an on-going building, or f) "clean fill" as defined by State environmental regulations.

Junk Vehicle. Includes any vehicle or trailer that does not display a current State license and registration and that meets any of the following conditions:

- A. cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs,
- B. cannot be towed, in regards to a trailer designed to be towed,
- C. has been demolished beyond repair,
- D. has been separated from its axles, engine, body or chassis, and/or
- E. includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

See the definition of "unlicensed vehicle" and the regulations for such in the Property Maintenance Code.

Junkyard.

- A. Land or a structure used for the collection, storage, dismantling, processing and/or sale, other than within a completely enclosed building, of material of one or more of the following types:
 - 1. "Junk." (see definition) covering more than one percent of the lot area.

2. Two or more "junk vehicles" that are partly or fully visible from an exterior lot line, dwelling and/or public street. This shall not apply to such vehicles stored as part of an auto repair garage or auto service station within the requirements of Section 402.
 3. One or more mobile/manufactured homes that are not in a habitable condition.
- B. Junk stored within a completely enclosed building for business purposes shall be considered a warehouse.
- C. A junkyard specifically shall include but not be limited to a metal scrap yard or auto salvage yard. See any Municipal Property Maintenance Code that regulates unlicensed and inoperable vehicles on lots and the State Vehicle Code for unlicensed vehicles parked on a street.

Kennel. The keeping of a greater number of dogs and/or cats than are permitted under the "Pets, Keeping of" provisions of this Ordinance, and which may also include temporary keeping of other household pets. In addition, in any case, if more than 10 dogs age 6 months or older are kept, it shall be considered a Kennel.

Lakes and Ponds. Natural or artificial bodies of water which retain water year-round, other than facilities engineered for stormwater management or pollution control. Artificial ponds may be created by dams, or result from excavation. The shoreline of such waterbodies shall be measured from the maximum condition rather than permanent pool if there is any difference. Lakes are bodies of water 2 or more acres in extent. Ponds are any water body less than 2 acres in extent.

Land Development. The definition in the municipal Subdivision and Land Development Ordinance shall apply.

Land Disturbance. Any activity which exposes soils, alters topography, and/or removes the majority of natural vegetation, other the following: 1) removal of hazardous or invasive vegetation; 2) customary agricultural practices such as tilling, plowing, mowing, and non-forestry harvesting; and 3) customary landscaping practices (such as mowing, planting, and trimming ornamental vegetation). Any activity involving removing of healthy trees with a trunk diameter of 6 inches or greater (measured 4.5 feet above the ground) shall also be considered to be Land Disturbance.

Landowner. The owner of a legal or equitable interest in land, including the holder of a written, signed and active option or contract to purchase or a person leasing the property (if authorized under the lease to exercise the right of the landowner) or authorized officers of a partnership or corporation that is a "landowner."

Lighting, Diffused. Non-LED illumination that passes from the source through a translucent cover or shade.

Livestock and Poultry, Raising of. The raising and keeping of livestock, poultry or insects beyond the number and type allowed under the "Keeping of Pets" section and beyond what is customarily incidental to a principal "crop farming" use. Raising of livestock or poultry shall not include a slaughterhouse nor a stockyard used for the housing of animals awaiting slaughter.

Livestock and Poultry, Intensive Raising of.

- A. This term shall mean an Animal Husbandry use involving an average of 2 or more "animal equivalent units" (see definition below) of live weight per acre of livestock or poultry, on an annualized basis.

- B. An Animal Equivalent Unit (AEU) is 1,000 pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit. This weight is calculated on an annualized basis. These units shall be calculated as provided under the State Nutrient Management Act and accompanying regulations. Note: the provisions of this Zoning Ordinance are based upon acreage of a lot, and not acreage that is available for disposal of wastes. (Note: Two animal equivalent units per acre would be roughly equal to 1.7 dairy cattle, 6.7 swine, 10 sheep, 500 poultry or 400 rabbits per acre.)

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. The term "lot" shall mean a lot of record in one ownership according to official County records. The area and depth of a lot shall be measured to the legal right-of-way line of the street, and all lots shall front on public or private streets.

- A. Lot, Corner. A lot abutting on 2 intersecting streets which has an interior angle of less than 135 degrees at the intersection of right-of-way lines of two streets. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangent to the curve at the points beginning within the lot or at the points of intersection of the side lot lines with the street lines intersect at an angle of less than 135 degrees.
- B. Lot, Flag. A lot that does not meet the minimum lot width at the minimum building setback line and has a 50 feet minimum width access strip to connect to a street. Where lease lines are used to provide coordinated internal vehicle access within a business development, such lease lines shall be allowed without being regulated as flag lots.
- C. Lot, Through. A lot that has frontage on two parallel or approximately parallel streets, and which does not meet the definition of a "Corner Lot."

