This Code of Ordinances has been enacted, ordained, adopted and approved by White Haven Borough Council, on this ___ day of August, 2012. This Code of Ordinances shall take effect immediately upon its adoption.

By signing below, the Secretary of White Haven Borough does hereby attest, verify and confirm that the Code of Ordinances, as attached, is the complete Code of Ordinances as adopted by White Haven Borough Council.

WHITE HAVEN BOROUGH

[Signature]
SECRETARY
INTRODUCTION TO THE CODE OF ORDINANCES

Part 1
Use and Construction of Code

§101. How Code is Designated and Cited. The provisions embraced in the following parts, chapters, and sections shall constitute and be designated the “Code of Ordinances, Borough of White Haven, Pennsylvania,” and may so be cited.

§102. Section Headings; Citations. The bolded headings of sections in this Code, and citations included at the end of sections, are intended to indicate the contents of the section and original historical source respectively, and shall not be deemed or taken to be titles and official sources of those sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of those sections, including the citations, are amended or reenacted.

§103. Effect of Repeal of Ordinances. The repeal of an ordinance shall not affect any penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

§104. Severability of Parts of Code. It is declared to be the intention of Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any section, paragraph, sentence, clause or phrase of this Code shall be declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Code.

§105. Amendment to Code; Effect of New Ordinances; Amendatory Language. All ordinances passed after enactment of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When later ordinances repeal any chapter, section or subsection or any portion thereof, those repealed portions may be excluded from this Code by omission from reprinted pages.

(a) Amendments to any provision of this Code may be made by amending any provision by specific reference to the section of this Code in substantially the following language: “§ ____ of the Code of Ordinances of the Borough of White Haven is amended to read as follows: (Set out new provisions in full.)

(b) When Council desires to enact an ordinance of a general and permanent nature on a subject not previously contained in this Code, which Council desires to incorporate into the Code, a section in substantially the following language may be made a part of the ordinance: “§ ____. It is the intention of the Council, and it is ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Borough of White Haven, Pennsylvania and the sections of this ordinance may be re-numbered to accomplish that intention.”
(c) All sections, articles, chapters or provisions of this Code desired to be repealed shall be specifically repealed by chapter, part, sections, or subsections as the case may be.

§106. Altering Code. It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions of this Code, or to alter or tamper with this Code in any manner whatsoever which will cause the Code of Ordinances of the Borough of White Haven, Pennsylvania to be misrepresented. Any person violating this section shall be subject to the penalty provided in Section 107 of this Part.

§107. General Penalty. Whenever in this Code or in any ordinance of the Borough any act is prohibited or is made or declared to be unlawful, where no specific penalty is provided for that act, the violator of any such provision of this Code or ordinance shall, upon conviction, for every such violation, be sentenced to pay a fine of not more than $300 and costs of prosecution; or in default of payment of fine and costs, to undergo imprisonment for not more than 30 days. Each day the violation continues shall constitute a separate offense.

§108. Filing with Secretary; Supplementation. A certified copy of this Code shall be kept on file in the office of the Borough Secretary. It shall be the duty of the Secretary, or someone duly authorized by the Secretary, to insert in their designated places all amendments or ordinances which indicate the intention of Council to make them a part of the Code when they have been printed or reprinted in page form, and to extract from the Code all provisions which may be from time to time repealed by Council. This copy of the Code shall be available to all persons desiring to examine the Code, and the copy on file shall be considered the official Code of the Borough of White Haven.
Part 2
Terms and Conditions

As used in this Code of Ordinances, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive. Singular words shall include the plural, masculine words shall include the feminine and neuter.

1. Borough and/or Municipality - means White Haven Borough, Luzerne County, Pennsylvania.

2. Building Inspector – means the official of the Borough appointed to administer and enforce the applicable Building Code of the Borough.

3. Code Enforcement Officer – means the Borough official whose duties include enforcement and administration of the Code of Ordinances except when a Police Officer is designated as the official enforcement authority.


5. Comprehensive Plan – means the most recent comprehensive Plan, and any amendments thereto, as adopted by the Governing Body.

6. County – means Luzerne County, Pennsylvania, and shall include the words “the county” or “this county”.


9. Department of Environmental Protection (DEP) – means the Pennsylvania Department of Environmental Protection or, when applicable Environmental Protection Agency (EPA). Where appropriate, the term may also be used as a designation of the Administrator or other duly authorized official of said agency.

10. Environmental Protection Agency (EPA) – means the Pennsylvania Department of Environmental Protection or, when applicable Department of Environmental Protection. Where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

12. He, His, Him, or Her - means and indicates the singular and plural number, as well as, male, female, and neuter gender.

13. Individual – means a natural person, male or female.

14. Limits – means the corporate limits or legal boundary of the Borough of White Haven.

15. Mayor – means the Mayor of the Borough of White Haven.

16. Minor – means a person under the age of eighteen (18) years.


18. Name of Officer – Whenever the name of an officer is given it shall be construed as though the words “of the Borough of White Haven” were added.

19. Nontechnical and Technical Words – includes words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that meaning.

20. Oath – shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

21. Official Map – means the Municipal Map adopted by Ordinance conclusively showing the location of the lines of existing and proposed public street, watercourses, and public grounds including the widening, narrowing, extension, diminution, opening or closing of the same, for the entire municipality.

22. Or, and – “Or” may be read as “and” and “and” may be read “or” if the sense requires it.

23. Other officials or officers – Whenever reference is made to officers, agencies or departments by title only, such as “secretary,” “treasurer,” “solicitor,” “engineer,” or “tax collector,” they shall mean the officers, agencies or departments of the Borough of White Haven.

24. Owner - means one or more persons, jointly or separately, in who is vested all or part of the legal title to real property, or all or part of the beneficial ownership and right to present use and enjoyment of the real property, including a mortgage holder in possession of a dwelling unit or commercial unit.

   (a) A Person who, alone or jointly or severally with others:
(1) shall have legal title to any dwelling, or dwelling unit, with or without accompanying actual possession thereof; or

(2) shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Part and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

(b) This includes any person who has charge, care, or control over any premises as:

(1) an agent, officer, fiduciary, or employee of the owners;

(2) the committee, conservator, or legal guardian of an owner who is incompetent, a minor or otherwise under a disability;

(3) a trustee, elected or appointed, or a person required by law to act as a trustee, other than a trustee under a deed of trust to secure the payment of money; or

(4) an executor, administrator, receiver, fiduciary, officer appointed by any court, attorney-in-fact, or other similar representative of the owner of his or her estate. This does not include a lessee, a sublessee or other person who merely has the right to occupy or possess a premises.

(c) For purposes of this Ordinance this term also includes a Landlord


26. Police Officer – means an officer of the Borough authorized to administer and enforce certain provisions of the Code of Ordinances, except when a Code Enforcement Officer is designated as the official enforcement authority.

27. Public Hearing – means a formal meeting held pursuant to public notice by the Governing Body, intended to inform and obtain public comment, prior to taking action on a particular subject. This term also includes hearings to be held by the Zoning Hearing Board or Uniform Construction Code Appeal Board when appropriate.

28. Person and Applicant - shall mean any natural person, partnership, firm, unincorporated association, corporation, municipal authority, or other entities; whenever used in any clause prescribing or imposing a fine or penalty of imprisonment in default thereof, the terms applied to a partnership shall mean all partners thereof, as applied to
unincorporated associations shall mean all members thereof and as applied to corporations shall mean all officers or directors thereof.

29. Right-of-Way – means a defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, or alley, and including both cartway and shoulders.

30. Sedimentation – means the depositing of earth or soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.


32. Street – means any public street, avenue, road, square, alley, highway, or other public place located in the Borough and established for the use of vehicles, but shall not include State Highways.

   (a) Arterial. Arterials are designed primarily to carry traffic and generally should not provide access to land which would interfere with their primary traffic functions. They are also designed for medium to heavy volumes at moderately high speeds with restricted vehicular access to abutting properties.

   (b) Collector Street. Collector streets are designed to carry a moderate volume of traffic between local streets and arterials, and provide only limited vehicular access to the abutting properties.

   (c) Local Street. Local streets provide direct access to abutting properties and provide routes to collector streets

   (d) Cul-De-Sac – A minor or local street with a single common ingress and egress and with a turnaround located at its end.

   (e) Dead End Street – A street with a single common ingress and egress.

   (f) Limited Access – A street designed to carry a high volume of traffic and usually designated as an expressway, freeway, highway or boulevard. Owners or occupants of abutting property normally have no expressed or legal right to access to or from the same.

33. Zoning Officer – means an administrative officer authorized to administer the literal terms and provisions of the Zoning Ordinance, and wherever permitted the provisions of this Code.

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CHAPTER 1

ADMINISTRATION AND GOVERNMENT

Part 1

Official English Ordinance

§101. Title. This chapter shall be known and may be cited as the “White Haven Borough Official English Ordinance.”

§102. Findings and Declaration of Purpose. The People of the Borough of White Haven find and declare:

(a) That the English language is the common language of the Borough of White Haven, of the Commonwealth of Pennsylvania and of the United States.

(b) That the use of a common language removes barriers of misunderstanding and helps to unify the people of White Haven Borough, the Commonwealth of Pennsylvania, and the United States, and helps to enable the full economic and civic participation of all its citizens, regardless of national origin, creed, race or other characteristics, and thus a compelling governmental interest exists in promoting, preserving, and strengthening the use of the English language.

(c) That proficiency in the English language, as well as in languages other than the English language, benefits the Borough of White Haven both economically and culturally and should be encouraged.

(d) That, in addition to any other ways to promote proficiency in the English language, the government of the Borough of White Haven can promote proficiency in English by using the English language in its official actions and activities.

(e) That in today’s modern society, the Borough of White Haven may also need to protect and preserve the rights of those who speak only the English language to use or obtain governmental programs and benefits.

(f) That the government of the Borough of White Haven can reduce costs and promote efficiency in its roles as employer and as a government of the people, by using the English language in its official actions and activities.

§103. Official English Declaration.

(a) The English language is the official language of the Borough of White Haven.

(b) The Borough Council, Mayor, and officials of the Borough of White Haven shall take all steps necessary to insure that the role of English as the common language of the Borough of White Haven is preserved and enhanced.
(c) The government of the Borough of White Haven shall make no policy that diminishes or ignores the role of English as the common language of the Borough of White Haven.

(d) Official actions of the Borough of White Haven that bind or commit the Borough of White Haven or that give the appearance of presenting the official views or position of the Borough of White Haven shall be taken in the English language, and in no other language. Unofficial or non-binding translations or explanations of official actions may be provided separately in languages other than English, if they are appropriately labeled as such and reference is made to a method to obtain the official action; unless otherwise required by federal law or the law of the Commonwealth of Pennsylvania, no person has a right to such an unofficial or non-binding translation or explanation, and no liability or commitment of the Borough of White Haven shall be based on such a translation or explanation.

(e) No ordinance, decree, program, or policy of the Borough of White Haven or any of its subdivisions shall require the use of any language other than English for any documents, regulations, orders, transactions, proceedings, meetings, programs, or publications, except as provided in Section 104 below.

(f) A person who speaks only the English language shall be eligible to participate in all programs, benefits and opportunities, including employment, provided by the Borough of White Haven and its subdivisions, except when required to speak another language as provided in Section 104 below.

(g) No law, ordinance, decree, program, or policy of the Borough of White Haven or any of its subdivisions shall penalize or impair the rights, obligations or opportunities available to any person solely because a person speaks only the English language.

§104. Exceptions. The Borough of White Haven and its subdivisions may use a language other than English for any of the following purposes, whether or not the use would be considered part of an official action:

(a) To teach or encourage the learning of languages other than English.

(b) To protect the public health or safety.

(c) To teach English to those who are not fluent in the language.

(d) To comply with the Native American Languages Act, the Individuals with Disabilities Education Act, the Voting Rights Act, or any other federal law or law of the Commonwealth of Pennsylvania.

(e) To protect the rights of criminal defendants and victims of crime.

(f) To promote trade, commerce, and tourism.

(g) To create or promote mottos or designations, inscribe public monuments, and perform other acts involving the customary use of a language other than English.
(h) To utilize terms of art or terms or phrases from other languages which are commonly used in communications otherwise in English.

§105. Private Use Protected. The declaration and use of English as the official language of the Borough of White Haven should not be construed as infringing upon the rights of any person to use a language other than English in private communications or actions, including the right of government officials (including elected officials) to communicate with others while not performing official actions of the Borough of White Haven.

§106. Interpretation. Nothing in this Ordinance shall be interpreted as conflicting with the statutes of the United States, or the laws of the Commonwealth of Pennsylvania.

§107. Severability. If any part or provision of this Chapter, or the applicability of any provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby and shall be given effect to the fullest extent practicable.
Part 2
Meetings and Work Sessions

§201. Scheduling of Regular Meetings. The regular meetings of Borough Council shall be held on the fourth Monday of each month at 7:00 P.M. at the White Haven Borough Municipal Building, 312 Main Street, White Haven, Pennsylvania 18661, or at such other times and places as Council may designate pursuant to public notice and in accordance with law.

§202. Work Sessions and Special Meetings. Work sessions and special meetings shall be governed by the following rules:

(a) Work sessions and special meetings may be scheduled by Borough Council as needed. Work sessions may be convened on the same date as a regular or special meeting provided that the time periods do not conflict with one another.

(b) Work sessions and special meetings may be called by the President of Council or upon written request of at least one-third of the Members of Council. All Members of Council shall receive at least twenty-four (24) hours advance notice of any scheduled work session or special meeting. The notice shall state whether the meeting or session is for general or special purposes, and if it is for a special purpose, the notice shall contain a general statement of the nature of the business to be transacted. This notice shall be in addition to the public notice required under §204 of this Part. Presence at a meeting constitutes waiver of notice.

§203. Organizational Meetings. Borough Council shall conduct organizational meetings as follows:

(a) Organizational meetings shall be scheduled on the first Monday of January of each even numbered year commencing at a time to be announced by Council. If the first Monday is a legal holiday, the organizational meeting shall take place the following day.

(b) At the organizational meeting, Borough Council shall elect from its members a President and Vice-president. Borough Council may also elect such other officers as may be provided for by law or ordinance, or as may be necessary to conduct the affairs of the Borough. In addition to these elections, Borough Council may also transact such other business as may be properly before it.

§204. Advertising Meetings. All regular meetings, special meetings and work sessions shall be advertised as required by Law.

§205. Conduct of Meetings, Quorum. Council shall conduct meetings as follows:

(a) The President, or in the absence of the President, the Vice-president, shall preside over all meetings of Council, and shall perform such other duties as may be prescribed by Law or Ordinance.
(b) A majority of the Members of Council shall constitute a quorum for purposes of conducting a meeting.

(c) Council may by resolution establish such rules of parliamentary procedure for the conduct of its meetings as it deems appropriate. In the event that no such resolution is adopted, then Roberts’ Rules of Order, the latest edition, shall be utilized to conduct all meetings.

(d) A council member may participate by telephone with the consent of a majority of the members present at the meeting.
Part 3
Compensation of Elected Officials

§301. Compensation of Mayor. The salary of the Mayor shall be established by ordinance at any time or from time to time pursuant to the Borough Code. Any salary paid to the Mayor shall be in lieu of all costs and fees allowed a Mayor. If a salary for the Mayor is established it shall be an annual salary payable in equal monthly installments. At the time of adoption of this Part, there was no salary set for the Mayor.

§302. Compensation of Council Members. Members of Council may receive compensation established by ordinance at any time or from time to time pursuant to the Borough Code. If compensation is fixed for Council Members it shall be paid on a monthly basis. At the time of adoption of this Part, there was no salary set for Council Members.

§303. Compensation of Tax Collector. The compensation of the Tax Collector for the collection of taxes shall be set by resolution. At the time of adoption of this Part, the compensation for the tax collector was set at $1,800.00, which amount is not greater than ten percent (10%) of the amount of taxes collected. This increase became effective January 1, 2006 pursuant to Resolution No. 3 of 2005.
Part 4
Committees

§401. Purpose. A need for certain Committees is hereby recognized by Borough Council. The use of Committees has been a historical tradition within the Borough since certain Committees (such as the Police and Fire Committee, the Street Committee, the Executive Committee, the Buildings and Grounds Committee, and the Recreation Committee) have long been established, and the need for a new Committee (the Water Committee) has arose through the development of the Borough’s water source for extraction and sale of bulk water for bottling and sale in the private sector by a third party professional service company. These needs have existed prior to the enactment of this Part, and Borough Council by the enactment of this Part of the Ordinance wishes to continue that tradition and use the Committees identified in this Part of the Ordinance to exercise routine administrative or supervisory powers on behalf of Council.

§402. Standing Committees of Council.

(a) The Standing Committees of the Borough shall be:

(1) The Police Committee;
(2) The Street Committee;
(3) The Finance Committee;
(4) The Buildings and Grounds Committee;
(5) The Recreation Committee; and
(6) The Water Committee.

(b) Borough Council may establish by ordinance additional Standing Committees, or eliminate one or more of the Standing Committees, from time to time as it deems necessary.

(c) Appointments, Tenure and Removal of Standing Committee Members. Within fourteen (14) days after the biennial organization of Council, the President shall announce his or her appointments of members of the Standing Committees of Council. Such members shall, so long as they remain Members of Council, retain such Committee appointments until successors are appointed following the succeeding biennial organization meeting of Council, except that in any case the President of Council, at any time, may remove any member from any committee or make changes in committee appointments.

(d) Members of Standing Committees; Chairperson. Every Standing Committee shall consist of three (3) members, one of which shall be the President of Council. The President of Council shall name the Chairperson of each Committee which shall also be subject to ratification of Council.

(e) General Duties of Standing Committees. The general duties of all Standing Committees of Council shall be to:

(1) Investigate and report to Council upon all matters referred to the
respective committees by Council.

(2) Execute and do all matters and things as council may direct to be done by them, respectively.

(3) Make recommendations on certain matters within the scope of such Committee to Council, which the Committee may deem necessary and in the best interest of the Borough.

(4) Make annual estimates to the Finance Committee of the appropriations necessary to the respective departments represented by the respective Committees to carry on the work of such departments for the ensuing calendar year.

(f) Frequency of Meetings. Committee members shall meet when necessary to carry out the purposes for which their committee was created, or as directed by the President of Council, or a majority of Council Members.

(g) Specific Duties and Responsibilities of the Police Committee. The specific duties and responsibilities of the Police Committee are to:

(1) Advertise, on an as needed basis, for full or part-time police positions within the Borough, and review all applications received and present those applications to Council for interviewing of qualified applicants. Council may also direct the Police Committee to conduct interviews of all qualified applicants and present recommendations to Council for further interviewing, if necessary, and hiring.

(2) Insure that weekly hours of employment which apply to police officers, as fixed and determined by Council, are not exceeded. To this end, and upon the Mayor’s request, the committee may meet in joint session with the Mayor to coordinate the balance between approved hours and police scheduling by the Mayor.

(3) Accept complaints and hear concerns of the public in police related matters, and to report those concerns to the Mayor, Council and the Police Department, as applicable and necessary.

(4) Report to Council on Police Department equipment needs and concerns and recommend actions the committee feels are necessary to resolve such needs and concerns.

(5) Review the Police Policies, Procedures and Directives on an as needed basis and make recommendations to Council on revisions, amendments or updates.

(6) Coordinate meetings with the Police Department or certain officers within the Police Department, as appropriate, when requested by Council.
(h) Specific Duties and Responsibilities of the Street Committee. The specific duties and responsibilities of the Street Committee are to:

(1) Supervise the White Haven Borough Street Department as directed by Council.

(2) Meet with the Street Commissioner, or Street Department Supervisor, on a regular basis to insure that maintenance of the Borough streets and equipment are scheduled and performed as necessary, or as directed by Council, and report those findings to Council.

(3) Assist the Street Commissioner, or Street Department Supervisor, in the presentation of Street Department needs and concerns before Council.

(4) Coordinate meetings with the Street Department or certain employees within the Street Department, as appropriate, when requested by Council.

(j) Specific Duties and Responsibilities of the Finance Committee. The specific duties and responsibilities of the Finance Committee are to:

(1) Oversee Borough activities concerning finance.

(2) Review all bills presented to Council for payment.

(3) Monitor the budget on a regular basis, and report to Council on budget items as may be necessary.

(4) Insure that the spending policies of the Borough are being adhered to, and report to Council on areas of noncompliance, or areas in need of change.

(5) Conduct, on behalf of council, information gathering or investigative functions as may be related to the finances of the Borough.

(6) Make recommendations to Council on issues of finance.

(7) Supervise the Borough Secretary and Treasurer as directed by Council.

(k) Specific Duties and Responsibilities of Buildings and Grounds Committee. The specific duties and responsibilities of the Buildings and Grounds Committee are to:

(1) Inspect all Borough-owned buildings and properties as needed and report their findings to Council.

(2) Recommend any and all improvements or repairs needed to Borough owned-buildings and properties.
(l) Specific Duties and Responsibilities of Recreation Committee. The specific duties and responsibilities of the Recreation Committee are to:

(1) Attend all Recreation Board meetings and file reports of said meetings with Council.

(2) Inspect all Borough-owned parks and make recommendations to Council and to the Recreation Board of any needed repairs.

(3) With the assistance of the Borough Engineer, complete all applications for grants to improve Borough-owned parks, and establish and keep updated a comprehensive plan for the future recreational development of the Borough.

(m) Specific Duties and Responsibilities of the Water Committee. The specific duties and responsibilities of the Water Committee are to oversee operations of Borough-owned water facilities and report to Council on a regular basis, and continually monitor water meters to ensure proper payment to the Borough for actual water purchased and/or extracted from Borough-owned water facilities.

(n) Committees Not to Encroach upon the Legislative Power of Council. The exercise of the duties and responsibilities of each Committee as outlined in this Part shall in no way, and, at no time, encroach upon the legislative power of Council, or infringe upon the authority of Council to perform its duties.

(o) Authority to Change Duties, Responsibilities and Powers of Committees. Council may, by ordinance, change the duties, responsibilities and powers, or enlarge, decrease or annul the duties, responsibilities and powers of any Committee created in this Part.

§403. Special Committees of Council. In addition to the Standing Committees, a majority of Council or the President of Council may establish Special Committees from time to time as may be needed to assist in the administration of Borough business.
§501. Secretary and Treasurer. The offices of Secretary and of Treasurer may be held by the same person, or different persons.


(a) Appointment of Independent Auditor Authorized; Compensation. Council shall appoint an Independent Auditor. The resolution appointing an Independent Auditor shall state the compensation, if any, to be paid from Borough funds for said services.

(b) Qualifications. The Independent Auditor shall be a certified public accountant, registered in Pennsylvania, a firm of certified public accountants, so registered, or a competent public accountant, or a competent firm of public accountants.

(c) Annual Appointment; Powers and Duties. The independent auditor shall be appointed, annually, by resolution, before the close of the fiscal year, to make an independent examination of the accounting records of the Borough for the fiscal year, and the Independent Auditor shall further perform the other duties and exercise the powers set forth in the Borough Code.

(d) Abolition of Office of Elected Auditor. When the Independent Auditor is appointed, the office of Elected Borough Auditor is abolished, although the auditors then in office shall continue to hold their office during the term for which elected; but the elected Auditors shall not audit, settle, or adjust the accounts audited by the Independent Auditor but shall perform the other duties of their office.

(e) Rights to Repeal, and Reestablish Office of Elected Auditor. The Borough shall have the right at any time to repeal the Ordinance establishing the office of Independent Auditor, and thereupon the office of appointed Auditor shall be abolished, as of the date set in the repealing Ordinance, and the Borough shall have the further right at the next municipal election following the repeal of the Ordinance establishing the office of Independent Auditor to elect three (3) Auditors, which Auditors so elected shall succeed the appointed Auditor and shall have and possess all the powers and shall perform all the duties provided for elected Auditors.