Lot Area. The horizontal land area contained within the lot lines of a lot (measured in acres or square feet). For the purposes of determining compliance with the minimum lot area, the following shall be excluded:

- A. Areas within the "existing" legal rights-of-way of: 1) any proposed or existing public streets or alleys as it exists after development, or 2) any proposed or existing commonly maintained private streets that serve more than one lot. (Note: Other sections of this Ordinance, such as Townhouse Development, may specifically permit proposed streets to be included in determining density for a specific use.) Within Pike and Colebrookdale Townships, land area with any designated ultimate or future right-of-way that has been established shall also be deleted from lot area.
- B. Areas that are currently or will be required to be dedicated as common or preserved open space. (Note: Other sections of this Ordinance, such as Open Space Development, may specifically permit proposed common open spaces to be included in determining density for a specific use.)
- C. Features required to be excluded from "Lot Area" under Article 3 of this Ordinance. Wetlands shall not count towards the minimum lot area.
- D. Portions of a Flag Lot that have a width of less than 30 feet shall not be counted towards meeting minimum lot area.

Lot Area, Average Per Dwelling Unit. As provided in Sections 307 or 308, shall mean the average lot area for dwelling units on a site. Individual lots may be smaller or larger than the average, provided the overall average requirement is met.

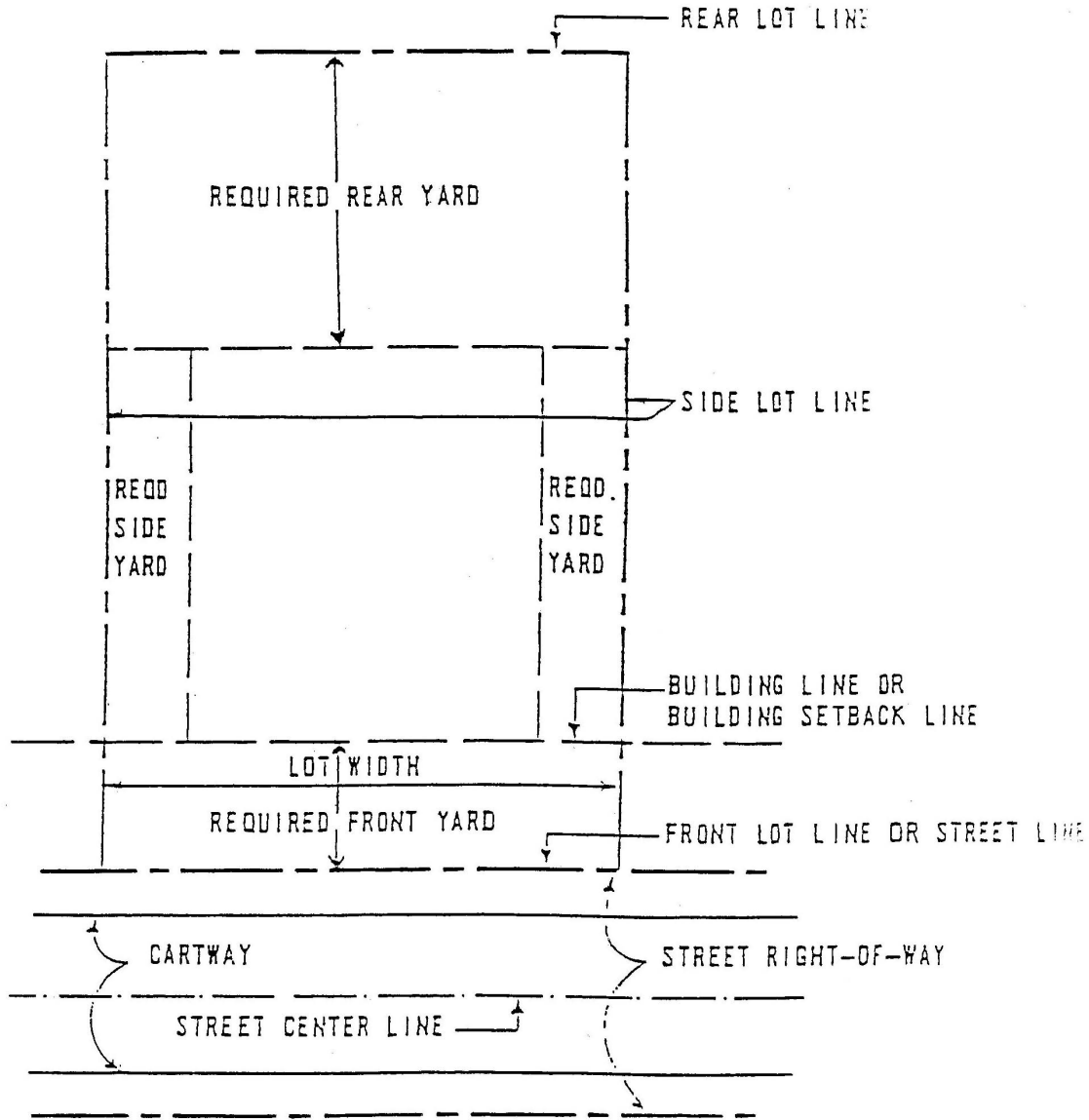
Lot Depth. The average distance from the street line of a lot to its opposite rear lot line, measured in the general direction of the side lot lines.

Lot Lines. The property lines bounding the lot. Wherever a property line borders a public street, for the purposes of determining setbacks, the lot line shall be considered to be the street right-of-way line that will exist at the time of completion of a subdivision or development.

- A. Front Lot Line (Street Line). A lot line separating the lot from the existing or proposed street right-of-way. For a corner lot, see Section 803.B. In the case of a lot having no street frontage, or a lot of an odd shape, or a flag lot, the lot line closest to the street shall be considered a front lot line. Every lot shall have a front yard.
- B. Rear Lot Line. Any lot line which is parallel to or within 45 degrees of being parallel to a front street right-of-way line. In the case of a lot having no street frontage, or a lot of an odd shape, or a flag lot, only the one lot line furthest from any street shall be considered a rear lot line. Every lot shall have a rear yard.
- C. Side Lot Line. Any lot line other than a front or rear lot line.

Lot Width. The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to 75 percent of the width that would otherwise be required. See also Section 801 concerning lot frontage.

Terms For Lot Requirements
For Illustrative Purposes Only



Lot Width. The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to 75 percent of the width that would otherwise be required.

Massage Parlor. An establishment that meets all of the following criteria:

- A. Massages are conducted involving one person using their hands and/or a mechanical device on another person below the waist, in return for monetary compensation, and which does not involve persons who are related to each other.
- B. The use does not involve a person licensed or certified by the State as a health care professional or a massage therapist certified by a recognized professional organization that requires substantial professional training. "Massage therapy" by a certified professional shall be considered "personal service."
- C. The massages are not conducted within a licensed hospital or nursing home or an office of a medical doctor or chiropractor or as an incidental accessory use to a permitted exercise club or high school or college athletic program.
- D. The massages are conducted within private or semi-private rooms.

Massage Therapy. A type of personal service use involving a person licensed or certified by the State as a health care professional or a massage therapist certified by a recognized professional organization that requires a minimum of 80 hours of professional training or who has been certified by the State of Pennsylvania as a Massage Therapist.

Membership Club. An area of land or building routinely used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business.

- A. This use shall not include a target range for outdoor shooting of firearms, boarding house, tavern, restaurant or retail sales unless that particular use is permitted in that District and the requirements of that use are met.
- B. See also "After Hours Club" and "Hunting and Fishing Clubs," which are distinct uses.

Mineral Extraction. The removal or quarrying from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. This use also includes accessory stockpiling and processing of mineral resources. "Mineral extraction" includes but is not limited to the extraction of sand, gravel, topsoil, limestone, sandstone, oil, coal, clay, shale, and iron ore. The routine movement of and replacement of topsoil during construction shall not by itself be considered to be mineral extraction. See also regulations for "Groundwater or Spring Water Withdrawal," which is a separate use.

Mobile/Manufactured Home. See under "Dwelling Types."

Mobile/Manufactured Home Park. A lot under single ownership which includes two or more mobile/manufactured homes for residential use and which typically involves households paying rent to the owner of the park. The individual manufactured homes may be individually owned. A development of mobile/ manufactured homes that is subdivided into individual lots shall be regulated in the same manner as a subdivision of site-built homes, and shall not be considered to be a "mobile home park."

Motor Vehicle. An automobile, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle or similar means of transportation designed to operate carry persons or cargo on roads and that is powered by mechanized means.

Municipalities Planning Code or State Planning Code. The Pennsylvania Municipalities Planning Code, as reenacted and amended.

Municipality. Boyertown Borough, Colebrookdale Township or Pike Township, Berks County, Pennsylvania, as applicable.

Net Buildable Site Area. See definition under "Site" in this section.

Nightclub. An establishment that offers amplified live music performances or amplified music for dancing after 12 midnight, sells alcoholic beverages primarily for on-site consumption, includes hours open to patrons after 12 midnight, and has a building capacity of over 200 persons.

Nonconforming Lot. A lot which does not conform with the minimum lot width or area dimensions specified for the district where such lot is situated, but was lawfully in existence prior to the effective date of this Ordinance, or amendments hereinafter enacted.

Nonconforming Structure. A structure or part of a structure that does not comply with the applicable lot coverage, dimensional and other provisions in this Ordinance, as amended, where such structure lawfully existed prior to the enactment of such Ordinance or applicable amendment(s). Such nonconforming structures include but are not limited to signs.

Nonconforming Use. A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendment(s), where such use was lawfully in existence prior to the enactment of this Ordinance or applicable amendment(s). A use granted by variance is not a nonconforming use.

Nursing Home. A facility licensed by the State for the housing and intermediate or fully skilled nursing care of 3 or more persons.

Office. A use that involves administrative, clerical, financial, governmental or professional operations and operations of a similar character. This use shall include neither retail nor industrial uses, but may include business offices, medical offices, laboratories, photographic studios, and/or television or radio broadcasting studios.

Open Space, Preserved or Common. A parcel or parcels of land within a tract which meets all of the following standards:

- A. is designed, intended and suitable for active or passive recreation by residents of a development or the general public, or to be used for agricultural preservation,
- B. is covered by an agreement or declaration that ensures perpetual maintenance, if not intended to be publicly owned,
- C. will be deeded to the Municipality and/or preserved by a deed restriction or conservation easement to permanently prevent uses of land other than "preserved open space" and non-commercial recreation, and
- D. does not use any of the following areas to meet minimum preserved open space requirements:
 - 1) existing street rights-of-way,
 - 2) vehicle streets or driveways providing access to other lots,
 - 3) land beneath building(s) or land within 20 feet of a building, except that: (i) accessory buildings and pools clearly intended for noncommercial recreation may be approved in the

Preserved Open Space in Colebrookdale Township, and (ii) agricultural buildings and a farmstead are permitted within Preserved Open Space approved by the Municipality for agricultural preservation,