§503. Code Enforcement Officer.

(a) Appointment of Code Enforcement Officer Authorized; Compensation. Council shall appoint a Code Enforcement Officer. The resolution appointing the Code Enforcement Officer shall state the compensation, if any, to be paid from Borough funds.
(b) Qualifications. The Code Enforcement officer shall meet the qualifications established by the Borough, which shall at a minimum include a working knowledge of Municipal Codes.

(c) Specific Duties and Responsibilities of Code Enforcement Officer. The Code Enforcement Officer shall have the following duties and responsibilities:

1. Enforcing the applicable provisions of the Code of Ordinances.

2. Providing information to the general public, governmental agencies, and Borough Officials, both elected and appointed, on the Code of Ordinance and the applicable permit process under applicable Code provisions which are the responsibility of the Code Enforcement Officer.


4. Keeping the Code of Ordinances current and updated, including keeping official records of all business and activities of the Code Enforcement Office.

5. Preparing and presenting monthly reports to Council on all activities, including attending Work Sessions and Regular and Special Meetings, when requested to attend.

6. Attending meetings and presenting evidence and testimony at hearings, if required or necessary.

7. Assisting the Secretary of Council in scheduling Appeal Hearings.

8. Acting on complaints, and detecting and investigating Code violations, and seeking compliance with the provisions of the Code of Ordinances.

9. Assisting the Solicitor in prosecuting Code violations, which may include attending hearings before Appeal Boards, the appropriate District Justice, and a Judge of the Court of Common Pleas.

10. Issuing or denying permits or certificates that may be required under one or more provisions of the Code of Ordinances.

11. Engaging in all other lawful and proper activities necessary to carry out the duties of Code Enforcement Officer.

(a) Appointment of Building Code Official Authorized; Compensation. Council shall appoint a Building Code Official. The resolution appointing the Building Code Official shall state the compensation, if any, to be paid from Borough funds.

(b) Qualifications. The Building Code Official shall meet the minimum qualifications mandated by the Commonwealth of Pennsylvania, which shall include certification to issue permits and conduct inspections under the Uniform Construction Code and its sub-codes.

(c) Specific Duties and Responsibilities of Building Code Official. The Building Code Official shall have the following duties and responsibilities:

1. Providing information to the general public, governmental agencies and Borough Officials, both appointed and elected, on any and all aspects of building, construction and property maintenance.

2. Reviewing permit applications for compliance with applicable local laws, ordinances and regulations, and overseeing, supervising and/or issuing or denying permits, depending on whether a Code Administrator is appointed by the Borough.

3. Performing property inspections for all new construction; remodeling or renovations of existing structures, and existing business and residential properties for compliance with the applicable edition of the International Property Maintenance Code, the Existing Structure Code and all other applicable local laws, ordinances, and regulations, including but not limited to the applicable edition of the Uniform Construction Code and its sub-codes.

4. Maintaining ordinances and records of all official action, including permit applications accepted, permits issued, occupancy permits issued, complaints received, enforcement notices issued, and all general property information.

5. Preparing and presenting a monthly report to Borough Council on all activities and fees collected for the preceding month, including attending work sessions and meetings when requested.

6. Attending and presenting evidence and testimony at Planning Commission meetings, Appeal Board hearings, Council meetings and hearings, when requested or necessary to do so.

7. Acting on complaints and detecting and investigating violations of the applicable provisions of the Property Maintenance Code, existing Structures Code, Uniform Construction Code and all its sub-codes and seeking compliance therewith.

8. Prosecuting violations, which may include attendance at court proceedings.
§505. Zoning Officer.

(a) Appointment of Zoning Officer Authorized; Compensation. Council shall appoint a Zoning Officer. The resolution appointing the Zoning Officer shall state the compensation, if any, to be paid from Borough funds.

(b) Qualifications. The Zoning Officer shall meet the qualifications established by the Borough, which shall at a minimum include a working knowledge of municipal zoning.

(c) Specific Duties and Responsibilities of Zoning Officer. The Zoning Officer shall have the following duties and responsibilities:

1. Enforcing the provisions of the Zoning Ordinance in accordance with its literal terms.

2. Reviewing zoning permit applications for compliance with the Zoning Ordinance and issuing zoning permits, or denying zoning permit applications when warranted.

3. Providing information to the general public, governmental agencies, and Borough Officials, both elected and appointed, on any and all aspects of the Zoning Ordinance and zoning permit process.

4. Performing property inspections for compliance with the Zoning Ordinance.

5. Keeping the Zoning Ordinance, Zoning Map and all records of official action filed and readily available for public inspection, including zoning permit applications, zoning permits, fees collected, complaints received, enforcement notices issued, and all general property information and correspondence.

6. Preparing and presenting monthly reports to Council on all activities and fees collected, including attending work sessions, when requested to attend, and at least one regular monthly meeting each month.

7. Attending and presenting evidence and testimony at Planning Commission and Zoning Hearing Board meetings.

8. Assisting the Secretary of the Zoning Hearing Board to schedule hearings and process zoning appeal applications, including making arrangements for the stenographer’s presence at every hearing and taking the steps necessary to insure that the
property subject to the hearing is properly posted in the time periods mandated by the Pennsylvania Municipalities Planning Code.

(9) Acting on zoning complaints, and detecting and investigating zoning violations, and seeking compliance with the provisions of the Zoning Ordinance.

(10) Assisting the Borough Solicitor in prosecuting Zoning Violations, which may include attending hearings before the Zoning Hearing Board, the appropriate District Justice, and a Judge of the Court of Common Pleas to prove that one or more violations of the Zoning Ordinance have occurred, or non-compliance with a decision of the Zoning Hearing Board.

(11) Issuing or denying all other permits or certificates that may be required under the Zoning Ordinance, including, but not limited to Certificates of Non-conformity and Certificates of Zoning Compliance, or Use and Occupancy Permits.

(12) Engaging in all other lawful and proper activities necessary to carry out the duties of the Zoning Officer.

§506. Manager.

(a) The office of Borough Manager is hereby created by the Borough Council.

(b) The Manager shall be appointed for an indefinite term by a majority of all members of the Borough Council. The Manager shall serve at the pleasure of the Borough Council, and the Manager may be removed at any time by a majority vote of all its members.

(c) The Manager shall be chosen solely on the basis of his or her executive and administrative abilities, with special reference to the duties of the office as herein outlined. The Manager need not be a resident of the Borough or of the Commonwealth of Pennsylvania at the time of appointment, but during the tenure of office he or she may reside outside the Borough only with the approval of the Borough Council.

(d) Before entering upon his or her duties, the Manager shall give a bond, in the sum established annually pursuant to a resolution of Borough Council, with a bonding company as surety, to be approved by Borough Council, conditioned upon the faithful performance of his or her duties, the premium for said bond to be paid by the Borough.

(e) The salary of the Borough Manager shall be fixed from time to time by the Borough Council.

(f) The Manager shall be the Chief Administrative Officer of the Borough and shall be responsible to Borough Council as a whole for the proper and efficient administration of the affairs of the Borough placed in his or her charge. The powers and duties for administration of all Borough business shall be vested in the Manager, unless expressly imposed or conferred by statute or ordinance upon other Borough officers.
Subject to recall by ordinance, the powers and duties of the Borough Manager shall include the following:

1. Supervise and be responsible for the activities of all municipal departments, except the police department;

2. Hire and, when necessary for the good of the Borough, suspend or discharge any employee under his or her supervision, provided that persons covered by the civil service provisions of the Borough Code shall be hired, suspended or discharged in accordance with such provisions, and provided further that the Manager shall not take any such action without the support and consent of Borough Council;

3. Fix wages and salaries of all personnel under his or her supervision, within a range previously determined by the Borough Council;

4. Prepare and submit to the Borough Council, a budget for the next fiscal year and an explanatory budget message, in such a timely fashion as will enable the Borough Council to consider and adopt the budget and related tax ordinances according to the requirements of law. In preparing the budget, the Manager, or an officer or person designated by the Manager, shall obtain from the head of each department, agency or board, or any qualified officer thereof, estimates of revenues and expenditures and such other supporting data as is required. The Manager shall review such estimates and may revise them before submitting the budget to the Borough Council;

5. Be responsible for the administration of the budget after its adoption by the Borough Council;

6. Develop, in conjunction with the preparation of the budget, long-range fiscal plans for the Borough, such plans to be presented annually to the Borough Council for its review and adoption;

7. Hold such other Borough offices and head such Borough departments as the Borough Council may from time to time direct;

8. Attend all meetings of the Borough Council and its committees, boards and commissions with the right to take part in the discussions. The Manager shall receive notice of all special meetings of the Borough Council and its committees, boards and commission, and may be responsible for providing such notices of such meetings;

9. Prepare or assist in the preparation of an agenda for each meeting of the Borough Council and supply facts pertinent thereto;
(10) Keep the Borough Council informed as to the conduct of Borough affairs; submit periodic reports on the condition of the Borough finances and such other reports as the Borough Council requests; and make such recommendations to the Borough Council as deemed advisable;

(11) Submit to the Borough Council, as soon as possible after the close of the fiscal year, a complete report on the finances and administrative activities of the Borough for the preceding year;

(12) See that the provisions of all franchises, leases, permits and privileges granted by the Borough Council are observed;

(13) Employ, by and with the approval of the Borough Council, experts and consultants to perform work and to advise;

(14) Attend to the letting of contracts in due form of law. The Manager shall supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed by statute upon some other Borough officer;

(15) Be responsible for all accounts payable and receivable;

(16) Serve as Purchasing Officer of the Borough and purchase, in accordance with the provisions of the Borough Code, all supplies and equipment for the agencies, boards, departments, and other officers of the Borough. The Manager shall keep an account of all purchases and shall, from time to time or when directed by the Borough Council, make a full written report thereof. The Manager shall also issue rules and regulations, subject to the approval of the Borough Council, governing the procurement of all municipal supplies and equipment;

(17) Investigate and dispose of, or designate an officer to investigate and dispose of, all complaints regarding Borough services and personnel, and to report to the Borough Council thereon. All complaints regarding Borough services shall be referred to the Office of Manager;

(18) Enforce the ordinances and regulations of the Borough, or oversee the enforcement of the ordinance and regulations by an employee or other officer of the Borough depending upon the desires of Borough Council;

(19) Find, prepare and apply for grants and to do all things necessary to secure such grants for the Borough with Borough Council approval as to the purpose and conditions of such grants; and

(20) Disseminate relevant information concerning Borough affairs and business to the appropriate media outlets and conduct himself or herself as the chief public relations director for the Borough.
Part 6  
Boards and Commissions


(a) Creation, Appointment, Term and Vacancy. Borough Council acknowledges that a Borough Planning Commission, composed of three (3) members, has been created prior to the adoption of this Part, and a Planning Commission is hereby created by this Part. Council may increase or decrease the size of the Commission to not less than three (3) members and no more than nine (9) members provided that it does so by Ordinance and in accordance with Law. Council shall appoint members of the Commission in the manner provided by Law. The term of each member shall be for four (4) years or until his or her successor is appointed and qualified. The Chairperson of the Commission shall promptly notify Council of any vacancies in the Commission. Council shall fill any such vacancies by appointment for their unexpired term.

(b) Membership. All of the members of the Planning Commission shall be residents of the Borough. There shall be at least two (2) citizen members of the Commission who are not officers or employees of the Borough.

(c) Removal of Members. Any Commission Member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of Council taken after the member has received a minimum of fifteen (15) days advanced notice of the intent of Council to take such a vote. A hearing shall be held before taking the vote if the member requests it in writing.

(d) Conduct of Business. The Commission shall elect its own Chairperson and Vice-chairperson and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to Council. Interim reports may be made as often as may be necessary, or upon request of Council.

(e) Powers and Duties of the Commission. The Planning Commission shall at the request of Council have the power and be required to:

(1) Prepare a comprehensive plan for the development of the Borough as set forth in the Pennsylvania Municipalities Planning Code, and present the same to Council for consideration.

(2) Maintain and keep on file records of its action. All records and files of the Planning Commission shall be in the possession of Council.
(f) Other Powers and Duties of the Commission. The Planning Commission may at the request of Council:

(1) Make recommendations to Council concerning the adoption or amendment of the Official Zoning Map.

(2) Prepare and present to Council a zoning ordinance, and make recommendations to Council of proposed amendments thereto.

(3) Prepare and recommend to Council subdivision and land development and planned residential development regulations.

(4) Prepare and present to Council a building code and housing code and make recommendations concerning proposed amendments thereto.

(5) Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Pennsylvania Municipalities Planning Code.

(6) Prepare and present to Council an environmental study, recommend a capital improvement program, a water survey and/or a study regarding the feasibility and practicality of using renewable energy sources in specific areas of the Borough.

(7) Promote public interest in, and understanding of, the comprehensive plan and planning in general.

(8) Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.

(9) Hold public hearings and meetings.

(10) Present testimony before any board.

(11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission.

(12) In performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.

(13) Review the Zoning Ordinance, Subdivision and Land Development Ordinance (SALDO), official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

(14) Perform all of other duties and exercise any and all other powers vested by law in planning agencies in boroughs.
§602. Recreation Board.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Recreational Board has been created at the time of adoption of this Part, and a Recreation Board is hereby created by this Part. The Recreation Board shall consist of nine (9) members who are all appointed by Council for terms that permit no more than two (2) terms to expire in any one calendar year. The Members of the Board have all been and will continue to be appointed by Council for terms of five (5) years. The terms of the members shall be staggered, so that the terms of two (2) of the members shall expire in each of four successive years and the term of the ninth member shall expire in the fifth year. A Board member may stay in office until a successor qualifies or is appointed, or Council may remove any member of the Board, as set forth in §602(b) below.

(b) Removal of Members. If any member appointed by Council to the Board shall neglect or refuse to attend two (2) successive regular meetings unless detained by sickness, or prevented by necessary absence from the Borough, or if in attendance at any meetings neglects or refuses to vote or by his or her withdrawal from the Board or otherwise refuses to act in his or her capacity as a member of the Board, Council may remove the Board member and fill such vacancy for the remainder of that member’s unexpired term.

(c) Service without Pay. The members of the Board shall serve without pay.

(d) Officers of the Board. The Board shall elect their own Chairperson and Secretary and any other officers deemed necessary, to serve for a period of one (1) year.

(e) Monthly Reports; Annual Budget. The Board shall prepare and make available to Council a monthly report of all of its activities. The Board, at such times as directed by Council, shall annually submit for approval to the Council a proposed budget for the ensuing year, setting forth all the proposed expenditures, salaries and programs. The Board shall not in any manner obligate Council for the payment of any municipal funds until the same is appropriated by Council.

(f) Powers and Duties of the Board. The Board shall perform all duties and may exercise all powers granted herein, or vested by law in borough recreation boards.

§603. Shade Tree Commission.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Shade Tree Commission has been created at the time of adoption of this Part, and a Shade Tree Commission is hereby created by this Part. The commission shall be composed of three (3) residents of the Borough, who shall be appointed by Council. The first appointments to the shade tree commission shall be as follows: one (1) member for three (3) years; one (1) member for four (4) years; and one (1) member for five (5) years. On the expiration of the term of any shade tree commissioner, a successor shall be appointed by council for a term of five (5) years.
(b) Service without Pay. Members of the commission shall serve without pay.

(c) Conduct of Business. The Commission shall: (i) choose its own officers; (ii) make its own rules and regulations; and (iii) keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(d) Powers and Duties of the Commission. The Commission shall have the power, duties and responsibilities to:

(1) Study, investigate, counsel and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to Council and, upon its acceptance and approval, shall constitute the official Comprehensive Borough Tree Plan for the Borough.

(2) Consider, investigate, make findings on, report upon and recommend any special matter, or question coming within the scope of its work.

(3) Prescribe rules and regulations and impose such penalties for the violation of the same as it may deem necessary and proper, provided that the rules and regulations are approved by Council.

(4) Collect assessments, file liens, levy taxes and collect penalties, as may be permitted by law.

(5) Recommend the proper authority, type and kind of trees to be planted upon Borough streets, parks or public places.

(e) Annual Report. The Commission shall make an annual report to Council of the transactions and expenses of the Commission for the preceding fiscal year. Request for appropriation for the ensuing fiscal year shall accompany the report.

§604. Zoning Hearing Board.

(a) Creation, Appointment, Term and Vacancy. Borough Council does hereby acknowledge that a Zoning Hearing Board has been created at the time of adoption of this Part, and a Zoning Hearing Board is hereby created by this Part. The membership of the Zoning Hearing Board currently consists of five (5) members. However, in the future the membership may, upon determination of Council, consist of either three or five residents of the Borough appointed by resolution of Council. The terms of office of a three member Zoning Hearing Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member Zoning Hearing Board shall be so fixed that the term of office of one member of a five member board shall expire each year. The Zoning Hearing Board shall promptly notify Council of any vacancies that may occur on the Board. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of
the Zoning Hearing Board shall not hold any other elected or appointed office in the Borough nor shall any member be an employee of the Borough.

(b) Alternate Members. Borough Council may appoint by resolution at least one but not more than three residents of the Borough to serve as alternate members on the Zoning Hearing Board. The term of office of an alternate member shall be three years. Alternate members shall not hold any other elected or appointed office in the Borough, including service on the Planning Commission or as a Zoning Officer, nor shall any alternate member be an employee of the Borough. Alternates may participate in all proceedings and discussions before the Zoning Hearing Board as provided by the applicable provisions of the Pennsylvania Municipalities Planning Code, specifically §903(b) and §906(b). The Chairperson of the Zoning Hearing Board may designate alternate members of the Board to replace any absent or disqualified member, and the Chairperson may designate as many alternate members as may be needed to reach a quorum.

(c) Organization of the Zoning Hearing Board. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its own behalf and the parties may waive further action by the Board provided in §908 of the Pennsylvania Municipalities Planning Code.

(d) Expenditures of the Zoning Hearing Board. Within the limits of funds appropriated by Borough Council, the Zoning Hearing Board may employ and contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board and alternate members of the Board (when designated to perform their duties) may receive compensation for the performance of their duties, as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.

(e) Conduct of Business. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with the Borough Zoning Ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit reports of its activities to the Borough as requested by the Borough.

(f) Jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 and §916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said
ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

(3) Appeal from the determination of the zoning officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(4) Appeal from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

(5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2 of the Pennsylvania Municipalities Planning Code.

(6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1 of the Pennsylvania Municipalities Planning Code.

(7) Appeals form the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.

(8) Appeals from the zoning officer’s determination under section 916.2 of the Pennsylvania Municipalities Planning Code.

(9) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.

(g) Hearings and Decisions. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code; which requirements include the following:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
(A) The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(B) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant’s application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant’s case-in-chief provided the persons opposed to the application may, upon the written consent on the record by the applicant and the municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal. (Acts 2 and 43 of 2002)

(2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant of the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. (Act 2 of 2002)

(3) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The board shall have power to require that all person who wish to be considered parties enter appearances in writing on forms provided by the board for the purpose.

(4) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and appears, including witnesses and documents requested by the parties.

(5) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
(6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(7) The board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in wither even the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(8) The board or the hearing officer shall not communicate, directly or indirectly, with any part or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearing with any party or his representative unless all parties are given an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reason therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decisions or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board’s decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice
the right of any part opposing the application to appeal the decisions to a court of competent jurisdiction. (Act 2 and 43 of 2002)

(10) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
Part 7
Police Department

§701. Establishment.

(a) Council does hereby acknowledge that a Police Department has been created at the time of adoption of this Part, and a Police Department is hereby established by this Part. A Police Department may consist of a Chief of Police who shall be in charge of the police force and shall have supervision over its members, in the exercise of their powers, duties and authority subject to the direction of Council and the Mayor.

(b) The Police Chief and the police officers currently employed by various motions of Council and presently serving the Borough are hereby declared, recognized, and ordained to be members of the Police Department.

(c) The Police Department shall assume all the duties set forth with particularity in the Borough Code, the Police Policies and Procedures (Police Directives and Reports Manual; Resolution No. 5 of July 9, 2007), as amended, and as imposed or provided by Law.

(d) The classifications in the Police Department are those identified and set forth in the Police Directives and Reports Manual Policies, as amended, and may include the positions of Chief of Police and Patrol Officer and Council reserves the right herein to appoint members of the Department to those classifications as it may determine necessary, or as otherwise provided in the Police Collective Bargaining Agreement and the Police Directives and Reports Manual, as amended. However, Council shall not be obligated to do so.

(e) Council shall establish the compensation of each member of the Police Department by Resolution or contract as the case may be.

§702. Purchasing of Police Protection.

(a) Borough Council is hereby authorized to negotiate and enter into Intergovernmental Cooperation Agreements with other municipalities from time to time, and other agencies, entities or organizations to provide police protection for a fee to be established prior to providing such services. Borough Council recognizes that when providing police protection to other governmental agencies or municipalities that the Commonwealth of Pennsylvania has authorized them to do such pursuant to Act No. 180 of 1972; 53 P.S. §481 et seq.

(b) At the time of the adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with the Dennison Township Board of Supervisors to provide police protection within Dennison Township for a fee pursuant to Ordinance of 2007. Pursuant to the Agreement, which is incorporated herein by reference thereto, the Borough provides police protection a minimum of ten hours per week at a cost of Two Thousand ($2,000.00) per month payable on the first Wednesday of each month beginning January, 2007. If any officers are required to attend court procedures in the prosecution of crimes, there will be
an additional charge of $37.50 per hour per officer required to attend. The time spent by officers attending court procedures will not be deducted from the 10 hours per week patrol time. This Agreement has been in effect since 3/2/2007 and continues through the adoption of this Part.

(c) At the time of the adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with the Penn Lake Park Council to provide police protection within Penn Lake Park Borough for a fee pursuant to Ordinance No. 1 of 2010. Pursuant to the Agreement, which is incorporated herein by reference thereto, the Borough provides police protection a minimum of seven (7) hours per week at a cost of One Thousand Two Hundred and Fifty ($1,250.00) Dollars per month payable on the second Wednesday of each month beginning June of 2010. If any officers are required to attend court procedures in the prosecution of crimes, there will be an additional charge of $46.15 per hour per officer required to attend. The time spent by officers attending court procedures will not be deducted from the seven (7) hours per week patrol time. This Agreement has been in effect since May 21, 2010 and continues through the adoption of this Part.

§703. Providing for Police Protection on Borough Owned Properties Outside Borough Limits.

(a) Borough Council is hereby authorized to negotiate and enter into Intergovernmental Cooperation Agreements to provide police protection with other municipalities where Borough owned property is located for a fee or without a fee for the protection of Borough owned property.

(b) At the time of adoption of this Part, Borough Council has entered into an Intergovernmental Cooperation Agreement with Foster Township (an adjoining municipality) to provide police protection and have jurisdiction on the property of White Haven Borough, which is located in Foster Township, known as Parcel No. 2 (which contains 337 acres, more or less), and Parcel No. 3 (which contains 50 acres and 40 perches, more or less) all of which is located in Luzerne County, Pennsylvania, and is more fully described in Luzerne County Deed Book 3004 at Page 55089-55092 as Parcels 2 and 3 without a fee and providing indemnification to Foster Township for police protection services rendered. This arrangement was created pursuant to Ordinance 2008 dated 2/11/2008 and having an effective date of 2/11/08.