- 4) off-street parking (other than that clearly intended for noncommercial recreation),
 - 5) area(s) needed to meet a requirement for an individual lot,
 - 6) for land intended to be open to the public, that does not have provisions for entry with a 15 foot minimum width by pedestrians from a street open to the public or from adjacent preserved open space that has access to such a street,
 - 7) land that includes a stormwater detention basin, except for a basin or portions of a basin that the applicant proves to the satisfaction of the Governing Body would: a) be reasonably safe and useful for active or passive recreation during the vast majority of weather conditions or b) serve as a scenic asset resembling a natural pond,
 - 8) portions of land that have a width of less than 50 feet,
 - 9) areas that are under water during normal weather conditions,
 - 10) areas that are under electric transmission lines that are designed for a capacity of 35 kilovolts or greater.
- E. Each square foot of preserved open space that is of 25 percent or greater slopes and each square foot within the 100 year floodplain shall only count as one-half square foot for the purposes of determining the amount of preserved open space.

Open Space Development. An optional type of residential development that involves the permanent preservation of preserved open space, and that places dwellings on the most suitable portions of a tract, on lots that are typically smaller than would otherwise be allowed with conventional development. See Section 309.

Open Space Ratio. The percentage that results when the amount of land area in acres or portions thereof that meets the requirements for "Preserved Open Space" is divided by the Total Base Site Area.

Ordinance, This. The Boyertown Borough and Colebrookdale and Pike Townships Joint Zoning Ordinance, including the Official Zoning Map, as amended.

PA. The Commonwealth of Pennsylvania.

Parking. Shall mean off-street parking and aisles for vehicle movement unless otherwise stated.

Pathogen Free Laboratory Animals. Rodents which are bred and reared in a manner to maintain them in a disease-free condition for sale to the scientific community for use in the responsible advancement of medical science.

PennDOT. The Pennsylvania Department of Transportation, or its successor, and its subparts.

Permitted By Right Uses. Allowed uses in which zoning matters may be approved by the Zoning Officer, provided the application complies with all requirements of the Zoning Ordinance. A "nonconforming use" shall not be considered to be a permitted by right use, a special exception use or a conditional use.

Personal Care Home or Center. For the purposes of this Ordinance, shall have the same meaning as "Assisted Living Facility."

Personal Service. An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barber and beauty shops, photography studios, travel agency, shoe repair shops, household appliance repair shops, and other similar establishments, but shall not include any "adult uses," as herein defined.

Pets, Keeping of. The keeping of domesticated animals of types that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, small birds, gerbils, rabbits and other animals commonly sold in retail pet shops. Keeping of wild or exotic animals shall comply with State regulations.

Picnic Grove, Commercial. An area of open space and pavilions that is not publicly owned and is used for group picnics and related outdoor recreation, and which is used on a commercial basis.

Places of Worship. Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship for more than 10 persons at a time and that are operated for nonprofit and noncommercial purposes. If a religious use is primarily residential in nature, it shall be regulated under the appropriate "dwelling type."

Principal Building. See "Building Principal."

Principal Structure. The structure in which the principal use of a lot is conducted. Any structure that is physically attached to a principal structure shall be considered part of that principal structure.

Principal Use. A dominant use(s) or main use on a lot, as opposed to an accessory use.

Prison. A correctional institution within which persons are required to inhabit by criminal court actions or as the result of a criminal arrest.

Public Notice. Notice required by the Pennsylvania Municipalities Planning Code. (See definition in Section 107 of such law.)

Public Utility Facility. A facility operated for the purposes of providing wired or cellular telephone service, electricity distribution service, central sanitary sewage service, central water supply service and natural gas distribution service. This term shall not include "Essential Services" (which are permitted by right in all districts), commercial communications towers/antenna, or an power generating plant, but may include sewage pumping stations, telephone switching facilities, electrical sub-stations and similar facilities.

Publicly Owned Recreation. Leisure facilities owned, operated or maintained by governmental entities for use by the general public. "Publicly Owned Recreation" is a distinct use from "Indoor Recreation" or "Outdoor Recreation."

Recreation. The offering of leisure-time activities to unrelated persons. This term shall not include any "Adult Use." For the purposes of this Ordinance, recreation facilities shall be permitted by right as an accessory use when clearly limited to residents of a development and their occasional invited guests.

- A. Indoor Recreation. A type of "recreation" use that: a) does not meet the definition of Outdoor Recreation, and b) is used principally for active or passive recreation, such as a bowling alley, roller skating, ice skating, commercial batting practice use, and similar uses.

- B. Outdoor Recreation. A type of "recreation" use that: a) has a total building coverage of less than 15%, and b) is used principally for active or passive recreation, such as a golf driving range, miniature golf course, amusement park and similar uses. This term shall not include any use listed separately as a distinct use by Article 3, such as a firearms target range.

Recreational Vehicle. A vehicle which is:

- A. Built on a single chassis;
- B. Not more than 400 square feet, measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Note - For the purposes of floodplain regulations to meet Federal requirements, a separate definition is provided in Section 510.B.

Recycling Collection Center. A use for collection and temporary storage of more than 500 pounds of common household materials for recycling, but that does not involve processing or recycling other than routine sorting, baling, and weighing of materials. This term shall not include the indoor storage of less than 500 pounds of household recyclables and their customary collection, which is a permitted by right accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted by right accessory use to a public or private primary or secondary school, a place of worship, a Municipally-owned use, or an emergency services station.

Related or Relative. Persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: spouse, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, or parent-in-law. This term specifically shall not include relationships such as second, third, or more distant cousins. See definition of "Dwelling Unit."

Repair Service. Shops for the repair of appliances, watches, guns, bicycles and other household items, but does not involve repair of motor vehicles.

Residential Accessory Structure (includes "Building") or Use. A use or structure that is clearly accessory, customary, and incidental and subordinate to a principal residential use on a lot, including the following uses and uses that are very similar in nature: Garage (household), Carport, Tennis Court, Garage Sale, Household Swimming Pool, Gazebo, Storage Shed or Greenhouse. No business shall be conducted in a household garage or storage shed that is accessory to a dwelling, except as may be allowed as a home occupation.

Residential District(s). The RC, RC-O, RA, LDR, LDR/B, MDR and GR Zoning Districts.

Residential Lot Lines. The lot lines of a lot that contain an existing primarily residential use or is undeveloped and zoned as a Residential District.

Restaurant.

- A. An establishment that sells ready-to-consume food or drink and that routinely involves the consumption of at least a portion of such food on the premises.
- B. A restaurant may include the accessory sale of alcoholic beverages. However, if such sale is the majority of the total trade, the requirements of a "tavern" or nightclub as applicable must be met.

C. See "Drive-Through Service" in this section.

Retail Store. A use in which merchandise is sold or rented to the general public, but not including the following: sales of motor vehicles or boats, adult movie theater, adult bookstore, manufacturing, tavern, car wash, auto service station, auto repair garage, convenience store, or any restaurant.

Right-of-Way. An area or strip of land which is reserved for use by or as a street or by one or more utilities or by the public or by others. The term "Right-of-Way" by itself shall mean the Street Right-of-Way, unless another meaning is otherwise stated or clearly implied from the context in which it is used.

- A. Street Right-of-Way, Existing or Legal. The official established street right-of-way that either the Municipality or the State presently own or hold another interest in the land, or will own after the completion of any proposed subdivision, land development or development of a use under this Ordinance, whether by dedication or otherwise.
- B. A "Right-of-way, Future or Ultimate" may also be required in the Subdivision and Land Development Ordinance.

Riparian Buffer. An area adjacent to a wetland or perennial watercourse that forms a transition area between the aquatic and terrestrial environment and is intended to be comprised of trees and other vegetation. The riparian buffer is intended to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. The width of such margin shall be measured horizontally from each edge of the water along perennial watercourses. In the case of wetlands, buffers shall be measured from each edge of the jurisdictional delineation. The riparian buffer shall include three Zones:

- A. Zone One: Inner Riparian Buffer - This zone occupies areas of land 35 feet from each edge of a wetland of over 0.25 acre and 50 feet from each edge of water of a perennial watercourse at bankflow, whichever is greater. Where very steep slopes are located within and beyond such width, Zone One shall extend to include the entirety of the very steep slopes up to a maximum of 100 feet from the perennial watercourse or 50 feet from the wetland, whichever is greater.
- B. Zone Two: Outer Riparian Buffer - This zone occupies areas of land 100 feet from each edge of water of a watercourse at bankflow, but does not include areas within the Zone One.
- C. Zone Three: Exceptional Value Waters - This zone applies within watersheds of waterways that have been designated by the Pennsylvania Department of Environmental Protection as Exceptional Value special protection waters. This zone occupies areas of land 35 feet from each edge of a wetland of over 0.25 acre and 150 feet from each edge of water of a watercourse at bankflow, whichever is greater, but does not include areas within Zones One or Two.

Rooming House. See "Boarding House."

School, Public or Private Primary or Secondary School. An educational institution primarily for persons between the ages of 5 and 19 that primarily provides State-required or largely State-funded educational programs. This term shall not include "Trade Schools."

Screening. Year-round plant material of substantial height and density designed to provide a buffer.

Self-Storage Development. A building or group of buildings divided into individual separate access units which are rented or leased for storage. Any outdoor storage shall be limited to vehicles and shall be clearly accessory to the indoor storage.

Setback Line. A line separating a “yard” from the area within which a building or use is allowed.

Sewage Service, Central. Sanitary sewage service to a building by a Municipally-approved sewage collection and disposal system that serves 5 or more lots, and which includes an appropriate mechanism to ensure long-term professional operation and maintenance of the system.

Sewage Service, On-Lot. Sanitary sewage service to a building that does not meet the definition of Central Sewage Service, such as but not limited to, an individual on-lot septic system.

Sewage Service, Public. Central sanitary sewage service by a system owned and/or operated by a municipality or a municipal authority.

Shopping Center. A lot occupied by 5 or more retail sales establishments on a lot of over 3 acres. Such lot may also include other allowed uses.

Sight Triangle. An area required to be kept free of certain visual obstructions to traffic. See Section 803.

Sign. The definition in Article 7 shall apply.

Sign, Off-Premise. The definition in Article 7 shall apply.

Single and Separate Ownership. The ownership of a lot by one or more persons, partnerships or corporations, which ownership is separate and distinct from that of any abutting or adjoining lot.