(c) The Intergovernmental Cooperation Agreement between White Haven Borough Council and the Foster Township Board of Supervisors provides in pertinent part as follows:

"This Agreement made this 11th day of February, 2008, by and between the BOARD OF SUPERVISORS OF FOSTER TOWNSHIP, hereinafter Foster, and the COUNCIL OF WHITE HAVEN BOROUGH, hereinafter White Haven.

WHEREAS, Foster Township does not have a police department while White Haven Borough does; and

WHEREAS, a portion of the property owned by White Haven Borough is located in Foster Township; and

WHEREAS, White Haven desires that White Haven be authorized to provide police protection for two (2) specific parcels of ground owned by White Haven but located in Foster.
NOW, THEREFORE, in consideration of the mutual promises contained herein it is agreed as follows:

1. White Haven will provide police protection for that portion of the White Haven Borough property which is located in Foster Township, Luzerne County, PA, being more specifically described as Parcel No. 2 (which contains 337 acres, more or less), and Parcel No. 3 (which contains 50 acres and 40 perches, more or less), in Luzerne County Deed Book 3004 at Page 55089-55092, at no cost or other expenses of any nature or kind to Foster Township. A copy of the deed describing Parcel No. 2 and Parcel No. 3 is attached hereto as Exhibit “A” and incorporated herein.

2. White Haven will assume all responsibility and liability for all the acts of its police officers who are providing police services to that portion of the White Haven Borough property located in Foster Township and described in Paragraph 1 above. In addition, the White Haven Police shall be treated as independent contractors and Foster Township shall have no liability for payroll, payroll taxes, or workmen’s compensation.

3. All fines and penalties collected by the White Haven Borough Police Department directly or through the District Justice for arrests made or citations issued as a result of activity occurring on the property described in paragraph 2 above will be distributed to White Haven Borough.

4. White Haven Borough hereby agrees to pay any and all charges incurred by Foster Township to advertise and adopt this Ordinance authorizing the execution of this Intergovernmental Cooperation Agreement.

5. It is to be clearly understood by White Haven that this Agreement authorizes the White Haven Police Department to patrol and provide police protection for only Parcel No. 2 and Parcel No. 3 as described in Luzerne County Deed Book 3004, at Page 55089-55092 and does not include any other property situate in Foster Township, Luzerne County, Pennsylvania.

6. At no time shall Foster be responsible in any way for any costs, expenses or the wages whether they be an hourly wage or a salary for White Haven to provide police protection to the subject property; all costs, expenses, wages, salaries and any other expenditures made regarding this Agreement and the police protection provided by White Haven shall be the sole, complete and absolute expense of White Haven.

7. White Haven, for good and valuable consideration, receipt and legal sufficiency of which is hereby acknowledged, for itself, its past, present and future council persons, agents, attorneys, successors and assigns and all other persons or entities, both known and unknown does hereby remise, release and forever discharge Foster and each of its respect past, present, and future Supervisors, agents, representatives, attorneys, predecessors, successors and assigns and all other persons or entities, both known and unknown of and from all, and all manner of, actions and causes of action, suits, lawsuits, damages, controversies, costs, interest, delayed damages, attorneys’ fees, penalties, rights, liabilities, debts due, bills, accounts, covenants, duties, contracts, agreements, promises, obligations, judgments, claims rights of contribution or indemnification, demands, compensation and all consequential and/or general and/or punitive and/or equitable and/or other damages whatsoever, in law or equity, in tort or contract, whether or not heretofore known, suspected or asserted, which against Foster, or any of them, White Haven ever had, now has, hereinafter can, shall or may have, by reason of any cause, matter, event or thing whatsoever, from the beginning of the world to the date of this Intergovernmental Cooperation Agreement, related to any matters that could have been or have arisen as the result of White Haven providing police protection to the property described above located in Paragraph
1 in Foster Township, Luzerne County, Pennsylvania and or which may have been or could have been alleged or been related to or arise from the execution of this Intergovernmental Cooperation Agreement.

8. White Haven hereby agrees to indemnify, defend and save and hold harmless Foster, its officers, supervisors, employees, agents, partners, attorney, successors and assigns (collectively, the “Indemnified Party”) from and against and to reimburse the Indemnified Party with respect to, any and all claims, demands, causes of actions, lawsuits, damages, liabilities, costs and expenses (including reasonable attorneys’ fees and expenses, court costs and costs of appeals) asserted against or incurred by the Indemnified Party by reason of arising out of this Intergovernmental Cooperation Agreement and the police protection provided by White Haven on the property owned by White Haven and described as Parcel No. 2 and Parcel No. 3 in Luzerne County Record Book 3003, at Page 55089-55092.

9. Either party has the unilateral right to terminate this Agreement upon thirty (30) days written notice to the other party.”

Editorial Note: The Intergovernmental Cooperation Agreement between White Haven Borough and Foster Township has also been adopted by Foster Township.
Chapter 8
Pensions, Retirement, and Social Security

§801. Firemen’s Relief. The Borough recognizes the White Haven Firemen’s Relief Association. All funds received by the Borough on account of foreign fire insurance premiums have always been and will always continue to be turned over to the Association as received and will be so appropriated in the future.

§802. Pennsylvania Municipal Retirement System.

(a) Change of Member Benefits in Pennsylvania Municipal Retirement Law. The Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change its member benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, as amended, and does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Amendment, as the case may be. All references hereafter shall be based on benefits negotiated between the Board and the Borough under the provisions of Article IV; (Ordinance No. 2-1996, 3/14/1996, §1).

(b) Membership Mandatory for Certain Employees; Prohibited for Elected Officials and Certain Other Employees. Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all permanent, municipal employees of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis (Ord. No. 2-1006, 3/14/1996, §2).

(c) Prior Service Credits; Accrual of Benefits. Credit for prior service for original members is granted for each year or partial year thereof that the member was employed by the Borough from original date of hire or the expiration of the member’s probationary period if one so existed. Benefits provided to members in the Agreement dated March 14, 1996, shall accrue based on all credited service granted and earned in accordance with this Part (Ord. No. 2-1996, 3/14/1996, §3).

(d) Required Payments by Borough. Payment for any obligation established by the adoption of this Part of the Code of Ordinances and the Agreement between the System and White Haven Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act (Ord. No. 2-1996, 3/14/1996, §4).

(e) Borough Responsible for Certain Benefits. As part of Ordinance No. 2 of 1996, the Borough agrees that the System shall provide the benefits set forth in the Agreement between the Board and the Borough, dated March 14, 1996. The passage and adoption of the Ordinance by the Borough is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. The Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-referenced agreement (Ord. No. 2-1996, 3/14/1996, §6).
(f) Ordinance is Complete Authorization of Plan; Repeal of Prior Ordinance. The Borough intends that Ordinance No. 2-1996 to be the complete authorization of the Borough plan and it shall become effective and specifically repeal Ordinance No. 1971-6 (Ord. No. 2-1996, 3.14.1996, §6).


§803. Municipal Police Retirement System.

(a) Election to Join Municipal Police Retirement System. The Borough elected to join the Municipal Police Retirement System pursuant to an Ordinance enacted on November 22, 1971, established by the Act of July 31, 1968, No. 291, and agrees to be bound by all the requirements and provisions of that placed upon member municipalities by that Act (Ord. No. 1971-5, 11/22/71, §1).

Editorial Note: The Municipal Police Retirement Law of 1968 was repealed and superseded by the Pennsylvania Municipal Retirement Law (1974 P.L. 34 No. 15). Article III of the new Act related to retirement for municipal firemen and municipal police and provided for transferring the assets and liabilities of the Municipal Police Retirement Fund to the Pennsylvania Municipal Retirement Fund and that the rights and benefits of the members and of the municipalities that had joined the Municipal Police Retirement Fund were not to be impaired in any way by the transfer.

(c) Incorporation of Certain Provisions of Municipal Police Retirement Law by Reference. The Borough hereby incorporates the Municipal Police Retirement Law as a part of Ordinance No. 1971-5 insofar as that act, as amend, applies to a member municipality (Ord. No. 1971–5, 11/22/71, §2).

(d) Termination of Existing Police Pension Fund. The Borough terminated the existing police pension fund, adopted by Ordinance No. 4, dated September 10, 1962, with respect to the membership of those, numbering at least 75% of all members, who have elected to join the Municipal Police Retirement System, and of police officers employed by the Borough on and after the effective membership entry date contained in subsection (e) of this Part below; provided, any person who was a member of the existing police pension fund, on September 30, 1968, which was created under the provisions of the Act of May 29, 1956 (P.L. 1804), as amended, who elects to join the Municipal Police Retirement System shall have the same entitlement to benefits as he had as a member of the existing police pension fund (Ord. No. 1971-5, 11/22/71, §3).
Editorial Note: The earlier police pension fund ordinance (Ord. No. 4, 9/10/62), authorized purchase of police annuity contracts and established rights and benefits of members of the fund. It is not being repealed in connection with this Ordinance codification, or any prior Ordinance Codification, because some provisions may still be in effect. It is not reproduced in full in the Code of Ordinances, however, it may be examined in the Office of the Secretary.


(f) Election to Upgrade Member Benefits.

(1) The Borough, being a member municipality of the Pennsylvania Municipal Retirement System elects to upgrade its member benefits in that system as authorized by the Pennsylvania Municipal Retirement Law as amended, from Article III to Article IV and agrees to be bound by all the requirements and provisions of those articles and the law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by those articles, law and amendment as the case may be. All references otherwise herein shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV (Ord. No. 1980-6 12/15/80, §1).

(2) The Borough, being a member municipality of the Pennsylvania Municipal Retirement System hereby elects to upgrade its police benefits in that System as authorized by the Pennsylvania Municipal Retirement Law as emended, and does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Article, Law and Amendment, as the case may be. All references otherwise shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV (Ord. No. 2-1985, 5/9/85, §1).

Editorial Note: The Pennsylvania Municipal Retirement Law is in the Act of 1974 P.L. No. 15; Article III contains provisions relating to municipal fire persons and police officers; Article IV relates to optional retirement plans.

(g) Membership for Full-time Police Officers Mandatory. Membership for full-time police officers is mandatory (Ord. No. 1980-6, 12/15/80, §2).

(h) Credit for Prior Service.

(1) Credit for prior service toward the municipal annuity of each original member shall be for all years of service to the Borough. The Borough assumes the liability for payment of all 100% of the original member’s contributions for all years of service toward the original member’s annuity for the prior service of each original member (Ord. No. 1980-6, 12/15/80, §3).
(2) Credit for prior service toward the annuity of each police officer shall be for all years of service to the municipality. The Borough assumes the liability for payment of 100% of the prior service cost (Ord. No. 2-1985, 5/9/85, §2).

(i) Borough Payments for Prior Service.

(1) Payment for the prior service as set forth in this Part shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and may be spread over a period of thirty (30) years if the Borough so elects and with the approval of the Pennsylvania Municipal Retirement Board (Ord. No. 1980-6, 12/15/80, §4).

(2) Payment for the obligation as set forth in this Part and the agreement between the Board and the Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law (Ord. No. 2-1985, 5/9/85, §3).

(j) Options Accepted.

(1) The Borough elects to extend the provisions of Section 310 of the Pennsylvania Municipal Retirement Law, (Act 15 of 1974) so that contributors to the retirement system shall have the options and enjoy the protections set forth in subsections (a) and (b) of Section 310 of the Pennsylvania Municipal Retirement Law, and Section 310 is incorporated into and made a part of Ordinance No. 1980-6 by reference (Ord. No. 1980-6, 12/15/80, §5).

Editorial Note: Section 310 of the Pennsylvania Municipal Retirement Law provides for death benefits for persons entitled to superannuation retirement allowance or to withdrawal allowance by reason of having completed 24 years of total service.

(k) Acceptance of Upgraded Benefits.

(1) As part of Ordinance No. 1980-6, the Borough agrees to the outline of benefits set forth in letter of the actuary addressed to the Pennsylvania Municipal Retirement Board dated November 14, 1980 upgrading the benefits, which includes basic benefits and service increments, in the Pennsylvania Municipal Retirement System from Article III to Article IV. The passage and adoption of Ordinance No. 1980-6 by council is an official acceptance of those benefits (Ord. No. 1980-6, 12/15/80, §6).

(2) As part of Ordinance No. 2-1985, the Borough agrees to the outline of benefits set forth in the agreement between the Board and the Borough, dated May 9, 1985. The passage and adoption of Ordinance No. 2-1985 is an official acceptance of that benefit structure and the accompanying financial obligations contained in the administration of that benefit package (Ord. No. 2-1985, 5/9/85, §4).

(l) Effective Dates for Upgraded Benefits.

(2) Membership for Article IV for the borough police in the Pennsylvania Municipal Retirement System shall be effective the first day of January, 1972, with the upgraded plan structure reflected in the revised agreement of May 9, 1985, effective June 1, 1985 (Ord. No. 2-1985, 5/9/85, §5).

Editorial Note: Section 7 of Ord. No. 1980-6 and Section 5 of Ord. No. 2-1985 each also required that a certified copy of the ordinance be filed with the Pennsylvania Municipal Retirement Board. Section 5 of Ord. No. 2-1985 also required the filing of a certified copy of the agreement.

(m) Agreement of May 5, 1995, pertaining to Upgraded Benefits. The Pennsylvania Municipal Retirement Board and the Borough hereby agree to amend the contract between them to read as below and to provide the following retirement pension plan for the municipal policemen:

1. Coverage: This plan shall cover all full-time members of the Police Department of the Borough of White Haven, hereinafter referred to as “member”.

2. Superannuation Retirement Age: Superannuation retirement age shall be 60 years of age.

3. Eligibility for Superannuation Retirement Allowance: A member who terminates service at or after attaining superannuation retirement age, or a vestee who has obtained superannuation retirement age is eligible for a superannuation retirement allowance.

4. Eligibility for Early Retirement Allowance: A member with eight (8) or more years who is involuntarily terminated, or a member with twenty (20) or more years of service who voluntarily terminates service is eligible for an early retirement allowance upon the filing an application within 90 days after termination.

5. Superannuation Retirement Allowance and Early Retirement Allowance Formula: The basic superannuation retirement allowance shall be a single life annuity equal to 3% of the member’s final salary multiplied by the number of years of credited service, but in no case shall the basic superannuation retirement allowance exceed 60% of the member’s final salary. In the case of a member receiving an early retirement allowance, the single life annuity shall be multiplied by a reduction factor as to provide benefits actuarially equal to an annuity starting at superannuation retirement age.

6. Final Salary: Final salary is the average monthly compensation paid to the member during the final 36 months of employment, or if the member is not so long
employed, then the average monthly compensation paid during the whole period of employment.

(7) Permanent Disability Benefits:

(A) After a member has had ten (10) or more years of total service, he may, upon application or on application of one acting in his behalf, or upon application of the head of the department by the Borough in which he is employed, be retired by the Board on a disability allowance if he is under superannuation retirement age, and on a superannuation retirement allowance if he has attained or passed such age, if the physician designated by the Board, after medical examination of the member made at the place of residence of the member or at a place mutually agreed upon, shall certify to the Board that the contributor is unable to engage in any gainful employment and that said member ought to be retired. When the disability of a member is determined by the Board to be service-connected, as defined in the Pennsylvania Municipal Retirement Law, no minimum period of service shall be required for eligibility.

(B) The disability retirement allowance shall be equal to 30% of the member’s final salary. Where the disability of the member is determined to be service-connected, as defined in the Pennsylvania Municipal Retirement Law, the disability retirement allowance shall equal 50% of the member’s final salary. The disability annuity shall be reduced by the amount of any payments for which the member shall be eligible under the Act of June 2, 1915 (P.L. 736, No. 338), known as the Pennsylvania Workmen’s Compensation Act or the Act of June 21, 1939 (P.L. 566, No. 284), known as “The Pennsylvania Occupation Disease Act”.

(C) Any member entitled to retire for disability may, in lieu of such retirement, if he has eight (8) or more years of total service credit, elect to retire as if he involuntarily terminated service.

(D) Should a disability annuitant die before the total disability retirement allowance received shall be at least equal to the amount of his accumulated deductions plus the balance in the member’s excess investment account at the time of disability retirement, then the Board shall pay to the named beneficiary, if living, or if the named beneficiary was named, then to the annuitant’s estate, an amount equal to the difference between such total retirement allowance received and the annuitant’s accumulated deductions, and if such difference is less than one hundred dollars ($100) and no letters have been taken out on the estate within six months after death, then such difference may be paid to the undertaker or to any person or municipality who or which shall have paid the claim of the undertaker.

(8) Vesting: A member with twelve (12) or more years of service credit who terminates service as a municipal policeman may become a vestee by filing an election with the Board within 90 days after termination.
(9) Death Benefits: An active member who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or who is entitled to an early retirement allowance by reason of having completed twenty (20) years of total service, may file with the Board a written application for retirement, in the form required for such application, but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided in Section 14 and nominating a beneficiary. The application shall be held by the Board until the member shall file a later application in the usual manner for a superannuation retirement allowance or until the death of the member occurring while in municipal service, at which time his retirement shall become effective with the same benefits to the person designated as if the member had retired on the day immediately preceding his death. A member who is entitled to a retirement allowance as defined above who has died in municipal service before filing with the Board a written application for a superannuation retirement allowance shall be considered as having elected Option 1 as provided under Section 14 as of the date of his death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form on file with the Board. A member who dies and is not entitled to any other benefit shall have is accumulated deductions and amount credited to the member’s excess investment account paid to the beneficiary designated in the nomination of beneficiary form on file with the Board.

(10) Military Service:

(A) Any member employed by the Borough of White Haven who has been a regularly appointed employee for at least six (6) months and is inducted into the military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within 6 (six) months after his separation from the service.

(B) An active member may also purchase credit for other than intervening military service performed for the United States in time of war, armed conflict or National emergency, so proclaimed by the President of the United States, for a period not to exceed five (5) years; provided, that the member has completed five (5) years of service to the municipality subsequent to such military service. An active member may file an application with the Board for permission to purchase credit for non-intervening military service upon completion of five (5) years of subsequent service to the Borough. The type of service credit for such service shall be determined by the date of entry of the Borough into the States. If the date of the member’s separation from military service is prior to the date on which the Borough joined the System, then the credit purchase shall be considered as prior service credit.

(C) The amount due from the member shall be certified by the Board in accordance with methods approved by the actuary, and may be paid in a lump
Contributions and Benefits: Members shall contribute five percent (5%) of their total compensation; however, if agreed by the Borough, contributions may be waived or reduced on an annual basis (calendar) by adoption of a resolution and filing the same with the Pennsylvania Municipal Retirement Board. If a member terminated prior to becoming eligible for any benefit, or should a member elect not to receive a benefit upon separation, all accumulated contributions personally contributed, interest and credited excess interest shall be returned to the member. Upon termination of the membership with an election not to receive a benefit, any municipal contributions made in lieu of the member’s contributions, accumulated interest on said municipal contributions, and any excess interest credited on the proportion contributed by the municipality shall be transferred to the municipal account.

Withdrawal of Member: Any member who terminates service with the Borough of White Haven and who is not eligible or elects not to receive any of the benefits provided for in this Agreement, shall receive in full a refund of his accumulated deductions plus the balance in his excess investment account does so in lieu of any other benefit to which he may be entitled.

Portability: When a contributor leaves the employ of the Borough and enters into the employ of another municipality which has also enrolled its municipal policemen in the System, his service credits shall remain unimpaired, but in such cases any unpaid municipal liability for prior service shall be prorated by the System between the municipalities on an equitable basis.

Options on Superannuation or Early Retirement: At the time of his superannuation or early retirement, a member may elect to receive his benefits in a retirement allowance payable throughout his life, which shall be known as a single life annuity, or instead, he may elect to receive the equivalent actuarial value at that time of
his retirement allowance in a lesser allowance, payable throughout life with provisions that:

(A) Option 1. If he shall die before reaching in payments the present value of his retirement allowance as it was at the time of his retirement, the balance, if less than five thousand dollars ($5,000), shall be paid in a lump sum to his legal representative, or to or in trust for his beneficiary. If the balance is five thousand dollars ($5,000) or more, the beneficiary may elect by application duly acknowledged and filed with the Board to receive payment of such balance according to any one of the following provisions:

(i) a lump-sum payment,

(ii) an annuity having a present value equal to the balance payable, or

(iii) a lump-sum payment on an annuity. Such annuity shall be of equivalent actuarial value to the balance payable less the amount of the lump-sum payment specified by one beneficiary.

(B) Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(C) Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to his survivor annuitant, if then living.

(15) Social Security Offset: There shall be no reduction in the retirement allowance paid under this agreement on account of Social Security retirement benefits received by a member.

(16) Determination of Municipal Liability. The Board shall, as soon as may be, determine the present value of the liability for the prior service credits of the original members, and shall establish an amount payable annually in accordance with the ordinance and laws of the Commonwealth.

The municipal liability to be determined by the Board shall be based upon credit for all years of prior service toward the municipal annuity of each original member.

The Board shall also determine, from time to time, the amount which shall be contributed annually by the municipality, for service credits of original and new members subsequent to the time the municipality joined the System, and the additional amount which shall be contributed annually by the municipality toward a reserve account for disability allowances payable to original and new members, in order that all future service liability may be fully funded on an actuarially basis.
(17) Procedure: Matters of substance or procedure not covered in this agreement shall be as set forth in Act 15 of 1974, as it shall from time to time be amended.

(18) Unfunded Liability: Any unfunded liability incurred by the creation of benefits or assumption of liability under this agreement shall be borne by the Borough of White Haven (Agreement, 5/9/1985, as amended by Ord. No. 5-1989, 9/14/1989, §1). "

Editorial Note: The preamble to this agreement quoted Section 401 of Article IV of the Act of 1974 P.L. 34 No. 15, which stated that Article IV was to provide for the enrollment of those municipalities in the Pennsylvania Municipal Retirement System which want to offer retirement benefits to their employees; and also quoted Section 413 which authorized municipalities which had joined the System desiring to increase any of the benefits enumerated in Article IV to their members, to amend their contract with the approval of the Board. It stated that the Borough of White Haven had enrolled its municipal policemen in the System under Article IV and desired to amend the optional retirement contract with the Pennsylvania Municipal Retirement Board.

Ordinance No. 5-1989 amended Paragraph 11 only of the agreement, to allow for the annual waiving or reduction of the required employee contributions. Section 2 of the ordinance provided that a duly certified copy of the ordinance be filed with the Pennsylvania Municipal Retirement Board; Section 3 contained severability provisions, similar to those in Section 1-1005 of this Code of Ordinances, and Section 4 provided that the ordinance become effective immediately. The actual text of the amended Section 11 was set out in Paragraph 1 of an accompanying Addendum. Paragraph 2 of the Addendum provided that the Addendum was to become effective January 1, 1989, and that, for the calendar year 1989 members of the Plan were not to be required to contribute to the Plan. Paragraph 3 stated that it was the clear and unequivocal intent of the borough and the Pennsylvania Municipal Retirement Board that the addendum was in no manner to alter or affect the rights or obligations of the borough and the Board as set forth in the agreement of 5/9/1985, other than to modify Paragraph 11 in the manner set out in Paragraph 1 of the Addendum.

§804. Social Security for Employees and Officers.

(a) Benefits of Extension of Social Security. It is the considered opinion of council that the extension of the social security system to employees and officers of the borough will be of great benefit, not only to the employees of the borough by providing that employees and officers may participate in the provisions of the Old Age and Survivors Insurance System, but will also be of great benefits to the borough by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government (Ord. of 9/8/52, Paragraph 1).