Site. The site shall be defined as a parcel or parcels of land intended to have one or more buildings or intended to be subdivided into two or more lots.

- A. Site Area. All land area within the site as defined in the deed. Actual area shall be from an actual site survey rather than deed description.
- B. Site Area, Base A calculated area (see calculations, Section 308 of this Ordinance).
- C. Site Area, Net Buildable. A calculated area for building use (see calculations in Section 308 of this Ordinance).
- D. Minimum Site Area. The smallest uniformly developed area of land from which a lot may be subdivided.

Solid Waste-to-Energy Facility. An area where municipal solid waste and similar materials are incinerated or otherwise processed to result in usable energy for off-site use.

Solid Waste Landfill. An area where municipal solid waste and similar materials is deposited on land, compacted, covered with soil and then compacted again, and which has a permit from DEP to operate as a sanitary landfill.

Solid Waste Transfer Facility. Land or structures where solid waste is received and temporarily stored, at a location other than the site where it was generated, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal. Such facility may or may not involve the separation of recyclables from solid waste. Such facility shall not include a junkyard, leaf composting, clean fill, or septage or sludge application.

Special Exception. A use for which the Zoning Hearing Board may grant permission following a public hearing and findings of fact consistent with this Ordinance, provided the use complies with the conditions and standards required by this Ordinance. See Section 116.

Special Permit. A type of permit that may be required under Floodplain regulations for certain uses within the 100 year floodplain.

Specified Sexual Activities. One or more of the following:

- A. Human male genitals in a visible state of sexual stimulation.
- B. Acts of human masturbation, sexual intercourse, oral sex or sodomy.
- C. Fondling or other erotic touching of human genitals. See definition of 'Adult Use.'

State. The Commonwealth of Pennsylvania and its agencies.

Steep Slopes. Areas with a slope of 15 percent or greater, other than areas that were clearly man-made.

Steep Slopes, Moderately. Areas with a slope of 15 percent or greater, but less than 25 percent, other than areas that were clearly man-made.

Steep Slopes, Very. Areas with a slope of 25 percent or greater, other than areas that were clearly man-made.

Steep Slope Margin. An area of less than 15 percent slope that is located within 25 feet upslope, measured perpendicular to the contour of the land, from a contiguous area of more than 3 acres of 25 percent or greater slope. Areas that are only measured laterally or downslope from slopes of 25 percent or greater shall not be considered to be steep slope margins. Note - These areas are only regulated as such within Pike Township.

Story. A level of a building routinely accessible to humans and which has an average vertical clearance from floor to ceiling of 7 feet or greater shall be considered a full story, except as follows: If the floor of a basement level is more than 6 feet below the finished grade level for more than 50 percent of the total building perimeter, it shall not be regulated as a story. Any level of a building having an average vertical clearance from floor to ceiling of less than 7 feet shall be considered a "half-story."

Story, Ground. That story with its floor level immediately above the average finished grade level of the adjoining ground at any particular point or side of the dwelling.

Street. A public or private thoroughfare which provides the principal means of vehicle access to 3 or more lots or that is an expressway, but not including an alley or a driveway. The terms "street," "highway," and "road" have the same meaning and are used interchangeably.

Street Classification. The functional classification of streets, roads, and highways that is provided in the Comprehensive Plan shall apply. For the purposes of this Ordinance, such classifications may be revised by written resolution of the Governing Body.

Street, Private. A street that is not owned by a municipality or the State of Pennsylvania.

Structure. Any man-made object having a stationary location on, below or in land or water, whether or not affixed to the land. Any structure shall be subject to the principal or accessory setbacks of this

Ordinance, as applicable, unless specifically exempted or unless a specific setback is established for that particular type of structure by this Ordinance. For the purposes of this Ordinance, utility poles, stormwater basins, wells, paving, and septic systems shall not be considered structures, and shall not be subject to minimum zoning setback requirements unless stated otherwise.

Subdivision. The definition in the applicable Subdivision and Land Development Ordinance shall apply.

Subdivision Ordinance or Subdivision & Land Development Ordinance. The applicable Subdivision and Land Development Ordinance, as amended, of Boyertown Borough, Colebrookdale Township or Pike Township.

Swimming Pool, Household or Private. A man-made area with walls of man-made materials intended to enclose water at least 24 inches deep for bathing or swimming and that is intended to serve the residents of only one dwelling unit and their occasional guests.

Swimming Pool, Non-Household. A man-made area with walls of man-made materials intended to enclose water at least 24 inches deep for bathing or swimming and that does not meet the definition of a "household" swimming pool.

Tavern. A place where alcoholic beverages are served primarily for on-site consumption and alcohol sales are the majority of the total trade and which does not meet the definition of an "after-hours club" or a "nightclub." The sale of food may also occur. See the definition of restaurant.

Theater. A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or adult movie theater.

Tire Storage, Bulk. The storage of more than 20 used tires on a lot, except that a tire retail store may include the temporary storage of up to 100 used tires awaiting disposal on a lot without being regulated by this term.

Townhouse. See "Dwelling Types."

Township. Colebrookdale Township or Pike Township, Berks County, Pennsylvania, as applicable.

Trade/Hobby School or Trade School. A facility that: a) is primarily intended for education of a work-related skill or craft or a hobby, and b) does not primarily provide State-required education to persons under age 16. Examples include a dancing school, martial arts school, cosmetology school, or ceramics school.