(b) Extension of Coverage Authorized. The 1951 Session of the General Assembly of the Commonwealth, in regular session, enacted a statute, known as Act. No. 491, which is the enabling act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Secretary of Labor and Industry of the Commonwealth to act as the “state agency” to implement the coverage of employees and officers under the Old Age and Survivors Insurance System. The borough is authorized to execute and deliver to the State Agency a plan, or plans,
and agreement, required under Section 6 of that enabling act and the Social Security Act, to extend coverage to employees and officers of the Borough of White Haven and do all other necessary things to effectuate coverage of employees and officers under, the Old Age and Survivors Insurance System (Ord. of 9/8/52, Paragraph 2).

(c) Payroll Deduction System, Matching Borough Payments Authorized. The secretary is authorized to establish a system of payroll deduction to be matched by payments by the borough to be made into contribution fund of the Social Security Act through the office of the state agency to make charges of this tax to the fund of funds, from which wage or salary payments are issued to employees of the borough. Those payments are to be made in accordance with the provisions of the law and regulations promulgated by the state agency and the Federal Security Administrator. Payments which are delinquent shall bear interest at the rate of $\frac{1}{2}$ of 1% per month until such time as payments are made (Ord. of 9/8/52, Paragraph 3).

(d) Appropriation into Contribution Fund; Date Participation Commences. Appropriation is made from the proper fund, or funds, of the borough in the necessary amount to pay into contribution fund as provided in Section 4 of the enabling act and in accordance with the plan, or plans, and agreement. Authority is given to the Mayor and the Secretary of the Borough to enter into an agreement with the state agency, which agreement shall be in accordance with Act No. 491 and with paragraph 218 of the Social Security Act. That plan and agreement shall provide that the participation of this Borough shall commence as of January 1, 1951 (Ord. of 9/8/52, Paragraph 4).
CHAPTER 2

ANIMALS

Part 1

Regulating of Animals

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§103. Animal Noise Disturbance
§104. Injury to Humans
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Regulating and Prohibiting of Certain Exotic and Wild Animals

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CHAPTER 2

ANIMALS

Part 1

Regulating of Animals

§101. Definitions. As used in this Part, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

(a) Animal - means all members of the equine, bovine, ovine and porcine species, confined domesticated hares, rabbits, minks, dogs, cats, confined birds, poultry or domestic fowl, snakes, rodents and hamsters.

(b) Domestic Animal - means any animal normally or ordinarily domesticated or raised in this area and climate as livestock or for work or breeding purposes, or normally or ordinarily kept as a household pet.

(c) Household Pet - means any dog, cat, or other domestic animal normally and ordinarily kept in or permitted to be at large in the dwelling of its owner.

(d) Large Animal - means any wild or domestic animal of the bovine, equine or sheep family.

(d) Owner - means any person having a right of property in any animal or having custody of any animal, or any person who harbors or permits an animal to remain on or around his or her property.

(e) Run or Running at Large - means an animal that is not: (1) confined within the premises of the owner; (2) firmly secured by means of a collar and chain or other device so that the animal cannot stray beyond the premises on which it is secured; (3) under the reasonable control of some person, or when engaged in lawful hunting or field training accompanied by an owner or handler; or (4) within the premises of the owner, but upon any public highway, street, alley, park or any other public land, or upon property of another person other than the owner, and not being accompanied by or under the control of the owner or any other person having custody of the animal.

(f) Small Animal - means any wild or domestic animal such as a rabbit, hare, guinea, pig, rat, mouse, or chinchilla, and any wild or domestic fowl such as a chicken, turkey, goose, duck or pigeon.

(g) Wild Animal - means any animal, including bird, fowl, or reptile not normally or ordinarily domesticated; nor normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes; or not capable of being kept as a household pet.
§102. Unlawful to Allow Animals to Run at Large. It shall be unlawful for any person who owns or keeps an animal to permit that animal to run at large in any area within the boundaries of the Borough. Any animal running at large in violation of this Part shall be subject to seizure, detention and disposal as provided herein.

§103. Animal Noise Disturbance. It shall be unlawful for any person to own, posses, harbor, control or keep in custody any animal which makes any noise continuously or incessantly for a period in excess of thirty (30) minutes or makes such noise intermittently for a period of one (1) hour or more to the disturbance of any person at any time of the day or night regardless of whether the animal is physically situated in or upon private property.

§104. Injury to Humans. It shall be unlawful for the owner of any animal to permit that animal to injure any human being by biting, jumping on, knocking down or attacking that human being, or otherwise mauling or causing unwanted physical contact or physical injury to that human being.

§105. Animal Defecation.

(a) Animal Defecation on Public or Private Property Restricted. No person having possession, custody or control of any animal shall knowingly or negligently permit any animal to commit any nuisance such as soil ing, defiling, defecating or urinating upon any street, driveway, alley, curb, common thoroughfare, sidewalk, passageway, by-pass, public park, public play area, or any place where people congregate or walk, or any public property whatsoever, or on any private property without permission of the owner of that property, or where such condition on private property causes a nuisance to the owner of another property, or to the public.

(b) Disposal of Animal Feces. Any person having possession, custody or control of any animal shall immediately remove and properly dispose all feces deposited by such animal in a sanitary method.

§106. Restriction of Certain Animals on Premises.

(a) Certain Animals Prohibited. It shall be unlawful for any person to keep:

(1) Any pig, hog, swine, chicken, rooster, or wild animal within the Borough.

(2) Any animal at such a number or amount or in such a condition as to cause a health or safety hazard to the occupant(s) of the premises where the animals are kept, or to an adjoining property owner, or to the public health, safety or welfare.

(3) Any animal which is infected with a transmissible disease.
(4) Any animal which is otherwise detrimental to the public health, safety or welfare.

(b) Keeping of Animals Regulated. It shall be unlawful to keep any domesticated animals, except household pets and as hereinafter provided:

(1) Large animals shall be confined within an enclosed structure no part of which shall be closer than one hundred (100') feet from the exterior limits of any dwelling or of any property line.

(2) Small animals shall be confined within an enclosed structure no part of which shall be closer than fifty (50') feet from the exterior limits of any dwelling or of any property line.

(3) This Section 106(b) may not be construed or interpreted as permitting any of the animals prohibited in Section 106(a) above.

§107. Duties of Police or Code Enforcement.

(a) A Police Officer or Code Enforcement Officer may seize and detain any animal which is found to be in violation of this Part.

(b) A Police Officer or Code Enforcement Officer may dispose of any animal which poses an immediate threat to the public health, safety or welfare.

(c) The Police or Code Enforcement are hereby authorized to care for or release any animal to a person or agency that may properly care for any animal seized and detained under this Part until the owner of the animal could be provided notice to claim the animal. The cost of the detention, care and maintenance shall be paid by the owner of the animal at the time of claiming the animal.

(d) In the event an animal running at large is seized and detained in accordance with this Part and the animal does not bear a valid and proper license tag, the Police or the Code Enforcement Officer shall make a reasonable effort to ascertain the identity of the person owning or keeping the animal. When such owner or keeper is notified by the Police or the Code Enforcement Officer to claim the animal, the owner or keeper shall do so within 24 hours of receipt of such notice. If such owner or keeper is not found within 24 hours, then the detained animal may be placed for adoption, sold, or given to the applicable agency to care for the animal.

(e) In the event the detention of the animal shall be the first time said animal was so detained, upon claiming said animal, the owner may be given a warning by the Officer who detained said animal and the owner shall pay all reasonable expenses incurred by reason of the animal’s detention.
§108. **Unlawful or Prohibited Activities.**

(a) It shall be unlawful for any person to interfere with an Officer attempting to carry out his or her duties under this Part.

(b) It shall be unlawful for any person to forcibly cut the leash, chain or other restraining device to take the animal away from an Officer having in their possession an animal found running at large unaccompanied by the owner or keeper.

(c) If an animal, under the laws of the Commonwealth, must be licensed or is required to wear a license, it shall be unlawful for any person to whom a license certificate has been issued to fail or refuse to produce the license certificate for such animal upon demand of an Officer identified under this Part.

(d) No animal so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for those purposes.

§109. **Injury to Animals.**

(a) Except when an animal is in the act of attacking a human being, it shall be unlawful for any person, except an Officer under this Part, to kill, injure or attempt to kill or injure any animal found in the Borough.

(b) It shall be unlawful for any person to abandon or attempt to abandon any animal within the municipal boundaries of the Borough.

§110. **Non-liability of Police and Code Enforcement Officer.** No Police officer or Code Enforcement Officer shall be liable to any person, in damages or otherwise, for any action taken in good faith by said officer in attempting to enforce the terms and provisions of this Part.

§111. **Violations and Penalties.** Any person who shall be convicted before any District Justice of violating or failing to comply with any of the terms and provisions of this part shall be sentenced to pay a fine of not more than Six Hundred ($600) Dollars, together with costs of prosecution, and in default of payment of such fine and costs, may be sentenced to imprisonment for a term not to exceed thirty (30) days. The continuation of any violation of this Part shall constitute a separate offense for each successive day of violation. The District Justice may also award reimbursement costs to the Borough for any temporary detention, care and maintenance of an animal in this or a separate action.
§201. Definitions.

A. **Animal** means all non-human vertebrate and invertebrate species, whether wild or domestic, commonly considered to be part of the animal kingdom.

B. **Service Animal** means an animal that is trained under the guidelines of a non-Profit organization to be a helper to assist a handicapped person perform simple everyday tasks.

C. **Wild or Exotic Animal** means any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm. Wild animals, although domesticated, shall also include but not be limited to:

- **Amphibians:** All Venomous frogs, toads, turtles, etc.;
- **Bear (Ursidae):** All bears, including grizzly bears, brown bears, black bears, etc.;
- **Cat Family (Felidae):** All except commonly accepted domestic cats – including lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.;
- **Crocodilians:** All alligators, caimans, crocodiles, gavials, etc.;
- **Dog Family (Canidae):** All except domesticated dogs – including wolf, fox, coyote, dingo or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc;
- **Pig:** All wild or domesticated swine, etc. excluding certified Vietnamese potbellied pigs, in accordance with Section 202(A)(2) below;
- **Porcupine (Erethizontidae):** All porcupines, skunks, etc.;
- **Primates (Hominidae):** All sub-human primates, etc.;
- **Raccoons (Procynidae):** All raccoons and civets, etc.;
- **Reptiles:** All venomous and constricting snakes (boa constrictors, pythons etc.),
venomous lizards, etc.;

Venomous Invertebrates: All venomous spiders, scorpions etc.;

Weasels (Mustelidae): All including weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets, in accordance with Section 202(A)(1) below.

§202. Keeping of Certain Animals Prohibited

A. Wild or Exotic Animals Prohibited. No person shall keep a wild or exotic animal in any place except a zoological park, veterinary hospital (not boarded) or clinic, humane society, or circus, sideshow, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise.

(1) Domesticated ferrets are permitted as house pets provided that the following requirements are met:

(i) Ferrets must be de-scented.

(ii) Ferrets must be spayed or neutered.

(iii) Ferrets are to be vaccinated, except as otherwise provided herein. Vaccination documents or a statement from a licensed veterinarian advising against a vaccination shall be furnished upon request.

(iv) No breeding of ferrets is permitted.

(v) Ferrets are not to be at large when outdoors.

(2) Vietnamese Potbellied Pigs are permitted as house pets provided that the following requirements are met:

(i) The pet owner is to obtain a document from a licensed veterinarian or a nationally recognized registry certifying that the pet is a Vietnamese Potbellied Pig.

(ii) Vietnamese Potbellied Pigs are to be spayed or neutered.

(iii) No breeding of Vietnamese Potbellied Pigs is permitted.

(iv) Vietnamese Potbellied Pigs are to be vaccinated, except as otherwise provided herein. Vaccination documents or a statement
from a licensed veterinarian advising against vaccination shall be furnished upon request.

(3) The fostering or keeping of a service animal is permitted in a household provided the following requirements are met:

(i) No more than one service animal is permitted.

(ii) Upon request, the property owner is to furnish documentation certifying that the animal has been trained or is being fostered in accordance with a training program administered by a non-profit organization.

B. Sale, Exchange, Adoption, or Transfer of Wild or Exotic Animals Prohibited. No person shall sell, offer for sale, adopt, exchange or transfer, with or without charge any wild or exotic animal. This subsection is not intended to apply to persons owning or possessing wild or exotic animals prior to the passage of this Part, provided that the person or persons taking possession of such wild or exotic animal following the sale, adoption, exchange or transfer is/are not a resident of the Borough of White Haven.

C. Disposition and Impoundment. Any person who keeps a wild or exotic animal in violation of this Part must dispose of the animal by removal of the animal from the Borough or by giving the animal to the Borough Police Department. The Officer within the Borough Police Department who is given the animal is authorized to release the animal to the wild, to a zoological park, or to dispose of the animal in some humane manner depending on the type of animal. The owner shall either pay directly or reimburse the Borough for the cost of removal and/or placement at a park or other facility.

§203. Permitting Wild or Exotic Animals Owned at the Time of Passage of the Part.

Any person owning or possessing a wild or exotic animal at the time of enactment of this Part may, pending the approval of the Zoning Officer, obtain a permit and non-conforming status for the wild or exotic animal provided that:

A. The wild or exotic animal must be within the possession and control of the owner and residing within the Borough at the time this Part was publically announced for advertisement for adoption.

B. There have been no prior problems or complaints against the owner or possessor resulting in health or safety concerns relating to the wild or exotic animal proposed to be permitted.
C. A permit application and non-conforming use application is filed with the Zoning Officer within thirty (30) days of the effective date of this Part. Such application is to include:

1. Species, age and sex of the wild animal or exotic animal.

2. A plan for the housing and containment for the wild or exotic animal must be reviewed, inspected and approved by the Borough Building Official as adequate to prevent such animal from escaping or injuring the public. (Any changes to the containment plans or facilities already permitted must be submitted to and approved by the Building Official before changes may be implemented).

3. A permit fee of Three Hundred Dollars ($300.00) per wild or exotic animal shall be paid by the owner or possessor of such animal to the Zoning Officer. A copy of the permit shall also be filed with the Police Department and the Code Enforcement Department.

4. Upon the death, sale, adoption, exchange, transfer or disposal of a wild or exotic animal, the animal may not be replaced.

5. If such wild or exotic animal is to be taken to any public place, it shall not be free to roam and must be controlled by a leash or cage. The permit for such animal must be carried by the owner or possessor.

§204. Enforcement.

This Part may be enforced by the White Haven Borough Zoning Officer, any Police Officer, or any Code Enforcement Official. The Borough Solicitor may assist in any prosecution for a violation of this Part.

§205. Administration.

For the purpose of administering this Part, owner means and includes every person, firm or corporation having a right of property in any animal which is kept, harbored, or cared for within the Borough of White Haven for any length of time no matter how short as well as every person, firm or corporation occupying any premises within the Borough which permits any animal to remain on or about its premises for any length of time.

§206. Penalties.

Any person who violates any provision of this Part shall be subject to a fine of not more than Six Hundred ($600.00) Dollars, plus costs, or thirty (30) days imprisonment or both. Each day that a violation continues shall constitute a separate violation or offense.
CHAPTER 3

BICYCLES AND SKATEBOARDS

Part 1

Bicycles

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§102. Bicycle Riding or Parking on Sidewalks Prohibited
§103. Bicycles to be Equipped with Certain Devices
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Part 2

Skateboards

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§202. Prohibited Locations
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§204. Obedience of Persons Engaged in Skate Boarding, Roller Skating and/or Rollerblading to Traffic Control Devices and Regulations.
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CHAPTER 3

BICYCLES AND SKATEBOARDS

Part 1

Bicycles

§101. Definitions. As used in this Part, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

(a) Bicycle - includes unicycles, pedal cycles, and any other vehicle powered solely or primarily by human powered pedals.

§102. Bicycle Riding or Parking on Sidewalks Prohibited. Unless otherwise designated by Borough Council, no person shall ride or park a bicycle upon any sidewalk in the Borough.

§103. Bicycles to be Equipped with Certain Devices.

(a) Sounding/Warning Devices. No person shall ride a bicycle on any street, alley or public place in the Borough unless there shall be attached thereto a bell, horn or other similar device capable of giving a warning signal audible for at least one hundred (100') feet, which shall be sounded when necessary to give warning to any pedestrian likely to be affected by the movement of such bicycle. However, no bicycle shall be equipped with, nor shall any person use upon a bicycle, any siren or whistle.

(b) Lighting. No person shall ride a bicycle on any street, alley or public place in the Borough at dusk, after dark or during evening hours without reflectors on the front and rear of the bicycle, and without a light or other device attached to the front of the bicycle bright enough or capable of eliminating at such a degree as to alert other vehicular and pedestrian travelers of the bicycles presence.

(c) Operational. No bicycle shall be operated unless it is in a safe mechanical condition and in good working order at all times.

§104. Manner of Riding Bicycles. No person shall ride a bicycle upon any of the streets, alleys or public places in the Borough without:

(a) Wearing a helmet;

(b) Having both hands on the handlebars; and

(c) Having both feet on the pedals.

§105. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than Three
Hundred Dollars ($300.00) and/or to imprisonment for a term not to exceed thirty (30) days.
§201. Definitions.

(a) Skate Board - means a vehicle propelled by human power and gravity consisting of material or a portion of material formed into a thin firm sheet with wheels attached to the underside.

(b) Roller Blades or Roller Skates - means any type of shoe with small wheels attached near the toe and at the heel or, in the case of roller blades, a series of small wheels running the length of the shoe, propelled by human power and gravity and used for gliding across a surface, floor, sidewalk, roadway, etc.

§202. Prohibited Locations. It shall be unlawful for any person to engage in skateboarding or roller skating or rollerblading or to ride upon or propel any skate board, upon the following streets and sidewalks within the Borough:

(a) Main Street;
(b) Church Street;
(c) Susquehanna Street;
(d) Pine Street;
(e) Berwick Street from Church Street to the boundary of White Haven Borough;
(f) Wilkes-Barre Street;
(g) Towanda Street;
(h) Allegheny Street from Elmira Street to Towanda Street; and
(i) Northumberland Street from Church Street to Main Street.

§203. Prohibited Times. It shall be unlawful for any person to engage in skate boarding or ride upon or propel any skate board or engage in roller skating or rollerblading upon any public thoroughfare, street, sidewalk and/or municipal lot in the Borough:

(a) Between sunset and sunrise on any day;
(b) At any other time when, due to insufficient light, or unfavorable atmospheric conditions, persons are not clearly discernible from a distance of one hundred (100) feet.
§204. Obedience of Persons Engaged in Skate Boarding, Roller Skating and/or Rollerblading to Traffic Control Devices and Regulations.

(a) A person engaged in skateboarding, roller skating and/or rollerblading shall obey the instructions of a police officer or other appropriately attired person authorized to direct, control and/or regulate traffic.

(b) A person engaged in skateboarding, roller skating and/or rollerblading shall obey traffic and pedestrian control signals as provided under the Pennsylvania Motor Vehicle Code, Section 3112 (relating to traffic control signals) and Section 3113 (relating to pedestrian control signals).

§205. Right of Way to Pedestrians. The person engaged in skateboarding, roller skating and/or rollerblading shall yield right-of-way to any pedestrian and may not overtake or pass a pedestrian while riding upon or propelling the skateboard, roller skates and/or rollerblades. In the case of a skateboard, the operator of such skateboard shall dismount from the skateboard and shall pass or overtake the pedestrian on foot, or wait until the pedestrian passes, prior to remounting the skateboard.

§206. Right of Way to Motor Vehicles. No person engaged in skateboarding, roller skating and/or rollerblading shall suddenly leave a curb, sidewalk, berm or street or any other place of safety and ride upon or propel any skateboard or steer themselves into or toward the path of a vehicle which is so close as to constitute a hazard. Persons utilizing a skateboard, roller skates and/or rollerblades upon a roadway shall ride as near to the right of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

§207. Ramps and Devices. No person shall place a ramp or similar structure used for skateboarding, roller skating and/or rollerblading in a public thoroughfare, street, upon a sidewalk or municipal parking lot within the Borough.

§208. Use of Protective Gear and Safety Equipment. Any person using a skateboard, roller skates and/or roller blades within the Borough shall at all times wear a helmet, knee padding, and elbow padding.

§209. Violations and Penalties. Any person, who shall violate any of the provisions of this Ordinance, shall upon conviction thereof:

(a) First Offense. The skateboard, roller skates and/or roller blades used in the violation of this Ordinance shall be impounded by the Police Department of White Haven Borough for a period not exceeding fifteen (15) days and said person shall, upon conviction, be sentenced to pay a fine of one hundred ($100.00) dollars and costs. If the person violating the Ordinance is a minor, the Borough Police shall notify the parents, guardians or other person having legal custody of the minor of the violation of this Ordinance and the impounding of the skateboard, roller skates and/or roller blades. Upon
the expiration of the fifteen (15) day period, the skateboard, roller skates and/or roller blades shall be released upon request to the parent, guardian or other person having legal custody of the minor.

(b) Second or Subsequent Offense. The skateboard, roller skates and/or rollerblades of any person violating the provision of this Ordinance for the second and/or subsequent time shall be impounded by the Police Department of White Haven Borough for a period not exceeding thirty (30) days and said person shall, upon conviction, be sentenced to pay a fine of three hundred ($300.00) dollars and costs. If the person violating the Ordinance is a minor, the Borough Police shall notify the parents, guardians or other person having legal custody of the minor of the violation of this Ordinance and the impounding of the skateboard, roller skates and/or roller blades. Upon the expiration of the thirty (30) day period, the skateboard, roller skates and/or roller blades shall be released upon request to the parent, guardian or other person having legal custody of the minor.
CHAPTER 4

BUILDINGS

Part 1

Numbering of Buildings

§101. Definitions
§102. Structures to be Numbered
§103. Manner of Numbering Structures
§104. Assignment of Numbers
§105. Supervision over Numbering and Costs
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Part 2

Dangerous Structures

§201. Definitions
§202. Dangerous Structures Declared Nuisances
§203. Standards for Repair, Vacation, or Demolition
§204. Duties of Code Enforcement Officer or Police Officer
§205. Hearings
§206. Removal of Notice Prohibited
§207. Emergency Cases
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CHAPTER 4

BUILDINGS

Part 1

Numbering of Buildings

§101. Definitions. As used in this Part, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

(a) Structure - means any building having a roof supported by columns or walls and intended for shelter, housing, enclosure of persons and property, or the conducting of any business or commercial use.

§102. Structures to be Numbered. All existing and new structures within the Borough shall be numbered within sixty (60) days after the adoption of this Part and as hereinafter provided.

§103. Manner of Numbering Structures. It shall be the duty of the owner of every structure to affix the correct address number of the structure upon the front door or as close as possible to the front door of the structure in such a manner that the address number is easily visible and identified from the street upon which the structure is located.

§104. Assignment of Numbers. Each structure shall have the numbers so assigned to it for emergency purposes.

§105. Supervision over Numbering and Costs. The numbering of structures shall be done by the owner of the structure at the owner's own expense.

§106. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred Dollars ($600.00) and/or to imprisonment for a term not to exceed Ninety (90) Days. Every day that a violation of this Part continues shall constitute a separate offense.
Part 2

Dangerous Structures

§201. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Dangerous Structures – includes all building or structures which have any or all of the following defects:

(1) Those whose interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(2) Those which, exclusive of the foundation, show damage or deterioration to thirty-three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the non-supporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public.

(5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.

(6) Those which have parts thereof which are so attached that they may fall and injure property or members of the public.

(7) Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public.

(8) Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public.

(9) Those which house unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property, or safety of the public or occupants of the premises or
structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

(10) Those existing in violation of any provision of the building code, international property maintenance code, fire prevention code, or other ordinances of the Borough.

(b) Dwelling or Dwelling Unit - means any building having a roof supported by columns or walls and intended for shelter, housing, enclosure of persons and property, or the conducting of any business or commercial use.

(c) Extermination – means control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest eliminating methods.

(d) Garbage – means animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(e) Infestation – means the presence, within or around a structure, of any insects, rodents or other pest.

(f) Property – means a piece, parcel, lot or tract of land.

(g) Rubbish – means combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke, and other combustible material, paper rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

(h) Structure – means anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs, and walks.

(i) Whenever the words “dwelling unit” “dwelling unit” or “premises”, are used in this Part, they shall be constructed as though they were followed by the words “or part thereof”.

§202. Dangerous Structures Declared Nuisances. All dangerous structures within the terms of §201 of this Part are hereby declared to be public nuisance and shall be repaired, vacated, or demolished as herein provided.

§203. Standards for Repair, Vacation, or Demolition. The following standards shall be followed in substance by the Code Enforcement Officer of the Borough in ordering repair, vacation, or demolition:
(a) If the dangerous structure can reasonably be repaired so that it will no longer exist in violation of the terms of this Part, it shall be ordered to be repaired.

(b) If the structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days as is reasonable.

(c) No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Code Enforcement Officer or Police Officer. The Code Enforcement Officer or Police Officer shall remove such placard whenever the defect or defects upon which the placarding action was based have been eliminated.

(d) If a dangerous structure is fifty percent (50%) or more damaged or decayed, or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this Part, or if a dangerous structure is a fire hazard existing or erected in violation of the terms of this Part or any ordinance of the Borough or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs to rectify or remove the conditions constituting the nuisance exceed fifty percent (50%) of the market value of the building at the time demolition is proposed.

§204. Duties of Code Enforcement Officer or Police Officer.

(a) The Code Enforcement Officer or Police officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of §201 above.

(b) Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the Code Enforcement Officer or Police Officer shall issue a written notice to the person or persons responsible, which shall:

   (1) Be in writing.

   (2) Include a statement of the reasons it is being issued.

   (3) State a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building, or structure.

   (4) Be served upon the owner, or the owner’s agent, or the occupant(s), as the case may require.

   (A) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Borough, all notices shall be deemed to be properly served upon the owner, occupant or other person
having an interest in the dangerous building, if a copy thereof is served upon him or her personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.

(B) Except in emergency cases, and in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Borough, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said structure, as shown by the records of the County Recorder of Deeds, to the last known address of each, a copy of such notice shall be posted in conspicuous place on the dangerous structure to which it relates. Such mailing and posting shall be deemed adequate service.

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part and with the rules and regulations adopted pursuant thereto.

(c) The Code Enforcement Officer or Police Officer shall appear at all hearings conducted by the Borough Council to testify as to the condition of dangerous structures.

§205. Hearings.

(a) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Part, may request and shall be granted a hearing on the matter before the Borough Council; provided, that such person shall file with the Borough Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition, the Borough Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than thirty (30) days after the day on which the petition was filed.

(b) After such hearing the Borough Council shall sustain, modify or withdraw the notice. If Council sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Part shall automatically become an order if a written petition for a hearing is not filed with the Borough Secretary within ten (10) days after such notice is served.

(c) Any aggrieved party may appeal the final order to the Court of Common Pleas in accordance with the provisions of the Pennsylvania Rules of Civil Procedure.
§206. Removal of Notice Prohibited. No person shall remove or deface the notice of dangerous structure, except as provided in §203 (c).

§207. Emergency Cases. Whenever the Code Enforcement Officer or Police Officer finds that an emergency exists which requires immediate action to protect the public health, he or she may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Part, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Code Enforcement Officer or Police Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Part have been complied with, the Code Enforcement Officer or Police Officer shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous structures shall be collected in the same manner as provided herein for other cases.

§208. Abatement by Borough. If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Code Enforcement Officer or the Police Officer within the time specified in the notice issued by him or her and no petition or hearing is filed within ten (10) days thereafter, or following a hearing by the Borough Council where the order is sustained thereby, the Code Enforcement Officer or Police Officer shall cause such building or structure to be repaired, vacated, or demolished, as determined by the Borough Council in accordance with the standards set forth in this Part. The Borough may collect the cost of such repair, vacation or demolition together with a penalty of ten percent (10%) of such cost, in manner provided by law, or the Borough may seek injunctive relief in a court of competent jurisdiction pursuant to the Pennsylvania Rules of Civil Procedure.

§209. Penalties. Any person who violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than One Thousand Dollars ($1,000.00), and in default of payment thereof to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense.
CHAPTER 5

CODE ENFORCEMENT

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CHAPTER 5

CODE ENFORCEMENT

Part 1

International Property Maintenance Code

§101. Adoption. That a certain document, three (3) copies of which are on file in the office of the Secretary of the Borough of White Haven, being marked and designated as the International Property Maintenance Code, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Borough of White Haven, in the Commonwealth of Pennsylvania for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office the Borough of White Haven are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance.

§102. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. (Ord. No. 5-2008, 8/11/2008, Sec. 5.)

§103. Notice of Violation. The code official shall serve a notice of violation or other in accordance with Section 107 of the International Property Maintenance Code. (Ord. No. 5-2008, 8/11/2008, Sec. 5.)

§104. Prosecution of Violation. Any person failing to comply with a Notice of Violation or Order served in accordance with Section 107 of the International Property Maintenance Code shall be deemed guilty of a summary offense and be subject to the penalties delineated in §106.4 of the International Property Maintenance Code and Section 105 of this Ordinance, below. In addition, if the Notice of Violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code pursuant to §106.5 of the Code.

§105. Violations and Penalties under §106.4 of the Code. Any person who shall violate any provision of this Code shall, upon conviction thereof, be subject to a fine of not less than Three Hundred ($300.00) Dollars and not more than One Thousand ($1,000.00) Dollars or imprisonment for a term not to exceed Thirty (30) days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
§106. Abatement of Violation. The imposition of the penalties herein prescribe shall not preclude the legal officer of the jurisdiction from instituting appropriate action or restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises. (Ord. No. 5-2008, 8/11/2008, Sec. 5.)

§107. Amendments to the 2009 International Property Maintenance Code. The provisions of the 2009 International Property Maintenance Code shall include the following:
   a) §302.4 Weeds. Weeds shall not exceed six (6) inches.
   b) §304.14 Screens. Insect screens shall be provided from April 1 to October 1 of each year.
   c) §602.4 Work spaces. Occupy-able work spaces shall be provided from September 1 to July 1 of each year.
   d) §602.3 Heat Supply. Heat supply must be provided by Landlord from September 1 to July 1 of each year.

Except as amended in this Section 107, the International Property Maintenance Code of 2009 is adopted herein.

§108. Severability. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Borough of White Haven hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone ore more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

§109. Repealer. That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.


The Ord. No. 5-2008, 8/11/2008, has been amended herein to adopt the 2009 version of the International Property Maintenance Code, and Section 107 is included to complete the sections of the Code that permit municipal discretion.
Part 2

Uniform Construction Code

§201. Enacted and Ordained.

(a) This Borough hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time, and its regulations.

(b) The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of this Borough.

(c) Administration and enforcement of the Code within this Borough shall be undertaken in any of the following ways as determined by the Council of this Borough from time to time by resolution:

(1) By the designation of an employee of the Borough to serve as the municipal code official to act on behalf of the Borough;

(2) By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough;

(3) By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;

(4) By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of this Borough; or

(5) By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

(d) A Board of Appeals shall be established by resolution of the governing body of this Borough in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

(e) Code Requirements.

(1) All building code ordinances or portions of ordinances which were adopted by the Borough on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as
such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.

(2) All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.

(3) All relevant ordinances, regulations and policies of this Borough not governed by the Code shall remain in full force and effect.

(f) Fees assessable by the Borough for the administration and enforcement undertaken pursuant to this ordinance and the Code shall be established by the governing body by resolution from time to time.

(g) This ordinance shall be effective one hundred eighty (180) days after the date of passage of this ordinance, the same having been 2/9/2008.

(h) If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

(Ord. No. 2-2007, 8/13/07, Sec. 1)
Part 3
Landlord-Owner Registration

§301. Short Title. This part shall be known and may be cited as the “White Haven Borough Landlord-Owner Registration Ordinance.”

§302. Definitions. For purposes of this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Agent - means a person of legal majority authorized by an owner of real property under the provisions of this Ordinance to act for or in place of that owner with respect to certain duties set forth in this ordinance.

(b) Board of Appeals - means the appeal board established by resolution of White Haven Borough Council pursuant to the adoption of the Uniform Construction Code.

(c) Building Inspector - means the person appointed by the Borough of White Haven to inspect buildings and their systems and to enforce and administer the various adopted Building and Construction Codes within the Borough, including the provisions of this Ordinance.

(d) Code - means the building code officially adopted by the Borough of White Haven and such other codes officially designated by the Borough of White Haven for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy, and maintenance of buildings and structures, including, but not limited to the Existing Property Maintenance Code, Building Codes, Zoning Ordinance and Code of Ordinances, as adopted and amended.

(e) Code Enforcement Officer - means the person appointed by the Borough of White Haven to enforce and administer the Code of Ordinances (health, safety, building, etc.) of the Borough, including the provisions of this ordinance.

(f) Commercial Unit - means any building or portion thereof being leased, rented or used for a nonresidential use, occupation or enterprise, including industrial and institutional uses.

(g) Family - includes persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, grandchild, great grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. This term also includes relationships such as second, third, and fourth cousins, and unrelated persons who maintain a common household and live within a dwelling unit.

(h) Dwelling Unit - means a building or portion thereof arranged or designed so as to create an independent housekeeping establishment for occupancy by one family
with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein.

(i) Fire Chief - means the person appointed to be in charge of the White Haven Fire Department.

(j) Landlord - means a person who permits, provides, or offers for consideration, possession or occupancy a building, dwelling unit, commercial unit or structure, of any part thereof by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of real property.

(k) Occupant - means a person age 18 or older who resides at a property, such as a tenant, or any other individual (excluding visitors) that is allowed on property by such resident or tenant.

(l) Property or Real Property - means any parcel of land or real property located within White Haven Borough, including the land and all buildings and structures on which one or more dwelling units or commercial units are located.

(m) Property Owner - means any person, agent, or operator having a legal or equitable interest in real property; or recorded in the official records of the state, county, or municipality as holding title to real property; or otherwise having control of real property, including the guardian of the estate of any such person, and the executor or administrator of the estate of any such person, and the executor or administrator of the estate such person if ordered to take possession of real property by a Court of competent jurisdiction. This term includes “Owner”.

(n) Rental Unit - means a dwelling unit or commercial unit occupied or used by one or more persons commonly known as “Tenants”.

(o) Tenant - means any person who occupies a rental unit, dwelling unit or commercial unit within a rental property regardless of whether such person has executed a lease for the property.

§303. Initial Filing of Reports by Landlords. Within sixty (60) days from the effective date of this Ordinance, every Landlord must submit to the Secretary of White Haven Borough, a report on a form provided by the Borough, which includes the following information:

(a) Name, address and phone number of the Landlord, and if the Landlord is not a natural person, a description of the entity, including the name, address, phone number and title of the designated representative for that entity.

(b) Name, address and phone number of the Agent of the Landlord, if applicable.

(c) List of the dwelling and commercial units owned by the Landlord.
(d) A brief description of each unit, including the number and type (dwelling or commercial) of units, whether the unit is occupied or not occupied, and a determination of whether the unit is habitable.

(e) Name, address and phone number of the Tenant and occupants of the unit.

(f) This section shall not be construed as to require the Landlord to physically file the report in that the Landlord may have someone on behalf of the Landlord file the report. However, the Landlord shall be responsible to ensure its filing.

§304. Filing of Reports of New Owners. After the effective date of this Ordinance, any person selling a property by agreement, deed or other means, shall, prior to the sale or transfer of the property provide a report to the Secretary of White Haven Borough in accordance with the following reporting requirements:

(a) Name, address and phone number of the new owner, and if the new owner is not a natural person, a description of the entity, including the name, address, phone number and title of the designated representative for that entity.

(b) Name, address and phone number of the Agent of the new owner, if a Landlord.

(c) List of the dwelling and commercial units to be purchased.

(d) A brief description of each unit, including the number and type (dwelling or commercial) of units, whether the unit is occupied or not occupied, and a determination of whether the unit is habitable.

(e) Name, address and phone number of the Tenant and occupants of each unit, if applicable, and if not already on file.

§305. Filing of Reports by Landlords for Change in Tenants or Vacancy. After the period for reporting has expired under Section 303 of this Ordinance, and the Landlord has complied with the reporting requirements of that Section, every Landlord shall thereafter file a report with the Secretary of White Haven within thirty (30) days thereafter, where the Tenant of a unit has changed, or a unit has become vacant. The Landlord must provide a report to the Borough Secretary on a form supplied by the Borough, which includes the following information:

(a) The name, address, and phone number of the new Tenant, or the vacating Tenant, whichever the case may be;

(b) The date of the change; and

(c) The forwarding address of the vacating Tenant, if known by the Landlord.
This section shall not be construed as to require the Landlord to physically file the report in that the Landlord may have someone on behalf of the Landlord file the report. However, the Landlord shall be responsible to ensure its filing.

§306. Duties of the Secretary of White Haven Borough. The Secretary shall:

(a) Maintain on file at the Borough Building the reports filed under this Ordinance.

(b) Maintain and supply the forms to use in making reports as required by Sections 303, 304, and 305 of this Ordinance.

(c) Provide copies of the reports filed under this Ordinance to the Chief of Police or Officer in Charge, Code Enforcement Officer, Zoning Officer, Building Inspector and Fire Chief.

§307. Appointment and Duties of Agent/Manager. Every Landlord who does not reside within a twenty (20) mile radius of the Borough limits must appoint and designate an Agent or Manager who resides within a twenty (20) mile radius of the Borough limits who has authority to:

(a) Maintain the property in good repair and in a clean and sanitary condition in compliance with the current Codes of the Borough.

(b) Receive or accept service of written communications and notices.

(c) Arrange for the inspection of the property.

(d) Perform maintenance, cleaning, repair, pest control, snow and ice removal, garbage removal, garbage disposal, and ensure continued compliance with the property with the current Codes of the Borough.

(e) The name, address and phone number of the Landlord and Agent or Manager, where applicable, shall be reported to the Borough Secretary in writing upon filing a report under this Ordinance.

§308. Notice of Violation.

(a) Issuance of Notice. If it appears to the Code Enforcement Officer or Building Inspector or a Police Officer that a violation of this Ordinance has occurred, an enforcement proceeding may be initiated by issuing an enforcement notice to the owner of record of the property, or to any person who has filed a written request to receive violation notices regarding the property, which shall include an Agent or Manager.

(b) Contents of Notice. The enforcement notice shall state at least the following:
(1) The name of the owner of record and any other person against whom the Police Officer or Code Enforcement Officer intends to take action.

(2) The location and/or address of the property in violation.

(3) The specific violation with a description of the requirements which have not been met and citing in each instance the applicable sections and provisions of this ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) That the recipient of the notice has the right to appeal within thirty (30) days from date of the issuance of the notice to the Uniform Construction Code Board of Appeals.

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Appeals, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.

(c) Service. Service of the Enforcement Notice shall be effective upon posting the property in a conspicuous manner and sending a copy of the notice certified mail, return receipt requested, to the Landlord or owner of record, and by regular mail to the Agent or Manager, if applicable.

(d) Appeal-Burden of Proof. In any appeal of an enforcement notice to the Board of Appeals, the Code enforcement Officer, Building Inspector or Police Officer, as the case may be, shall have the responsibility of presenting evidence first.

§309. Jurisdiction and Enforcement Remedies.

(a) Jurisdiction. The District Judge shall have initial jurisdiction over proceedings brought under this Ordinance.

(b) Enforcement Remedies. Any person violating the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred ($600.00) dollars and costs of prosecution, and in default thereof to undergo imprisonment for a term not to exceed thirty (30) days. Every day that a violation continues shall constitute a separate offense, except that the failure to file a report in a timely manner shall not constitute a continuing offense, but shall be considered a single offense not subject to daily fines unless non-compliance continues without a good faith basis for appeal after a notice of violation has been issued.

(c) The remedy provided for under this section of the Ordinance shall be in addition to any and all other remedies available to the Code Enforcement Officer, Building Inspector, or Police Officer, for a violation of this Ordinance either in law or in equity.
§310. Transfer of Ownership.

(a) It shall be unlawful for the owner of any property upon which a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the property to another person until the provisions of the notice of violation have been complied with.

(b) The person to whom a property is to be transferred may consent to complying with a notice of violation issued under this Ordinance, by entering into an agreement with the Borough to comply with the notice of violation on or before the date set forth in the notice. The Code Enforcement Officer and Building Inspector shall also be a party to the Agreement.

§311. Fees. The Borough may from time to time establish a fee schedule under this Ordinance. At the time of adoption the fees are as follows:

(a) Initial filing of Reports By Landlords - $10.00 per property.

(b) Filing of Reports of new Owners - $10.00 per property.

(c) Filing of Reports by Landlords for Change in Tenants or Vacancy - $10.00 per filing/unit.

§312. Severability. If any of the provisions of this Ordinance or the application thereof to any owner or circumstances is held invalid, the remainder of the Ordinance, and the application of such provision to other owners or circumstances, shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

§313 Repealer. Any and all other Ordinances or parts of Ordinances inconsistent herewith, are, to the extent of their inconsistency, hereby repealed.
WHITE HAVEN BOROUGH
LANDLORD-OWNER REGISTRATION APPLICATION

[This form must be completed and submitted to the White Haven Borough Secretary]

PURSUANT TO THE LANDLORD–OWNER REGISTRATION ORDINANCE THIS APPLICATION IS REQUIRED TO BE COMPLETED AND FILED WITH THE BOROUGH SECRETARY INITIALLY BY ALL LANDLORDS WITHIN THE BOROUGH, AND WHEN THERE IS A CHANGE IN OWNERSHIP OF A PROPERTY, OR WHEN THERE IS A CHANGE IN TENANTS WITHIN A RENTAL UNIT OR WHEN A RENTAL UNIT BECOMES VACANT.

1. Name(s), address and telephone numbers of record owner(s):

   Name(s): ____________________________  ____________________________

   Address: ____________________________

   __________________________________

   Phone #: __________________________  Alternate Phone #: ______________

2. For Corporations: Name, address and telephone number of registered agent:

   Name: ____________________________

   Address: ____________________________

   __________________________________  Phone #: _________________________

3. Name, address and phone number of the manager, if applicable:
(Required if owner does not reside within 20 miles of the Borough)

   Name: ____________________________

   Address: ____________________________

   __________________________________  Phone #: _________________________
4. Name, address and telephone number of an individual who may be reached in the event of an emergency:

Name: ________________________

Address: ______________________

______________________ Phone #: ______________________

5. Name, address and telephone number of **holder of recorded mortgages** on the property:

Name: ________________________

Address: ______________________

______________________ Phone #: ______________________

Name: ________________________

Address: ______________________

______________________ Phone #: ______________________

6. Name, address and telephone number of the **tenant(s) and occupant(s)** of each unit:

Name: ________________________ Specify: Tenant or Occupant

Address: ______________________

______________________ Phone #: ______________________

Name: ________________________ Specify: Tenant or Occupant

Address: ______________________

______________________ Phone #: ______________________

Name: ________________________ Specify: Tenant or Occupant

Address: ______________________
7. Briefly describe each unit, including the number and type (residential or commercial) of units, and if not occupied whether it is habitable:

_________________________________________________________________
_________________________________________________________________
_____________________________________________________________
_________________________________________________________________
_________________________________________________________________

8. In the event of a Change in Tenants or Vacancy, please provide the date of the change and the forwarding address of the vacating tenant(s), if known by Landlord:
Date of Change: ______________________

Forwarding address of tenant(s), if known:

Name: ______________________
Address: ______________________

_________ Phone #: ______________________

Name: ______________________
Address: ______________________

_________ Phone #: ______________________

9. Signature(s)/Date:

___________________________________

Owner of Record
Date: ______________________________

For Official Use Only

Date Filed: _______________________

Fee Paid: $_________

Report Distributed to:

__________________________________

Report Received by: ________________________
Part 4
Certificate of Occupancy

§401. Short Title. This Ordinance shall be known and may be cited as the “Certificate of Occupancy Ordinance for the Borough of White Haven. “

§402. Definitions. For purposes of this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Board of Appeals - means the appeal board established by resolution of White Haven Borough pursuant to the adoption of the Uniform Construction Code.

(b) Building – means any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons.

(c) Code Enforcement Officer - means the person appointed by the Borough of White Haven to enforce and administer the provisions of this ordinance.

(d) Commercial - means a building where any nonresidential use, occupation or enterprise is being conducted or performed, including industrial and institutional uses.

(e) Commercial Unit - means any building or portion thereof being leased or rented for a nonresidential use, occupation or enterprise for a profit, including industrial and institutional uses.

(f) Owner-Occupied - means a person who owns property and resides in that property on a regular and permanent basis.

(g) Rooming House – means a building containing one or more dwelling units for the rooming or boarding of at least two or more persons. This term shall include tourist homes, lodging houses and boarding houses.

§403. Inspections and Access. The Code Enforcement Officer is authorized to make inspections to determine whether dwelling units, rooming houses, and commercial buildings located within the Borough conform to the requirements of this Ordinance. For the purpose of making such inspections, the Code Enforcement Officer is permitted to enter, examine and survey all dwelling units, rooming houses, and commercial buildings, and shall be free to have access thereto upon notice and during all reasonable times for the purpose of such inspection, examination and survey.

§404. Certificate of Occupancy Required.

(a) Certificate Required. It shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupation of any building, or addition thereto, or part thereof, for any purpose until a certificate of occupancy has been issued by the Code Enforcement Officer, which certificate may not be issued until it has been
demonstrated to the satisfaction of the Code Enforcement Officer that the occupancy complies with all the provisions of this ordinance.

(b) Change of Ownership. No building changing ownership shall be occupied or used without the current owner first securing a certificate of occupancy from the Code Enforcement Officer prior to the transfer or change of ownership. For buildings not changing occupancy after a change in ownership, the new owner shall obtain a certificate of occupancy within thirty (30) days of the date of acquiring ownership.

(c) False Statements. It shall be unlawful for any person to knowingly make any false statement in an application for a certificate of occupancy, including, but not limited to the names, ages, relationship or number of occupants who will occupy the building.

(d) Inspections. If the inspected building meets Borough standards with regard to the following:

1. Smoke detectors.
2. Stairway guardrails.
3. Open electric/GFI circuits.
4. Lack of hot water/heat.
5. Broken glass.
7. Improper guardrails or handrails for decks or stairs.
8. Second means of egress on buildings two stories or higher.
9. Fire extinguishers and emergency lighting with commercial buildings, multi-family dwelling units and rooming houses.
10. Occupancy loads established by either the current International Building Code (IBC) or the current International Fire Code (IFC), whichever is least restrictive.
11. All of those other items as listed in the Residential Occupancy Checklist attached hereto as Exhibit “A”.

A certificate of occupancy shall be issued by the Code Enforcement Officer, and the Checklist attached hereto as Exhibit “A” shall be completed and signed by the Code Enforcement Officer for each inspection.

(e) Annual Inspections. In the case of commercial buildings with an intended occupancy of fifty (50) or more persons; non-owner occupied two-family dwelling units; multi-family dwelling units of three or more; and rooming or boarding houses, a certificate of occupancy shall only be valid for a period of one year from the date the last inspection was performed. The issuance of a certificate of occupancy and the annual inspections required under this section shall be in addition to those required under subsection 404 (a) and (b) above.
§405. Fees.