Tradesperson. A person involved with building trades, such as but not limited to: plumbing, electrical work, building construction, building remodeling, and roofing.

Transfer of Development Rights. An optional process that allows the residential density that would otherwise be allowed on one tract to be transferred to increase the density on another tract. The developer of the second tract compensates the owner of the first tract for preserving their land, based upon an agreement negotiated and accepted by both parties.

Treatment Center. A use involving any of the following:

- A. A use (other than a prison or a hospital) providing housing for 3 or more unrelated persons who need specialized housing, treatment and/or counseling because of:
 - 1. criminal rehabilitation, such as a criminal halfway house;
 - 2. current addiction to a controlled substance that was used in an illegal manner or alcohol; and/or
 - 3. a type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.
- B. A use that otherwise would meet the definition of a Group Home but that exceeds the number of residents allowed by this Ordinance within a Group Home shall be regulated as a Treatment Center, unless approved otherwise under Section 111.D.
- C. A non-residential use that involves distribution of methadone, other than a hospital.

Truck and/or Bus Storage Facility. Any lot or tract of land which is utilized for the parking and/or storage of two or more commercial-type trucks, and/or commercial-type vans and/or buses, whether or not said vehicles are registered and/or inspected. A commercial-type truck or van is defined as a vehicle primarily utilized for a commercial purpose, and is exclusive of privately-owned pick-up trucks, vans and jeeps primarily utilized for recreational, non-commercial private uses. Trucks and vans in conjunction with agricultural uses are not included as commercial-type trucks or vans herein.

Trucking Business. Any trucking operation which has as its principal use the maintenance, leasing, operation of trucks, including any business which is primarily engaged in the trucking business, exclusive of those uses included in the term "Trucking Company Terminal".

Truck Stop. A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping or truck-parking facilities.

Trucking Company Terminal. A use involving primarily tractor-trailer traffic coming into and out of a facility, with such trucks controlled by one company that are carrying cargo from multiple different businesses and which is not a package delivery service.

Unit for Care of Relative. A dwelling unit that: a) is especially created for and limited to occupancy by a close "relative" of the permanent residents of the principal dwelling unit, b) is necessary to provide needed care and supervision to such relative, and c) meets the requirements for such use.

Unlicensed Vehicle. Any motor vehicle or trailer that does not display a license plate with a current registration sticker or does not have a valid State safety inspection sticker. The requirement for a safety inspection sticker shall not apply to vehicles (such as licensed antique cars and trailers of less than 3,000 pounds aggregate gross vehicle weight) for which State regulations do not require such a sticker. The term shall not include a motor vehicle displaying an inspection sticker that expired less than 30 days previously. See the regulations of the Property Maintenance Code.

Use. The purpose, activity, occupation, business or operation for which land or a structure is designed, arranged, intended, occupied or maintained. Uses specifically include but are not limited to the following: activity within a structure, activity outside of a structure, any structure, recreational vehicle storage, or parking of commercial vehicles on a lot.

Variance. The granting of specific permission by the Zoning Hearing Board to use, construct, expand, or alter land or structures in such a way that compliance is not required with a specific requirement of

the Zoning Ordinance. Any variance shall only be granted within the limitations of the PA Municipalities Planning Code. See Section 111.

Wall. A man-made barrier constructed primarily of masonry, concrete or similar materials.

Warehouse. A building or group of buildings primarily used for the indoor storage, transfer, and distribution of products and materials, but not including retail uses or a truck terminal, unless such uses are specifically permitted in that zoning district.

Watercourse. A watercourse is a channel or conveyance of surface water having defined bed and banks, with perennial or intermittent flow, including the course of outflow from any spring. The definition of watercourse shall exclude facilities constructed solely for stormwater management.

Water Service, Central. Water supply service to a building by a Municipally-approved water supply system that serves 20 or more lots, and which includes an appropriate mechanism to ensure long-term professional operation and maintenance of the system.

Water Service, On-Lot. Water supply service to a building that does not meet the definition of Central Water Service, such as but not limited to an individual on-lot well.

Water Service, Public. Central water service by a system owned and/or operated by a municipality or a municipal authority.

Wetlands. An area of land and/or water meeting one or more definitions of a "wetland" under Federal and/or Pennsylvania law and/or regulations.

Wind Turbine. A device exterior to a building that is designed to convert naturally-occurring wind into usable electricity for on-site or off-site use. Such term shall also include any supporting pole or equipment that is attached to the wind turbine for electrical purposes.

Woodland. A tree mass or plant community covering an area of 0.25 acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete aerial canopy. The extent of any woodland plant community or any part thereof shall be measured from the outermost drip line of all the trees in such plant community.

- A. Woodland shall also include any area where timber has been harvested which would have met the definition of "woodland" within 3 years prior to the proposed removal of trees. Such 3 year period shall not include any time period that occurred prior to the effective date of this Ordinance.
- B. Orchards, Christmas tree farms, and sale of trees for replanting on another site shall not be regulated as woodlands or forestry.

Woodland Classification Map. The Woodland Classification Map is a map indicating the locations of all woodlands classified as Class I, Class II, or Class III Woodlands, and also indicating the locations of areas identified as Forest Interior Habitat within Class I and Class II Woodlands. Class I Woodlands are the highest value woodlands, on the basis of their importance within the biological and hydrological ecosystem and the amount of contiguous forested interior lands. Class II Woodlands are more linear or more fragmented than Class I Woodlands, but still include relatively large areas. Class III are all other Woodlands, including smaller areas and hedgerows. Where specific application of the definition of Forest Interior Habitat results in variation from mapping as indicated on the Woodland Classification Map, application of said definition shall supersede. The Woodland Classification Map is incorporated

by reference into this Ordinance and made a part hereof. Note - This Map only applies within Pike Township.

Woodland Disturbance.

- A. Shall mean:
 - 1. The cutting or removal of trees with a trunk diameter of greater than 6 inches (measured 4.5 feet above the ground) or activity that damages or causes the death of such trees;
 - 2. Any activity that results in the removal or death of the majority of the understory shrubs, wood and herbaceous woodland floor species or removal of humus within a woodland; or
 - 3. Any activity which may compact soil around the root system or otherwise damage the root system of trees or change the topography around the tree root systems or understory shrubs within a woodland or hedgerow.
- B. Woodland disturbance does not include any of the following:
 - 1. Removal of dead, diseased or other vegetation which constitutes hazardous condition(s);
 - 2. Selective cutting or removal of invasive alien species, whether such species are trees, shrubs, vines or herbaceous species;
 - 3. Tree cutting that is regulated as Forestry under Section 402;
 - 4. Cutting of trees that is a routine part of a Christmas Tree Farm or orchard; or
 - 5. Removal of trees with their root systems for replanting.

Woodland Edge. The outer border area of a woodland that is directly in contact with and more subject to potentially detrimental influences originating from adjacent non-woodland areas. Such influences may include light, wind, noise and invasive species, for example, and may harm the ecological health and integrity of the woodland. New woodland edges are typically created when existing woodlands are cut, logged, or disturbed.

Yard. An open area unobstructed from the ground (except for permitted projections) to the sky that is not permitted to be covered by buildings and principal structures and that is on the same lot as the subject structure or use. A minimum yard is also known as a minimum setback. Each required yard shall be measured inward from the abutting "lot line" or existing street right-of-way (as exists after completion of any subdivision or land development). Regulations of each district prohibit principal and accessory structures within the specified minimum yards.

- A. Private Streets. For a building setback measured from a private street, the setback shall be measured from the existing street right-of-way/easement or 10 feet from the edge of the cartway, whichever is more restrictive.
- B. In Colebrookdale and Pike Townships, required yards shall be measured from the future or ultimate street right-of-way where such right-of-way width is established by the Subdivision and Land Development Ordinance.

Yard, Front or "Front Setback." A "yard" measured a distance measured from and running parallel to the front lot line or street right-of-way line (if a subdivision or land development is involved, such right-of-way line shall be as shown on such plan). Such yard shall extend the full width of the lot from side lot line to side lot line.

- A. The front yard shall be on a side that faces towards a public street, whenever one public street abuts the lot. If a lot abuts two non-intersecting streets, the front yard shall be whichever side is the predominant front yard for neighboring properties. Where a corner lot exists, see Section 803.B.1. If no side is predominant, then the applicant may choose which is the front yard.
- B. See Section 803 concerning yards along corner lots.

- C. No accessory or principal structure shall extend into the required front yard, except as provided in this Ordinance.
- D. Every lot shall include at least one front lot line.

Yard, Rear or "Rear Setback."

- A. A "yard" extending the full width of the lot and which is measured from along the rear line and which establishes the minimum setback for the subject structure, and which stretches between the side lot lines parallel to the rear lot line.
- B. A principal building shall not extend into the required rear yard setback for a principal building, and an accessory structure shall not extend into the required rear yard for an accessory structure, except as provided in this Ordinance.
- C. Every lot shall include a rear lot line and a rear yard.
- D. For a corner lot, the rear yard shall extend from a side yard to a front yard.

Yard, Side or "Side Setback."

- A. A "yard" which establishes the minimum setback for the closest portion of the subject structure, and which is measured from along the entire length of the side lot line, and which extends from the front setback line to the rear lot line.
- B. A structure shall not extend into the applicable minimum side yard setback, except as provided for in this Ordinance.
- C. See "Corner Lot" provisions.
- D. A triangular lot shall include one side yard. All other lots shall include at least 2 side yards, except for a corner lot. A triangular corner lot shall have 2 front yards and one rear yard.

Yield Plan. A Plan required to be submitted to the Municipality by the applicant under certain provisions of the Zoning Ordinance. The Yield Plan shall accurately show the maximum number of dwelling units that would be possible under current Municipal ordinances if certain optional development provisions would not be used, and instead the provisions for conventional development under the current zoning district would be used. A Yield Plan shall be completed to an accurate scale, including accurately showing the Existing Feature Map information. The Yield Plan shall show potential lots, streets, and retention / detention pond locations.

Zoning Map. The Official Zoning Map that was adopted as part of this Ordinance.

Zoning Officer. The person charged with the duty of enforcing the provisions of the Zoning Ordinance in each municipality, and any officially designated Assistant Zoning Officer.

Zoning Ordinance or "This Ordinance". The Boyertown Borough and Colebrookdale and Pike Townships Joint Zoning Ordinance, as amended.