(a) A fee of $35.00 shall be paid to the Borough and shall accompany each request for a certificate of occupancy in the case of a change of ownership in single family or two-family dwelling units. In addition, inspection fees shall be paid to the Code Enforcement Officer at the time of making application, and prior to any inspections. No application shall be considered filed with the Borough until all related fees have been paid in full.

(b) A fee of $75.00 shall be paid to the Borough and shall accompany each request for a certificate of occupancy in the case of an annual inspection, or inspections of multi-family dwelling units of three or more units, rooming or boarding houses, and all commercial buildings. In addition, inspection fees shall be paid to the Code Enforcement Officer at the time of making application, and prior to any inspections.

(c) The fees set forth under this section may be changed from time to time by resolution of Borough Council.

§406. Notice of Violation. If it appears to the Code Enforcement Officer that a violation of this ordinance has occurred, the Code Enforcement Officer shall initiate enforcement proceedings by issuing an enforcement notice to the owner of record of the building, to any person who has filed a written request to receive violation notices regarding the building, and to any other person requested in writing by the owner of record of the building. The enforcement notice shall state at least the following:

(a) The name of the owner of record and any other person against whom the Code Enforcement Officer intends to take action.

(b) The location and/or address of the building in violation.

(c) The specific violation with a description of the requirements which have not been met and citing in each instance the applicable sections and provisions of this ordinance.

(d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(e) That the recipient of the notice has the right to appeal within thirty (30) days from date of the issuance of the notice.

(f) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Appeals, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.

In any appeal of an enforcement notice to the Board of Appeals, the Code Enforcement Officer shall have the responsibility of presenting evidence first.
§407. Jurisdiction and Enforcement Remedies.

(a) Jurisdiction. The District Judge shall have initial jurisdiction over proceedings brought under this Ordinance.

(b) Civil Enforcement Remedies. Any person who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the Code Enforcement Officer, shall pay a judgment of not more than six ($600.00) hundred dollars, plus all court costs, including reasonable attorney fees incurred by the Borough as a result of said proceedings.

(c) The remedy provided for under this Section of the Ordinance shall be in addition to any and all other remedies available to the Code Enforcement Officer for a violation of this Ordinance either in law or in equity.

§408. Transfer of Ownership.

(a) It shall be unlawful for the owner of any building upon which a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the building to another person until the provisions of the notice of violation have been complied with.

(b) The person to whom a building is to be transferred may consent to make repairs which have been required by a notice of violation from the Code Enforcement Officer, by entering into an agreement with the Borough to make the repairs required under the notice of violation on or before the date set forth in the notice. The Code Enforcement Officer may not issue an occupancy permit until such time as the repairs are completed by the new owner of the building.

§409. Repealer. All ordinances or parts thereof which are inconsistent herewith are hereby repealed to the extent of their inconsistencies.

§410. Effective Date. This Ordinance shall become effective immediately following its adoption.
EXHIBIT “A”
RESIDENTIAL OCCUPANCY CHECKLIST
WHITE HAVEN BOROUGH
312 Main Street, White Haven, Pa 18661
570-443-9129

General:
☐ 1. The residence is prepared for inspection (scheduled an inspection)
☐ 2. The Property is free from infestations (insects pests, and vermin)
☐ 3. The property is free from junk, debris, trash and trip hazards.
☐ 4. Structural Members are free from deterioration
☐ 5. All wiring and electrical equipment is safe (no exposed live wiring).
☐ 6. No life threatening or endangering conditions exist on the property
☐ 7. No broken Glass on the property
☐ 8. Second means of egress on buildings two stories or higher.
☐ 9. Fire extinguishers and emergency lighting with commercial buildings, multi-family dwelling units rooming houses.

Exterior:
☐ 1. Foundation and Exterior Walls are maintained in good condition and weather tight.
☐ 2. Foundation/Crawl Space vents and access doors are installed and in good condition
☐ 3. All exterior surfaces are in good repair
   ☐ Roof
   ☐ Siding
   ☐ Soffit, Fascia
   ☐ Gutters/Downspouts
   ☐ Sidewalk
☐ 4. Address Numbers
   ☐ Located on the Front of Home
   ☐ Visible from Street
   ☐ 4” Numbers ½” wide
   ☐ Contrasting Color
☐ 5. All Stairs with four (4) or more steps have graspable handrail.
☐ 6. All decks must have guiderails and/or a graspable handrail.
☐ 7. All Entry/Exit doors have only single keyed type lockset

Interior:
☐ 1. The residence has been properly cleaned and is maintained in a sanitary condition.
   2. Smoke Detectors
      ☐ Must Function
      ☐ One on Each Floor
☐ One in Each Bedroom and Common Area

3. Carbon Monoxide Detectors
   ☐ Must Function
   ☐ One on Each Floor
   ☐ One in Each Bedroom and Common Area

4. Plumbing
   Must Function ☐ Toilet, ☐ Tub or Shower (Hot and Cold Water), ☐ Water Heater,
   ☐ Lavatory, ☐ Heating System ☐ Kitchen Sink (Hot and Cold Water)
   ☐ Heating and Plumbing is vented and free of any leaks
   ☐ Hot water tank has a pressure relief valve

5. Electrical
   ☐ Must Function
   ☐ All wiring must be free from exposed wire or open wire junctions
   ☐ All Switches, Junction Boxes, and outlets have covers
   ☐ Circuit Panel is properly labeled and has no open spaces without a breaker or blank
   110 Volts G.F.C.I. Outlets required
      ☐ Bathroom
      ☐ Within six (6) feet of Water
      ☐ Wet Areas – Examples may be- Unfinished basements, sheds, and garages
      ☐ All Outdoor outlets and must have weather tight covers

☐ 7. Interior walls and doors are in good condition and free of any damage
☐ 8. All Stairways must be structurally sound and free of defects
☐ 9. All Stairs with four (4) or more steps have graspable handrail.

All Occupancy loads shall be established by either the current edition adopted by White Haven Borough of the International Building Code (IBC) or the current edition adopted by White Haven Borough of the International Fire Code (IFC) whichever is least restrictive.

The inspection of property by the White Haven Borough is for purposes of determining minimum compliance with the adopted Borough Code. The owner has no right to rely on the results of such inspection, and that by issuing the Occupancy Permit, White Haven Borough makes no representations regarding the property other than at the time of inspection.

**Fee: $_______**

_________________________________________  ___________________________
Inspector/Code Enforcement (sign)                  Date & Time

_________________________________________
Property Address
This report was prepared by the White Haven Planning Commission utilizing, as a guide, the plan prepared by Michael Cabot Associates in 1973. It has been up-dated to current trends and statistics.
COMPREHENSIVE PLAN

2005

White Haven Borough

Luzerne County

Pennsylvania

PART ONE
INTRODUCTION


The borough is served by Interstate Highway 80 East and West, Highway 940 East and West, Highway 437 North, Route 4040 West and East. These highways give White Haven access to Wilkes-Barre, Mountaintop, Bear Creek, Hazleton, Freeland, Oley Valley, Pond Creek, Stroudsburg, the Pennsylvania Turnpike, Penn Lake, White Haven Poconos, East Side Boro and the Poconos. The Lehigh River and Linesville Creek flow through the borough. The Lehigh Gorge State Park and Lehigh Heritage Corridor both run through the borough. Access to the cities of New York via Interstate 80 and Philadelphia via the Pennsylvania Turnpike are also a factor. It puts White Haven in the position of a crossroads to the Northeast of Pennsylvania. Reading has a track running through the borough and White Haven is the Easternmost borough of Luzerne County, adjacent to Dennison Township on the North and Foster Township on the South and West. The division of Carbon and Luzerne Counties is the Lehigh River.

PURPOSE OF THIS REPORT

The purpose of this report is to provide a long range comprehensive plan for the Borough of White Haven for a period from 2005 and beyond. The details of the plan will have to be reviewed as part of an ongoing governmental planning process. As a result, the plan may have to be modified from time to time. However, it should still remain a valid document for guiding the overall direction of the Borough’s development and redevelopment.

ORGANIZATION OF REPORT

There are two parts to this report. Part One is the Borough’s plan of action. It includes a review of the regional inputs affecting the plan as well as plan recommendations. It contains the following elements: Land Use Plan Community Facilities Plan Traffic Circulation Plan

Part Two contains most of the factual information and analysis of which the Plan of Action is based. Part Two was printed separately in February of 1972. It has been reprinted and has been bound at the rear of this report.

White Haven Borough Comprehensive Plan of 2005

(1)
PLAN SUMMARY

The following table entitled White Haven Plan Overview summarizes some of the major objectives and recommendations of the White Haven Comprehensive Plan.
### ECONOMICS

<table>
<thead>
<tr>
<th>Objectives</th>
<th>General Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>To improve the retail and service trade environment.</td>
<td>Redevelop or rehabilitate the downtown and some of the surrounding area to attract more retail and service businesses.</td>
</tr>
<tr>
<td></td>
<td>Provide better parking facilities and improved access to the Downtown.</td>
</tr>
<tr>
<td></td>
<td>Attract more office type establishments to the Downtown.</td>
</tr>
<tr>
<td>To actively promote small industry.</td>
<td>Follow the Land Use Plan recommendations for industrial area expansion.</td>
</tr>
<tr>
<td></td>
<td>Activate the White Haven Industrial Development Association to attract the following types of industry:</td>
</tr>
<tr>
<td></td>
<td>• Light manufacturing</td>
</tr>
<tr>
<td></td>
<td>• Fabrication industry</td>
</tr>
<tr>
<td></td>
<td>• Mobile and travel home industry</td>
</tr>
<tr>
<td></td>
<td>• Other industries needing I-80 for transportation</td>
</tr>
<tr>
<td></td>
<td>• Wholesale and warehouse business</td>
</tr>
<tr>
<td>To develop traveler service facilities such as bed &amp; breakfast rooms and eating establishments. Emphasis on small shops for souvenir and heritage items.</td>
<td>Promote development of services for travelers of I – 80 to include motels, automotive and other services.</td>
</tr>
</tbody>
</table>
 Promote the tourist and seasonal home industry in the area. Follow through with annual Town Festival. Promote the historical features of the Borough for travelers and residents.

**ENVIRONMENT**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>General Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain noise levels to below 70 decibels at 20 feet.</td>
<td>Plant buffer strip landscaping landscaping screen along Interstate 80 and along other noise generators.</td>
</tr>
<tr>
<td></td>
<td>Support Interstate regulations on truck traffic and noise levels.</td>
</tr>
<tr>
<td></td>
<td>Adopt standards for when, where and how snow-mobiles, minibikes and other noise generators may operate.</td>
</tr>
<tr>
<td>Improve the appearance of the Downtown.</td>
<td>Redevelop the Downtown into an attractive business-residential area. All remaining buildings and any new construction would preserve and promote the Downtown’s historical theme through compatible building styles.</td>
</tr>
<tr>
<td></td>
<td>Improve streets, lights and public facilities.</td>
</tr>
<tr>
<td>Encourage residential building rehabilitation.</td>
<td>Solicit the assistance of the various County sponsors of residential home improvement programs.</td>
</tr>
<tr>
<td></td>
<td>Implement a Housing Code.</td>
</tr>
</tbody>
</table>

White Haven Borough Comprehensive Plan of 2005 (4)
Beautify public areas in the Borough. Encourage tree maintenance and planting. Control littering by placement of trash containers throughout the Borough. Request the State to adequately landscape and maintain the Lehigh River Gorge areas.

### PEOPLE & SERVICES

<table>
<thead>
<tr>
<th>Objectives</th>
<th>General Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>To expand services and facilities in order to serve the influx of tourists expected by the completion of Lehigh Gorge park.</td>
<td>Maintain current police, fire, parking &amp; personnel to serve the expected traffic of people.</td>
</tr>
<tr>
<td>To continue to develop a system of parks and open space.</td>
<td>Maintain existing parks &amp; encourage recreation programs and support local participation.</td>
</tr>
<tr>
<td>Develop a program for teenagers.</td>
<td>Apply annually for the State Department of Community Affairs Grants specifically for the purpose of completing these objectives.</td>
</tr>
<tr>
<td>Stimulate interest in cultural activities.</td>
<td>Set up an advisory board comprised of teenagers to prepare a long range plan and capital needed for these programs.</td>
</tr>
<tr>
<td>Schedule needed capital improvements according to an established timetable.</td>
<td>Coordinate with the State on the proposed Art &amp; Cultural Center planned for Lehigh Gorge Park.</td>
</tr>
<tr>
<td></td>
<td>Budget annual amounts for capital improvements with long range planning priorities.</td>
</tr>
</tbody>
</table>
Contact the State to improve roads and facilities under their jurisdiction, especially adjacent to the Lehigh River Gorge Park.

To make operation of Borough services more efficient.

Centralize as many Borough facilities as possible in the Borough Building.

To explore educational possibilities for children.

With the loss of all local schools, the Borough intends to promote bus safety and monitoring of behavior and curriculum of our children to and at our regional schools.
# WHITE HAVEN BOROUGH

Luzerne County, Pennsylvania

## CHURCHES, PARKS, HISTORICAL & COMMUNITY SERVICES SITES

### LEGEND

<table>
<thead>
<tr>
<th></th>
<th>Site Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Linesville Community Park</td>
</tr>
<tr>
<td>2</td>
<td>Lehigh Park</td>
</tr>
<tr>
<td>3</td>
<td>Pine Street Playground</td>
</tr>
<tr>
<td>4</td>
<td>Hemlock Street Playground</td>
</tr>
<tr>
<td>5</td>
<td>White Haven School Apartment Building</td>
</tr>
<tr>
<td></td>
<td>USGS Marking (site of old High School)</td>
</tr>
<tr>
<td>6</td>
<td>Borough Garage &amp; Fire Station</td>
</tr>
<tr>
<td>7</td>
<td>Veterans Honor Roll</td>
</tr>
<tr>
<td>8</td>
<td>United Presbyterian Church</td>
</tr>
<tr>
<td>9</td>
<td>Powerhouse Restaurant</td>
</tr>
<tr>
<td>10</td>
<td>St. Patrick’s Roman Catholic Church</td>
</tr>
<tr>
<td>11</td>
<td>St. Patrick’s Church Hall</td>
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<tr>
<td>12</td>
<td>St. Paul’s Lutheran Church</td>
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<tr>
<td>13</td>
<td>United Methodist Church</td>
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<tr>
<td>14</td>
<td>White Haven Center</td>
</tr>
<tr>
<td>15</td>
<td>Green Mountain</td>
</tr>
<tr>
<td>16</td>
<td>Laurel Cemetery</td>
</tr>
<tr>
<td>17</td>
<td>Civil war Monument</td>
</tr>
<tr>
<td>18</td>
<td>Spanish American War Memorial Trees</td>
</tr>
<tr>
<td>19</td>
<td>American Legion Home &amp; Mason’s Hall</td>
</tr>
<tr>
<td>20</td>
<td>Valley Gorge Trailer Park</td>
</tr>
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<td>21</td>
<td>White Haven Fire Club</td>
</tr>
<tr>
<td>22</td>
<td>Borough Recreation Building (Senior Citizens Meetings)</td>
</tr>
<tr>
<td>23</td>
<td>Old Stone Building</td>
</tr>
<tr>
<td></td>
<td>(oldest building)</td>
</tr>
<tr>
<td>24</td>
<td>Odd Fellow’s Hall</td>
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<tr>
<td></td>
<td>(second oldest building)</td>
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<tr>
<td>25</td>
<td>Lehigh River Bridge</td>
</tr>
<tr>
<td>26</td>
<td>Ruins of Dam, Locks &amp; Canal</td>
</tr>
<tr>
<td>27</td>
<td>Round House</td>
</tr>
<tr>
<td></td>
<td>(library)</td>
</tr>
<tr>
<td>28</td>
<td>Tennis Courts</td>
</tr>
<tr>
<td>29</td>
<td>White Haven Shopping Center</td>
</tr>
<tr>
<td>30</td>
<td>PNC Bank</td>
</tr>
<tr>
<td>31</td>
<td>White Haven Municipal Building</td>
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<tr>
<td>32</td>
<td>Water Authority Office</td>
</tr>
<tr>
<td>33</td>
<td>White Haven Water Tower</td>
</tr>
<tr>
<td>34</td>
<td>U.S. Post Office</td>
</tr>
</tbody>
</table>

* = Of Historical Interest

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White Haven Borough Comprehensive Plan of 2005

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The growth and development of the Planning Area in the future will be influenced by local factors and a combination of inputs from the county, state and federal levels. The local factors are presented in the background studies Part Two of this report. Inputs from the community are summarized below.

**FEDERAL INPUTS**

**FRANCIS WALTER DAM** - This is a major Federal flood control and recreation facility located six miles upstream from White Haven on the Lehigh River. Its primary purpose is to provide flood control, however enlargement of the dam is scheduled in the near future which will increase the water supply and recreation potential. Regulated releases of water have been made when possible in conjunction with rafting recreation on the Lehigh River.

**STATE INPUTS**

**LEHIGH RIVER GORGE PARK** - This park is currently "under construction" as state money is available. It will be situated 200’ each side of the Lehigh River from Francis Walter Dam to Jim Thorpe (Mauch Chunk). The main entrance and visitors center is planned to be located near the Shopping Center on Main Street in White Haven.

**HERITAGE STATE PARK CORRIDOR** – This park is currently in the planning stages with approximately 90% of land acquisition complete. It will be situated along old railroad and canals from Wilkes-Barre to Bristol, Pennsylvania.

**HICKORY RUN STATE PARK & GAME LANDS** – This park is located six miles southeast of White Haven via Route 534. It is a major public recreation area for swimming, camping, hunting, fishing and hiking.

**NESCOPECK PARK RESERVOIR** – This is a “wilderness park” containing 3,600 acres including an 830 acre lake for flood control and recreation.

**WHITE HAVEN STATE CENTER** – This facility is providing medical and rehabilitation services to approximately 180 resident patients with a staff of approximately 540. It is located just outside the borough limits to the northwest.

White Haven Borough Comprehensive Plan of 2005

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ECKLEY MINE MEUSEUM - The village of Eckley is about 9 miles southwest of White Haven off Route 940. It is a restored mining village and related museum serving as a tourist and educational facility. This village was the site of the filming of the movie “The Molly Maguires” and is visited by approximately 20,000 tourists each year. The church in the village was moved from White Haven to the site. It was an Episcopal Church that was located at the corner of Towanda and Buffalo streets.

COUNTY & REGIONAL INPUTS

LUZERNE COUNTY’S growth and development policies will continue to have an influence in this area. They offer a wide range of assistance to both homeowners and businesses in the form of grants and loans.

A study by the Economic Development Council of NE Pennsylvania indicated the White Haven area as one of the two areas with the highest potentials for development.

CRESTWOOD SCHOOL DISTRICT – The White Haven Elementary School was closed despite protest from the area citizens. All students of Luzerne County are bused to Crestwood School District, consisting of Crestwood High School, Fairview Elementary School and Rice Elementary School, all in Mountaintop, approximately 12 miles northeast of the borough. They are also bused to Hazleton and Wilkes-Barre Vocational Schools. Students of Carbon County, East Side Boro are bused to Weatherly Area Schools, approximately 12 miles southeast of the Boro and students of Foster Township are bused to Hazleton Area School district.

Many private schools are available in the area including MMI in Freeland, a highly rated college prep school, Bishop Hafey in Hazleton and Saint Jude's in Mountaintop.

LUZERNE COUNTY SOLID WASTE MANAGEMENT STUDY – County Commissioners passed a regulation that all solid waste collected in Luzerne County must be disposed of in a Luzerne County Solid Waste Facility. This was complied with by White Haven Borough in July 1993.

TRANSPORTATION - Currently, no form of public transportation serves the White Haven Borough. This is one of the items which should be addressed in long term planning.
PRIVATE DEVELOPMENTS

COMMERCIAL & RECREATIONAL CENTERS

RESORTS - There are several resort complexes nearby. They are Jack Frost & Big Boulder Ski Areas, Mountain Laurel Resort & Golf Course, The Pocono International Raceway, Ramada Inn, Split Rock and the Galleria Resort & Sports Complex.

RECREATIONAL – One of the largest rafting operations in the state is located just one mile outside the Borough which is Whitewater Challengers, Inc. They also operate a campground for their customers near Buck Mountain. Another rafting company, Lehigh River Rafting operates on the Gorge Trail. The White Haven Library which operates above the PNC Bank is preparing to move to its new location on Towanda Street.

COMMERCIAL - Maranuk Brothers, which offers sales and service of heavy equipment. A screen printing company is located on Main Street which also operates a retail store from this location. Tunnessens’s Auto parts store operates from Church & Susquehanna Streets. Hazle Distributing is located on Church Street near I-80. Miller Plumbing & Heating operates from Church Street. Albee’s on Towanda Street offers coal and propane gas service, car repair and inspections and emissions test. The Journal–Herald, which publishes a newspaper serving White Haven and Weatherly, is located on Main Street. Sutch Insurance is located on Berwick Street. The Post Office and Dr. Smith are located on Towanda Street. Africa Dental located on Lehigh Street. Schlier’s Towing located on Rt. 940 west. G & A Hardware offers general appliances for sale and service, located on Main Street. Also on Main Street are Kayak Sales, Nextel Cellular phone store and Li’l Budha’s a tea and accessories shop. A Veterinary Hospital is located on the corner of Berwick and Towanda Streets. PNC Bank is located on the corner of Main and Berwick Streets.

RESIDENTIAL – Woodhaven Development in White Haven and nearby Agmar Estates, Hickory Hills and White Haven Poconos are all expanding rapidly. There is also Valley Gorge Mobile Home Park, Golden Oaks and a soon to be established development on Buffalo Street.

INDUSTRIAL – There is a bus renovating company, and Weaver’s Excavating.

SHOPPING – A shopping complex below Main Street, houses a grocery store, drug store, liquor store, pizza shop, ice cream store and laundromat. Another laundromat and ice cream store are located on Church Street. Two convenience stores/gas stations are located on Church Street. A bakery, seamstress shop, flower shop and video rental are located on Main Street. Also located on Main Street are two beauty shops. The Corner Mall an indoor flea market is located on the corner of Allegheny and Elmira Streets.

White Haven Borough Comprehensive Plan of 2005

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**RESTAURANTS/BARS** – The Powerhouse, located on Powerhouse Road. Main Street has The Family Diner, Poncho’s Pizza and Mexican Food, The Ugly Mug, and The Feed Mill. Within one mile of the Borough are 4 other restaurants, Weaver’s, Sitko’s Barn, Four Fella’s, East Side Inn and soon to open The Forks Beef and Brew. Main Street houses Yarmey’s Bar and the White Haven Volunteer Fireman’s Club.

**CHILD CARE** - Buttons & Bows located on Elmira Street serves child care needs for the Borough.

**CHURCHES** - There are four active church complexes in the Borough. The historic Presbyterian Church and home, a Lutheran Church, home and Parish Center, the Unites Methodist Church and hall, and St. Patrick’s Church. One mile outside of town is the Free Methodist Church. Under construction on Green Mountain is The Greek Orthodox Monastery.
MAJOR GOALS

MAJOR LAND USE GOAL

- Pine Street, Hemlock Street, Lehigh and Linesville Parks should be able to serve the neighborhood in a useful way and add to the social stability of the area.
- Buffer the nearby interstate highway with tree landscaping and or sound a sound wall and encourage industrial use of property adjacent to them.
- Restore the burned out section of downtown to local shopping areas with apartments of light density.

MAJOR TRAFFIC GOALS

- Encourage the state to keep up the highways that cross the Borough, adequately signed and controlled.
- Encourage the railroads to service the area and to encourage creating passenger service along the Lehigh Gorge Park.

COMMUNITY FACILITY GOALS

- Maintain the Municipal Building which is in the enter of town and houses the Council Chambers, Police Department, Borough Secretary and has extra meeting rooms, and which is handicapped accessible.
- Update the Borough garage for adequate room to house Borough equipment as well maintain adequate housing for fire equipment.
- Continue to provide assistance to the Fire facilities. The Fire Company is all volunteer and occupy their own section of the Borough Garage Complex. New equipment was purchased in 2003. They participate in Mutual Aide and do receive monies for coverage of Penn Lake Boro.
• Continue assistance to all volunteer Ambulance Corps. They depend on donations and grant monies. We currently have paid Paramedic Service.

• Continue as a member of the Emergency Management Group associated with Luzerne County. White Haven has their own coordinator.

• Study government character revision for possible better means of representing and serving the people.
INTRODUCTION

The White Haven Land Use Plan recognizes the impact which major regional developments will have upon the Borough. Recommendations are made for the improvement of the already developed portions of the Borough and for the proper development of the remaining area.

PURPOSE OF THIS PLAN

The purpose of this plan is to recommend a land use pattern and density of development within the Borough of White Haven for the period from 2004 and the future. It will serve as a basis for the zoning ordinance and other related programs of the Borough.

PLAN GOALS

The land use recommendations in this plan aim toward the following goals:

- Achievement of an environment which permits individuals to live, work, shop and spend leisure time with minimal disturbance from unrelated activities.

- Improvement of building conditions throughout the Borough.

- Encouragement of new residential and industrial developments in appropriate locations.

- Renewal of the downtown.

- Coordination between various State and Local land use activities.

The Land Use Plan is graphically presented in the accompanying plan map. A quantitative and qualitative description of the plan is described as follows:

RESIDENTIAL

Residential land accounts for the largest increase in land use. Based upon the Woodhaven
Development and soon to be established Weaver’s Development.

**COMMERCIAL**

With the present condition of our Main Street, and the opening of Lehigh Gorge State Park entrance, it seems quite realistic to expect a tremendous increase in commercial enterprises.

**INDUSTRIAL**

It is of the highest concern of this plan to attract new industry to White Haven. Although space is at a premium for such industry, all attempts should be made to utilize the land and buildings already existing. There is also additional land near the vacant Emcee plant on Susquehanna Street which should be given priority development.

**TRANSPORTATION**

With the addition of the Lehigh Gorge State Park, major changes are foreseen for streets and traffic patterns.

**PUBLIC AND SEMI PUBLIC**

A major increase will occur through the acquisition of land for the Lehigh Gorge State Park.

**VACANT AND RIVER**

Vacant land will be almost nonexistent with the increase of commercial, public and industrial land use.
Proposed Pattern Intensity and Density of Land Development

Various types of land uses were described above to meet the needs of the Borough. The Plan will now outline the pattern, their intensity and their density.

The Land Use Plan reflects both the existing land use and the consideration of needs potentials for new development. The greatest planning flexibility exists where there are vacant areas.

The objective of this plan is to cause the least change to existing stable areas while seeking to accomplish the overall land use goals of environment improvement, increase of housing supply and renewal of the downtown in areas where change can more readily occur.

The intensity and density of land use is proposed to be highest in and around the downtown, decreasing in the established residential areas and reaching its lowest level of intensity in presently undeveloped areas.

Residential land Use Recommendations

White Haven considers the preservation of existing residential areas and the provision of new housing units to be very high priority. The residential land use plan recommends that there be two broad categories of residential development. These categories will provide the opportunity for new residents to have a variety of choices of where to live. It will also provide an opportunity for internal mobility within the Borough, rather than forcing young families out to seek larger lot developments or by forcing older residents to seek apartments.

The Land Use Plan makes the following recommendations in terms of residential land use:

Medium Intensity Residential – One area includes the downtown, with extensions along Towanda Street and Northumberland Street. Higher densities will be incurred in and around the downtown. The average density should be considerably lower than the maximum because most of the designated area east of Church Street is already developed at densities of only 10 to 15 units per acre. New construction and conversions will probably take place slowly in this section. This area includes the R-2 and R-3 districts which are established in the Borough’s Zoning Ordinance.
Low Intensity Residential Areas – Two areas are recommended for low intensity residential use. They generally include all of the residential area not designated as medium intensity.

- All existing fully or partly developed residential blocks of the Borough which have fewer than ten dwelling units per acre should continue to be developed up to that density.

- An area north of Buffalo Street in the Northwestern part of the Borough contains about 50 acres of land and is presently subdivided as Woodhaven Development. A Lake and stream exists for recreation.

The section east of 940 contains 40 acres which has been developed as a mobile home court at a density of less than six dwelling units per acre. The Borough Plan would like to permit a large scale commercial or special industrial use in this eastern section. Such land uses would have to be developed in a compatible manner with adjacent land uses.

Within low intensity areas, the amount of land coverage will be less than 30% of the lot. However, density of development will be lower in new areas than it will be in developed areas where smaller lots exist and cannot usually be consolidated to larger lots because of housing development.
A summary of the densities and maximum land use coverages in the various areas are shown below:

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Residential Areas</th>
<th>Commercial Areas</th>
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<tbody>
<tr>
<td></td>
<td>Medium Intensity</td>
<td>Low Intensity</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>General Residential</td>
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<tr>
<td>Maximum density (per gross acre of land)</td>
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<tr>
<td>Units Per Acre</td>
<td>25</td>
<td>2.0</td>
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<tr>
<td>Persons Per Acre*</td>
<td>63</td>
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<tr>
<td>Maximum Land Coverage</td>
<td>45%</td>
<td>30%</td>
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<tr>
<td>Planned Unit Development</td>
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<tr>
<td>Maximum Density (per gross acre of land)</td>
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<tr>
<td>Units Per Acre</td>
<td>36</td>
<td>2.5</td>
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<tr>
<td>Person Per Acre</td>
<td>90</td>
<td>9.9</td>
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<tr>
<td>Intensity</td>
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<tr>
<td>Land Coverage</td>
<td>40%</td>
<td>20%</td>
</tr>
</tbody>
</table>

* Number of persons per family per dwelling unit was assumed to be 2.5 for medium intensity areas, 4 for low intensity areas.
Planned Unit Developments – Planned Unit Developments (PUD) should be permitted in all residential districts. A PUD permits a developer to achieve a flexibility of design not usually possible in conventional block-by-block type of developments. In order to encourage developers to cluster homes and leave more common open space, the Borough will permit PUD’s to be developed at higher densities. A PUD will also be permitted to have a variety of housing types (single family, duplex, town houses, apartments) and limited commercial uses designed primarily to serve the residents of the development.

Housing For All Income Groups – Permit housing in any residential area of the Borough without regard to the race, religion, creed or economic status of the possible resident of the dwelling. The Land Use Plan provides for such opportunities by permitting multi-family housing in the medium density residential areas and by permitting mobile homes in courts in the low density areas. Factory built homes are permitted on any lot if they can meet the requirements which apply to conventionally built structures. In this way, there will not be economic discrimination, nor should there be any other forms of discrimination resulting from this plan.

This plan also recommends that low income housing should be a primary reuse in the proposed Downtown redevelopment area. Lower income families, particularly those who are elderly, should find this location convenient to shopping, banking, medical and other services.

Urban rehabilitation of residential structure should be an ongoing activity throughout the Borough. Special program to accelerate remodeling should take place in and around the Downtown. In this way, existing reasonably priced housing can be preserved as a housing resource for the low and moderate income families without congregating these families in a project area.

This Plan recommends that housing for the elderly be constructed on suitable sites in and around the Downtown.

White Haven Borough Comprehensive Plan of 2005
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Commercial Land Use Recommendations

The Land Use Plan includes two types of commercial uses. Community Commercial is the type presently in the Downtown and at neighborhood shopping areas. It satisfies the local and area need for convenience retail and service activities. Highway commercial serves the traveling public. It provides space for gasoline stations, emergency services, eating, sleeping and other facilities for highway users.

**Community Commercial** - The Downtown is the primary community commercial area. It includes nearly 8 acres of land along Main Street and a portion of Towanda Street.

Remodeling may retain the Turn of the Century theme of the buildings currently evidenced by porches and other architectural details of existing buildings. New construction can take place on vacant land and land provided by removal of substandard buildings. Residential uses may be permitted in the Downtown if they are compatible with the other activities.

**Highway Commercial** – One general area is recommended for future highway commercial activities. The area containing about ten acres of land at the Interchange of Interstate Route 80 and PA Route 940. The primary purpose of such use would be to serve the traveling public.

Industrial Land Use Recommendations

The Land Use Plan recommends two areas for industrial use. The one in the northern part of the Borough along Susquehanna Street already includes the vacant Emcee plant. The plot of land on Rt. 940 near I-80 is an excellent industrial location usage area.

As indicated in the background studies of this Comprehensive Plan, employment in service commercial activities will continue to increase more rapidly than will manufacturing activities. This will be an advantage for White Haven, located as it is, in the Pocono recreational area. However, for balance in the local economy, it would be also advisable for the
Borough to maintain an active industrial promotion program. This program should include preparation of basic information about each industrial site such as the following:

- Site & shape of site
- Topographic characteristics
- Utilities available nearby
- Water supply, quantity & quality
- Lack of flood threat
- Drainage & soil conditions
- Cost of development
- Location within community
- Transportation facilities
- Taxes & insurance
- Zoning & other legal aspects
- Proximity to Pocono amenities

With this basic information available, the Borough should promote attracting industry to locate in those areas designated for industrial use.

**Public & Semi-Public Land Use Recommendations**

Public and semi-public Land Use Plan recommendations have been divided into regional and community categories. The public regional land uses include the Library, the Lehigh River Gorge and Borough parks, public buildings, sewage treatment plant and the cemetery. Recommendations for public-community land uses are included in the community facilities section of the Plan. Public-regional land uses are discussed as a land use only and are described below:

**Interstate Route 80 Right-Of-Way** – This highway has served the people of the region more than the Borough. However, it does require service from the Borough in the form of ambulance and fire company services for the ever increasing number of accidents occurring thereon. It also generates increasing amounts of noise and other pollution.

The Plan recommends that the interstate highway be screened from the Borough with trees and other plantings or a sound wall.
The objective is to contain the noise while at the same time providing an attractive environment for the motoring public. No billboard advertising signs should be permitted along the interstate within the Borough. However, informational signs should direct motorists to the 940 interchange of I-80 for services and shopping within the Borough.

Lehigh River Gorge Park – The location and extent of the Lehigh River Gorge within the Borough are shown on Land Use Plan map. It is in accord with the latest public plans of the Department of Conservation & Natural Resources. Currently DCNR is acquiring land with for parking areas and a comfort station, to take place in stages. White Haven will be one of the two information centers for the Park and therefore, land acquisition and development activities are receiving high priority.

The White Haven Plan recommends the following to achieve a better mutual development of the Park and the Borough:

- Encourage open space or transitional areas along the borders. There is no need to close off the Park from the Borough nor the Borough from the Park except in locations where specific incompatibilities might arise. The two should be good neighbors.

- Redevelop the Downtown in order to improve building and environmental conditions, but preserve the Turn of the Century Flavor keeping colonial accent points where possible.

- Jointly develop facilities which could be of mutual benefit. New off-street parking and improvement of State roads through the Borough are examples of such cooperation.

- Incompatible uses should be screened from one another preferably through landscaping. An active recreational area next to a quiet residential neighborhood or an industrial-commercial activity next to a passive recreation area are example of the need for screening.

White Haven Borough Comprehensive Plan of 2005

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The National Heritage Corridor Plan – Encompasses some of the same land and trails as the Lehigh River Gorge Park.

The Lehigh River Gorge and the National Heritage Corridor should both be an asset to the entire area. They will preserve valuable natural features while opening up land and water to the public for active and passive recreational use. White Haven will be at the northern most entrance of the Gorge scenic trail planned to extend from White Haven to Jim Thorpe. White Haven will also contain a parking area and information center. Hopefully, this cooperation will continue through development, administration, security and operation of these new facilities.

Public - Residential land uses will account for nearly 40 percent of the Borough’s land area. The Borough receives no tax income from these lands, yet must provide ambulance, fire, police and other services to these areas.

The Comprehensive Plan recommends that the State recognize the ever increasing burden that the Borough bears in serving the White Haven Center, the Interstate Highway, the Lehigh River Gorge Park and the proposed Heritage Corridor. As a result of this recognition, it is hoped that the State would also participate more in the financing of related services.
Redevelopment, Environment & Housing Improvement Recommendations

This Plan recommends that redevelopment of Downtown White Haven be a first priority program. Clearance should be limited with the primary activity being the rehabilitation of existing buildings and replacement of burned down buildings. First floor uses should continue as retail and service commercial with upper floors used for housing. Housing for the elderly should also be considered as a reuse within the Downtown section.

Every effort should be made to preserve the existing intricate trim on porches and eaves as well as other features which can retain the Downtown’s small town, historic charm. Any new development should be in harmony with the scale, materials and style of the old and existing buildings.

The redevelopment program should also help to solve parking, traffic flow, lighting and other needs of the Downtown. Needs of the Lehigh River Gorge Park should also be considered in the program.

Housing and environmental improvement should be an on going Borough-wide project. The appropriate codes should be implemented so that building conditions will be safe, healthy and attractive. Private building rehabilitation should be encouraged.
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<th>TABLE</th>
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<td>Total Population</td>
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<td>TABLE 11</td>
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<td>TABLE 12</td>
<td>Characteristics of Refuse &amp; Disposal</td>
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</table>
INTRODUCTION

DEFINITION OF AREAS
Geographic areas referred to herein are defined as follows:

Planning Area  White Haven Borough

PURPOSE AND ORGANIZATION OF THIS REPORT
The purpose of this report is to describe the work carried out during the first year planning which includes the following:

- Assembly of existing reports, plans, maps and ordinances.
- Field surveys of land use, buildings, community facilities, major streets, parking and the municipal questionnaire.
- Mapping of data surveyed and other pertinent information.
- Analysis of population and physical information.
- Determination of the direction of the Plan.

This report is a basic technical document summarizing the work accomplished and establishing a direction for the Plan. Major analysis sections include Population, Housing, Economics, Community Attitudes, Physical Features, Land use, Major Streets and Public Facilities. Tabular information for each element is located at the end of that section of the analysis. The relevant findings from the various elements are then correlated into a set of Development Factors and translated into statements on the Future Growth Potential.
POPULATION CHARACTERISTICS
The size and other characteristics of population have been analyzed so that proper provision can be made for the needs of the people in the formulation of comprehensive community plans.

County Situation – Luzerne County has witnessed population declines since 1930 but the rate of decline has slowed considerably in recent years. The County lost 102,808 persons in the forty year census period. There was a peak 10 year decline of 15.2 percent in the 1950 decade. During the 1960 decade, population stabilized with only a 1.3 percent loss to a population of 342,301. County planners had projected that by 1990 the County would have 510,000 persons, however the 1990 census figures indicate only 258,940 – a decrease from 1970 of 83,361 or 24%. The census figures for 2000 indicate an increase of .04%.

<table>
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<th>Change</th>
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<td>White Haven Borough 1,182 1,132 - 47% 1,217 2,134 +38.8%</td>
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<td>+.04%</td>
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</tr>
</tbody>
</table>

From the rate of decline locally, it appears that the economic transition and the impact of people moving away from the Planning Area was greater locally than it was for the County.

White Haven Borough has been adversely affected by the regional economic changes. A good portion of the Borough population increase from 1950 to 1970 can be attributed to the White Haven Center both in number of patients and increased number of employees. (The population of the Center was assigned to White Haven Borough in 1950 and to Foster Twp. in 1970.

Race and Ethnic Composition - The planning Area is rich in its foreign heritage. It has become a melting pot for many different ethnic groups, but few non-white families have chosen to settle within the Area. About 36% of the Planning Area residents were born in a foreign country or had one or more parents who were born in a foreign country. The predominant nationalities in terms of their population in the Planning Area include Polish, Italian, Austrian, Czechoslovakian, English, German and Irish.
**Age and Sex Characteristics** – The median age of the population in Luzerne County and the Planning Area were about six and seven years above the State 2000 median age of 30.7 years. Generally, there are more local people between 45 and 65 than in the State.

- White Haven’s median age in 2000 was 40.8 up from 36 in 1990.

The older population of the Planning Area indicates that special consideration must be made for the aging population including medical and leisure time facilities. Their lower income potential and lower taxable income for community operation must also be considered.

**Net Migration Characteristics** – The decline in the number of people living within the Planning Area has also been the result of more people moving out of the Area than move into the Area. From 1960 to 1970, there was a net out-migration of 32 persons for the Planning Area. This out-migration has drastically dropped from the previous two decades when about 3,500 people left the Planning Area in a 20 year period. The 1980 to 1990 net migration stabilized, and all indications show an even migration pattern for the 1990s.

1 Source: Current Population Reports “Special Studies: Series P-23, No.175
US Dept of Commerce, Economics & Statistic Administration, Bureau of Census
The opinions of the Planning Area residents were sought through a community planning questionnaire which was made available to all residents of the Area. The number of questionnaires returned represents 26% of households within the community.

A copy of the questionnaire circulated follows this section.

The questionnaire afforded the recipient an opportunity to identify existing problems or needs, indicate choices for future development and describe their own housing and family characteristics. No names were required; the housing and family characteristics information was only used to confirm census data.

A significant percentage of the Area residents who responded felt strongly about the following:

Problems and Needs Comments:

1. Sidewalks in the Borough are in very bad condition. Property owners are responsible for repairing and replacing their sidewalk. If they are hazardous, it should be brought to their attention by a letter from Council, their insurance company or the Zoning office.

2. A more visible police force as well as a quicker response to calls.

3. More cooperation in moving cars following a snowstorm.

4. More shopping facilities are needed and existing facilities should be expanded.

5. Pride in the Towns appearance and keeping historical buildings from being lost was also emphasized.

Positive Comments:

1. The Weaver subdivision and an area in the Woodhaven Development are very much needed.
TABLE 1
TOTAL POPULATION

WHITE HAVEN BOROUGH
LUZERNE COUNTY, PENNSYLVANIA

<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1930</td>
<td>1,537</td>
</tr>
<tr>
<td>1940</td>
<td>1,528</td>
</tr>
<tr>
<td>1950</td>
<td>1,461</td>
</tr>
<tr>
<td>1960</td>
<td>1,778</td>
</tr>
<tr>
<td>1970</td>
<td>2,134</td>
</tr>
<tr>
<td>1980</td>
<td>1,217</td>
</tr>
<tr>
<td>1990</td>
<td>1,132</td>
</tr>
<tr>
<td>2000</td>
<td>1,182</td>
</tr>
</tbody>
</table>

Total Population 1930 – 2005

White Haven Borough Comprehensive Plan of 2005
Part II – Page 9
### TABLE 2

**AGE OF POPULATION**

**WHITE HAVEN**
**LUZERNE COUNTY, PENNSYLVANIA**

<table>
<thead>
<tr>
<th>AGE</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 5</td>
<td>58</td>
</tr>
<tr>
<td>5 – 9</td>
<td>98</td>
</tr>
<tr>
<td>10 – 14</td>
<td>103</td>
</tr>
<tr>
<td>15 – 19</td>
<td>94</td>
</tr>
<tr>
<td>20 – 24</td>
<td>56</td>
</tr>
<tr>
<td>25 – 34</td>
<td>140</td>
</tr>
<tr>
<td>35 – 44</td>
<td>191</td>
</tr>
<tr>
<td>44 – 54</td>
<td>159</td>
</tr>
<tr>
<td>55 – 59</td>
<td>46</td>
</tr>
<tr>
<td>60 – 64</td>
<td>42</td>
</tr>
<tr>
<td>65 – 74</td>
<td>103</td>
</tr>
<tr>
<td>75 – 84</td>
<td>73</td>
</tr>
<tr>
<td>Over 85</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,182</strong></td>
</tr>
</tbody>
</table>
### TABLE 3

**RACE AND ETHNIC COMPOSITION**

**WHITE HAVEN**
**LUZERNE COUNTY, PENNSYLVANIA**

<table>
<thead>
<tr>
<th>Subject</th>
<th>White Haven</th>
<th>Luzerne County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Population</td>
<td>1,182</td>
<td>319,250</td>
</tr>
<tr>
<td>African American</td>
<td>0</td>
<td>5,408</td>
</tr>
<tr>
<td>American Indian/Native Alaskan</td>
<td>1</td>
<td>285</td>
</tr>
<tr>
<td>Asian</td>
<td>15</td>
<td>1,860</td>
</tr>
<tr>
<td>Asian Indian</td>
<td>9</td>
<td>47</td>
</tr>
<tr>
<td>Chinese</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Filipino</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Korean</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>9</td>
<td>3,713</td>
</tr>
<tr>
<td>Other</td>
<td>9</td>
<td>3,174</td>
</tr>
</tbody>
</table>

Source: 2000 US Census & Population

---

Population by Age Percentages

- 20-54: 46%
- Under 20: 30%
- 55 & Over: 24%
TABLE 4

SEX CHARACTERISTICS

WHITE HAVEN
LUZERNE COUNTY, PENNSYLVANIA

FEMALE/MALE RATIO

<table>
<thead>
<tr>
<th></th>
<th>Luzerne County</th>
<th>White Haven Borough</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>165,455</td>
<td>631</td>
</tr>
<tr>
<td>Male</td>
<td>153,795</td>
<td>551</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, 2000
HOUSING CHARACTERISTICS

PERSONS PER HOUSEHOLD
The number of persons per household was 2.49 for the Planning Area in 1990 compared with 2.57 for the County. The 2000 figures for White Haven are 2.53 with 2.34 for the County. The 2000 local population as well as the National trend toward smaller families contributed to the Area and each community’s household size decreasing from 1990 – 2000.

OCCUPANCY
Owner – occupied units outnumbered renter-occupied units by a bit less 3 to 1 in White Haven. About 24.8 percent of all housing units were rented in 2000 compared with about 38 percent for 1990. The remainders were owner – occupied. The number of vacant standard housing units are few in number. Many older deficient units have become available due to the County funded low-income housing rentals. However, it is extremely difficult to find a standard vacant unit within the Borough.
Median Home Cost ($)

The median value of owner-occupied homes in the Planning Area was 82,100 in 2000 compared with 65,300 in 1990.
Household Family Characteristics

- Married Couples: 53%
- Single Family: 26%
- Single Alone: 14%
- Elderly Alone: 7%

**HOUSEHOLD FAMILY CHARACTERISTICS**

<table>
<thead>
<tr>
<th>Household Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Households Occupied</td>
<td>468</td>
</tr>
<tr>
<td>Married Couple Family</td>
<td>246</td>
</tr>
<tr>
<td>Single Parent Family</td>
<td>60</td>
</tr>
<tr>
<td>Single Alone</td>
<td>124</td>
</tr>
<tr>
<td>Elderly Alone</td>
<td>66</td>
</tr>
</tbody>
</table>
CONDITION OF HOUSING

Based upon exterior housing surveys of the 470 homes and apartments done by the members of the Planning Commission, 88% of the White Haven housing units were rated good to excellent in 2005. Fair condition housing was rated as 9% with poor being only 3%.

Unit classifications were determined as follows:

**Good to Excellent** – Well kept, in no immediate need of repair or maintenance.

**Fair** – In need of minor repair or maintenance.

**Poor** – In need of major repair or maintenance.
## TABLE 5

**PERSONS PER HOUSEHOLD**

WHITE HAVEN BOROUGH  
LUZERNE COUNTY, PENNSYLVANIA

<table>
<thead>
<tr>
<th>YEAR</th>
<th>LUZERNE COUNTY</th>
<th>WHITE HAVEN BOROUGH</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>3.2</td>
<td>3.04</td>
</tr>
<tr>
<td>1970</td>
<td>3.0</td>
<td>2.88</td>
</tr>
<tr>
<td>1990</td>
<td>2.47</td>
<td>2.49</td>
</tr>
<tr>
<td>2000</td>
<td></td>
<td>2.53</td>
</tr>
</tbody>
</table>

Sources: U.S. Census Bureau, 1960, 1970 & 1990
## TABLE 6

### OCCUPANCY CHARACTERISTICS

**WHITE HAVEN BOROUGH**  
**LUZERNE COUNTY, PENNSYLVANIA**

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>White Haven Borough</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Housing Units</td>
<td>352</td>
</tr>
<tr>
<td>Rental Units</td>
<td>116</td>
</tr>
<tr>
<td>Vacancies (Seasonal or Migratory Adjusted)</td>
<td>0</td>
</tr>
<tr>
<td>Vacancy Rate: Rental</td>
<td>0%</td>
</tr>
<tr>
<td>Vacancy Rate: Homeowner</td>
<td>2.8%</td>
</tr>
<tr>
<td>Median Value</td>
<td>$ 82,100</td>
</tr>
<tr>
<td>Median Contract rent</td>
<td>$ 411</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, 2000
LOCAL ECONOMIC DEVELOPMENT

This plan encourages more active prospecting for businesses to locate here to keep up with growing trends. Since the devastating fire of 1986, which destroyed the entire 400 block of Main Street, business locations have been added to this general area. They consist of a retail food distributor, café, apartments, bakery, restaurants, seamstress and ice cream stand. Future economic growth is continuing on Green Mtn. with the building of the Holy Protection Monastery. The former round house being connected to the Lehigh Gorge Visitor Center as well as the Library.

FUTURE ECONOMIC PROSPECTS

The Planning Area would surely welcome an influx of new factories into the Area with high-paying stable employment for local people. Since there haven’t been any recent indications of such an influx, it would seem appropriate at this point to consider the alternatives available to our Borough.

The major factors in creating business activity in the Borough seems to be the Lehigh River Gorge Park, of which White Haven will be a major center and the Holy Protection Monastery.

Again, more concentration by Borough Council and the Chamber of Commerce should be maintained in locating new business to the former Emcee building and the vacant Wilmot area.

Due to limited square mileage of the Borough, major manufacturing or transportation type businesses are not good candidates.

Excellent sources of personal & business services include research and development activities, transportation related activities, financial, insurance and office activities.
The previous sections of this report have dealt with social, housing and economic aspects of the Region and the Planning Area. This section discusses physical features in terms of topography and soil characteristics.

**TOPOGRAPHY**

The Planning Area is located in a very scenic section of the Appalachian Mountains. Prominent local features include the Lehigh River Gorge which forms the eastern border of the Planning Area. A gently undulating terrace-like area located immediately to the west of the Lehigh River Gorge. Several mountain ridges extend into this terrace from the west. The Borough of White Haven is picturesquely located between one of the finger-like mountain ridges and the western edge of the Lehigh River Gorge.

**SOILS**

Detailed soils maps were prepared by the U.S. Soil Conservation Service for White Haven Boroughs. It was considered as an input in evaluating Freeland and White Haven expansion potential.

These soil reports were then used to determine the limitations of the soils, slope, bed rock and natural features upon potential development.

The primary use of natural resource data developed by the Soil Conservation Service for this study will be in analysis of vacant land for its development potential. This analysis is located in the next section of this report under Land Use discussion. However, these natural resource reports prepared by the U.S. Conservation Service have a continuing value to each community for use in evaluating the limitation of land upon new development or redevelopment of land.
LAND USE

DEVELOPMENT CHARACTERISTICS

Total acreage in White Haven is 773 acres:

a. Residential Uses 47%
b. Highway & Rail Right of Way 29%
c. Undeveloped 10%
d. Industrial/Commercial 14%

It should be noted that several different figures are available for the area of the Borough of White Haven. The ones used in this report were measured from planning base maps and are consistent with a census reported figure.

The Woodhaven Development has had the greatest land development impact upon the Borough in recent years. All other development has been on a small scale. A few homes have been constructed throughout the Borough. Recent proposals from potential developers indicate that additional residential land will be developed. Under construction on the Green Mountain Site is the Greek Orthodox Holy Protection Monastery.

VACANT LAND CHARACTERISTICS

White Haven Borough - Approximately 15 acres of land east of 940 and land northwest of Buffalo Street is vacant. Also vacant is a parcel of land located east along the Powerhouse Road. These areas also have the advantage of being connected to the existing sewer line and treatment plant as well as to the public water system. Parks, fire and police services are other advantages of these Borough vacant areas.
NEIGHBORHOOD CONDITIONS

The following neighborhood improvement needs are based upon exterior building conditions which were surveyed as part of the land use study.

White Haven Borough – The Borough has adopted the BOCA building and housing codes which will help to preserve existing good housing and to return marginal housing to standard condition. Main Street, downtown area, requires renewal. Rehabilitation of structures should be sought as opposed to demolition. The demolition should be a last resort. If demolition is selected, new construction should be encouraged at that site.

Owners of Main Street properties should be encouraged to develop the vacant areas.
The planning Area is ideally located and served with regard to major highways: Interstate Routes 80, 81 and the Pennsylvania Turnpike. The accessibility that these highways afford to the area is extremely important from an economic standpoint. However, traffic circulation within each community is important for economic reasons as well as being important for the health, safety and service to area residents.

White Haven Borough – With a full interchange of Interstate Route 80 located in the Borough, traffic volumes will be increasing at a faster rate than normal growth of the community. Existing highways which pass through the Borough and provide connection to the interchange should be properly maintained.

Following are some of the other problems identified:

- Off – Street parking is needed in the downtown area.
- Storm water drainage needs a few improved conveyance systems.
- Railroad grade crossings need continued care.
- Proper access and parking is needed for proposed recreational facilities, such as the Lehigh River Gorge.
- Truck traffic through town adds excessive noise & vibration.
- Need an Interstate sound barrier.
- Need a designated Park & Ride area.
WHITE HAVEN STREET CLASSIFICATION

1. Expressways through the Borough are State legislative Route 80 – going east to West carrying 4 lanes and total one mile. The Borough services the highway with fire, ambulance & police within the one mile area.

2. A connector route is PA Route 437 – connecting PA 940 with PA Route 309 between White Haven and Mountaintop, going North & South. It includes Church Street North.

3. Another connector route is PA 940. This route directs traffic to Interstate 80, or to Freeland, Hazleton & Weatherly to the South and includes Church Street South. At the corner of Church & Berwick Streets, PA 940 goes East down Berwick Street across the Lehigh River to East Side Boro and on to the Poconos and New York.

4. Also a connector street is Buffalo Street directing traffic to the White Haven Center on the Oley Valley Road or legislative Route (2048) 40159 and East to the Bear Creek Road (92041), plus it intersects PA 437 and meets the entrances of the Woodhaven Development.

5. There is a One-Way street, Northumberland Street located East of Church and Route 940 South and Main Street.

6. Towanda Street which runs North & South, North to the Borough line and Route 2041 to Penn Lake & Bear Creek, ending at the intersection of Route 115.

Traffic has been increasing yearly. The State acted responsibly and erected signs forbidding trucks with low clearance from using PA 940 East because of the rise at the railway crossing. This action has prevented many dangerous situations where low vehicles would be hung up on the track section. The Borough must continue monitoring this type of danger.

Street improvements are ongoing and capital improvements are encouraged to keep up the pace. Good streets are vital to development of the Borough. The State has resurfaced the State routes through town and will be encouraged to keep up these routes.
WHITE HAVEN STREET CLASSIFICATION

Off street parking should be encouraged wherever possible. The increase in the number of vehicles is causing tie ups and hampers maintenance.

Storm drainage is an on going priority. Improvements in this matter will prevent road erosion.
The analysis of administration buildings, emergency service, library service, recreation, schools and public facilities is summarized below:

**Administration** – The administration building facilities in the community are adequate.

**Emergency Service** - Fire and ambulances service are excellent, however, Interstate Route 80 accidents have also placed a heavy demand on the White Haven. Ambulance Services are independently owned and operated.

**Library Services** – Currently available on the 2nd floor of the PNC Bank building. Plans are underway to relocate the Library to the former Engine House. Grants and funding are being applied for at this time.

**Recreation** - Recreational opportunities in and surrounding white Haven are abundant, and are increasing due to the Lehigh River Gorge State Park.

**Schools** – White Haven is in the Crestwood School District, with children attending school in Mountaintop, 11 miles away.

**Public Utilities** – White Haven Water and Sewerage Systems have recently been sold to Philadelphia Suburban Co.

Refuse is being collected by a private waste company, which is awarded by bid contract. This includes the voluntary recycling pickups.
I. **Administrative Buildings**

The town Hall, and other administrative buildings can best perform their services when easily accessible to the entire community. The buildings should be centrally located. In towns, this location is usually close to the CBD and convenient in regard to transportation facilities.

The building and site should be large enough to accommodate the facilities and provide sufficient parking space, landscaping and other aesthetic improvements. Suggested Standard – 1/3 to 2 acres for towns applying the higher standard when many activities are concentrated at the administrative center.

II. **Police**

The Police Department should be located close to the community’s major road system to facilitate police protection to all portions of the community. It is suggested that the police facilities be located in the central administration building complex.

There should be one law enforcement agent for every 1,000 people.

III. **Fire Fighting Facilities**

<table>
<thead>
<tr>
<th>Type of Station</th>
<th>Pumper, Tanker, &amp; Hose Co.</th>
</tr>
</thead>
<tbody>
<tr>
<td>High value Areas (miles)</td>
<td>¾</td>
</tr>
<tr>
<td>Standard Residential Areas (miles)</td>
<td>1 ½</td>
</tr>
<tr>
<td>Rural Density residential Areas (miles)</td>
<td>4</td>
</tr>
<tr>
<td>Land Area Required (acres)</td>
<td>1/2</td>
</tr>
</tbody>
</table>

(To achieve class 8 or lower on a 10-class category of the American Insurance Association)

The system should be able to deliver at all times, the required fire flow for a period up to ten hours during a period of 5 days maximum consumption.
- Minimum water main size – 6 inches

- Fire hydrants located within 400 feet of commercial structures and 600 feet of residential structures.

Station Location – Generally near the intersection of main traffic arteries.

**IV. Library Facilities**

The library facilities should:

- Be centrally located.
- Have convenient access by public transportation.
- Be in or near the Central Business District.
- Have convenient access by walking or public transit from primary and secondary schools.
- Convenient to off-street parking.

<table>
<thead>
<tr>
<th>Community</th>
<th>Book Stock</th>
<th>Building Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population Size</td>
<td>Volumes Per Capita</td>
<td>Sq. Ft. Per Capita</td>
</tr>
<tr>
<td>Under 5,000</td>
<td>3.0</td>
<td>1.0- (min. total area 2,000 sq. ft.)</td>
</tr>
<tr>
<td>5,000 – 9,999</td>
<td>3.0</td>
<td>.7 – 1.0</td>
</tr>
<tr>
<td>10,000 – 34,999</td>
<td>2.5</td>
<td>.6 - .7</td>
</tr>
<tr>
<td>35,000 – 100,000</td>
<td>2.0</td>
<td>.6</td>
</tr>
</tbody>
</table>

V. Nursing Homes

Currently no such facilities are located in the Borough. Weatherly and Mountaintop offer these facilities.

VI. Recreation Facilities

**Neighborhood Level**

- **Minor Parks**
  - Open lawn, trees, benches, tables play area.

- **Playgrounds**
  - Court games, play apparatus, open area, shade area.

- **Community Park**
  - Picnic area, nature trails, day camp, playground, athletic fields, game courts, sports fields, park area, play area, swimming pool.

**Regional**

- **County, Regional**
  - Generally same as community park with more open space, possibly golf, camping, swimming, boating, and any of the above.

- **State Parks**

Source: Adaptation of national Recreational Association standards.

VIII. School Facilities

Based upon local school district standards.

IX. Water Utilities

Water quality should meet United States Public Health Standards.

In multiple housing developments including motels, at least 8 in. pipe should be installed, 6 in. to be used only where it completes a good gridiron, and then only up to 600 feet in length between interconnecting mains. Hydrants should be 400 feet apart in commercial areas and 600 feet apart in residential areas.
X. Sewage Utilities

Collection System

- Proper design of interceptors, laterals and trunks.

- Maintenance of minimum gradient in lines, minimum velocity of 2 feet per second.

- Provisions for sewage flow: Residential per person 300 gallons daily, commercial and industrial 3,000 gallons daily per acre.

Storm Sewer System

- Provide for separate facilities to accommodate storm and sanitary sewer disposal.

- Preserve natural drainage course where possible with adequate channel right-of-way.

- Reasonable basis for assigned quantity of runoff.
**TABLE 7**

CHARACTERISTICS OF PUBLIC BUILDINGS

OCT. 2005

<table>
<thead>
<tr>
<th>Description</th>
<th>Date Constructed</th>
<th>Size of Bldg.</th>
<th>Structural Condition</th>
<th>Parking Space</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>White Haven Borough Building</td>
<td>Pre 1900</td>
<td>2 Floors</td>
<td>Good</td>
<td>Adequate</td>
<td>Council Room Police Station</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(Former Bank Building)</td>
</tr>
<tr>
<td>White Haven Borough Garage</td>
<td>1930’s Addition in 1979</td>
<td>2 Floors</td>
<td>Poor</td>
<td>Inadequate</td>
<td>Houses Fire Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Borough Street Equipment</td>
</tr>
<tr>
<td>Community/Rec. Building</td>
<td>Purchased 1970’s</td>
<td>1 Floor</td>
<td>Good</td>
<td>Adequate</td>
<td>Senior Citizens</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Senior Lunches</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Public Meetings</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Rec. Activities</td>
</tr>
</tbody>
</table>

**TABLE 8**

CHARACTERISTICS OF FIRE COMPANIES

OCT. 2005

<table>
<thead>
<tr>
<th>Name</th>
<th>White Haven Fire Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community</td>
<td>White Haven</td>
</tr>
<tr>
<td>Equipment Housed</td>
<td>Borough Garage</td>
</tr>
<tr>
<td>Equipment</td>
<td>1974 Ward LaFrance</td>
</tr>
<tr>
<td></td>
<td>1980 Ford Emergency Rescue Truck</td>
</tr>
<tr>
<td></td>
<td>1992 K.M.E. Fire Truck</td>
</tr>
<tr>
<td></td>
<td>2003 K.M.E. Fire Truck</td>
</tr>
<tr>
<td>Fire Rating</td>
<td>6</td>
</tr>
</tbody>
</table>
## TABLE 9

Characteristics of Recreational Facilities  
Oct. 2005

<table>
<thead>
<tr>
<th>Recreational Facility Name</th>
<th>Type of Facility</th>
<th>Site Character</th>
<th>Facilities &amp; Activities</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lehigh Park</td>
<td>Community</td>
<td>Wooded, Grassland, Flat</td>
<td>Paved basketball court, net, baseball, picnic, play equipment fenced, concession stand, rest rooms handicap accessible</td>
<td>Next to Rt. 80</td>
</tr>
<tr>
<td>Susquehanna Street</td>
<td>Neighborhood</td>
<td>Wooded, Grassland, Flat, Access, Steep</td>
<td>Child’s play equipment, Basketball</td>
<td></td>
</tr>
<tr>
<td>Hemlock Street</td>
<td>Neighborhood</td>
<td>Grassland, Flat</td>
<td>Child’s play equipment, Small Pavilion</td>
<td>Needs paint</td>
</tr>
<tr>
<td>Laurel Street</td>
<td>Community</td>
<td>Flat, Partly Wooded</td>
<td>Tennis, Basketball</td>
<td>Needs Security</td>
</tr>
<tr>
<td>Linesville</td>
<td>Community</td>
<td>Wooded, Grassland, Rolling</td>
<td>Fishing, Baseball, Restrooms available, Pavilion, Picnicking, Gazebo</td>
<td>Renovations needed, Camping a possibility</td>
</tr>
</tbody>
</table>
## TABLE 10

**Characteristics of Water Utilities**  
**Oct. 2005**

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Source and Treatment:</td>
<td>Ground, Aeration Tower</td>
</tr>
<tr>
<td>Storage Capacity:</td>
<td>500,000 Gallons</td>
</tr>
<tr>
<td>Daily Consumption:</td>
<td>125,000 Gallons</td>
</tr>
<tr>
<td>Number of Connections:</td>
<td>500</td>
</tr>
<tr>
<td>PSI</td>
<td>25</td>
</tr>
<tr>
<td>Remarks:</td>
<td>Newly constructed 1993</td>
</tr>
</tbody>
</table>

Purchased by Aqua America 2003
TABLE 11

Characteristics of Sewer Utilities
Oct. 2005

<table>
<thead>
<tr>
<th>Type of System:</th>
<th>Activated Sludge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream Receiving Effluent:</td>
<td>Lehigh River</td>
</tr>
<tr>
<td>Treatment Expansion Potential:</td>
<td>Yes</td>
</tr>
<tr>
<td>Adequacy of System:</td>
<td>Adequate</td>
</tr>
<tr>
<td>Remarks:</td>
<td>Includes W.H. Borough, Dennison Twp., East Side Boro and Rt. 940 to the TPK. Future hook-ups will include Penn Lake Park, Lake Agmar and Hickory Hills.</td>
</tr>
</tbody>
</table>

Purchased by Philadelphia Suburban 2003
<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Population 2000</strong></td>
<td>-</td>
<td>1,182</td>
</tr>
<tr>
<td><strong>Collection Service</strong></td>
<td>-</td>
<td>Private Hauler</td>
</tr>
<tr>
<td><strong>Disposal</strong></td>
<td>-</td>
<td>Keystone Landfill</td>
</tr>
<tr>
<td><strong>Disposal Equipment</strong></td>
<td>-</td>
<td>Private Hauler</td>
</tr>
<tr>
<td><strong>Recycling</strong></td>
<td>-</td>
<td>Bi-monthly door-to-door</td>
</tr>
</tbody>
</table>

**Notes:** Disposal Mandated to Luzerne County Keystone Landfill by the Governor. Disposal municipal wide Bid Contract.
Preliminary Planning Considerations

The preliminary planning considerations are a step between the study of existing conditions and the preparation of a detailed comprehensive community plan. This step consists of a review of the factors which will influence the plan, a review of the estimated dimension of potential growth, and a listing of statements which will give direction to the detailing of the plan.

Development Factors:

The analysis of existing conditions has indicated that regional economic factors have been very effective in sustaining the Planning Area as a viable area. Therefore, both the regional and local development factors to be considered in detailing the plan are listed below:

Local Factors - Local considerations for the area were grouped into people, economic and physical related factors.

White Haven Borough - There are now a number of important factors which indicate that future employment and population in the White Haven section of the Planning Area will grow. These factors are as follows:

- The expansion of the recreational character of the area due to the past development or expansion of the following:
  - State Parks and Gamelands which virtually surround the White Haven Area.
  - Increasing number of second and permanent home developments.
  - Traveler service complexes which are developing in and out of the area.
  - The steady expansion of small businesses in the area.
  - The improvement of access into the area resulting from Interstate Rt. 80 and the Northeast Extension of the Pennsylvania Turnpike. In effect, White Haven is at a crossroads of traffic coming from the New York Metropolitan Area and the Philadelphia Metropolitan area and also has direct access to the larger areas in Northeastern Pennsylvania.
Many of White Haven Borough’s future development potentials and requirements cannot be precisely pinpointed due to a number of variable factors which will effect the Borough’s future potential. These variables include the following:

- Presently, the Borough is providing sewer and water facilities which will tend to encourage development within its limits. The development of such facilities in the surrounding townships could drastically alter the pattern of future development.

- An important factor relative to future growth is the State’s plan for the Lehigh River Gorge. The degree of implementation of this plan can also affect the potential of the area.

- Another factor affecting the Borough’s future growth is the extent to which the Borough and local merchants take positive steps for the improvement of existing commercial and other area.

- An important factor will be the attitude adopted by the Borough, as discussed above, with respect to the pursuit of vigorous development policy, including the provision of needed funds for various programs.

Despite the above variable factors, certain basic assumptions and decisions can be made at this time. However, these assumptions and decisions will have to be continually tested and studied further in more detail as development occurs in the area.
The potential for development and future requirements of the Borough with respect to various types of uses is discussed below:

(a) Residential Areas – Improvement can also be made to existing residential areas of the Borough. These areas, because of their age, require continuing conservation and rehabilitation efforts. In addition, the Borough could take action to improve the existing neighborhoods through provision of new facilities and the improvement of streets.

(b) Commercial areas – Regardless of what is done to improve the Downtown area, additional commercial development to serve both the Borough and the surrounding region will undoubtedly take place in the years to come. The present commercial district within the Borough, on Main Street, cannot hope to fully accommodate the future commercial needs for a number of reasons:

- The existing area is not large enough.
- The right-of-way of the Jersey Central Railroad will apparently not be available for expansion of the commercial district due to the ongoing state plan for the Lehigh River Gorge Area.
- Developers of modern commercial facilities normally insist on larger tracts of land which are located on the highway and have better access from the region which these areas serve.

However, the above comments should not be taken to indicate that the present commercial area cannot be improved and made to serve a specialized commercial need.

- The existing downtown area could be substantially improved and emphasis given to the development of commercial uses which would be oriented towards serving special needs of visitors to the area. This type of development would be particularly coordinated with the recent state acquisition of the Lehigh River Gorge Area. The improvement of the Downtown area could also stress the historical character of the region which would enhance the image of the entire Borough and prove an attractive asset of information for visitors to the region and to the Lehigh River Gorge Area. In addition, to serving local residents, the downtown would cater, even more than it does now, to the special needs of summer visitors, campers and tourists.
• An additional commercial possibility exists because of the location of Interstate Route 80 in the Borough. It should be possible to provide a site for the type of commercial uses which are geared to serve visitors passing through the area. This could include the future development of a motel, gas station, restaurant and other similar traveler’s services. The size of such an area would depend on the actual facilities proposed, but it could include an area of about 10 acres.

• Industrial Areas – The exact amount of land required to meet industrial needs in the Borough cannot be estimated within the limitations of this study. However, based on past development which has taken place, there appears to be a demand for space for light manufacturing uses having good highway access. Such uses could be located in the vicinity of the vacant electronics plant at the Northwest end of the Borough, and also along the Northeasterly side of Route 940, south of the Borough.
DIRECTION FOR THE PLAN

The Plan should both establish objectives for new development and for improvement of existing areas, services and facilities in the Planning Area. Equally as important, the plan should seek to establish a framework for cooperation among the communities adjacent to the Planning Area.

The direction for the plan in White Haven Borough is as follows:

1. Residential Areas
   - Encourage development of new residential development, including apartments to serve special population groups.
   - Develop programs to encourage the improvement of all the neighborhoods and the rehabilitation of existing housing.

2. Commercial Areas
   - Develop three major commercial areas in the Borough as follows:
     - Improve the existing Downtown area, including the use of urban renewal and emphasize the development of special commercial facilities to serve summer residents and also existing population in the Borough.
     - Provide space within the Borough limits for new regional commercial development. This could be combined with the traveler service area.

3. Industrial Areas
   - Encourage manufacturing in existing vacant property within the Borough.

4. Streets and Highways
   - Continue the improvement of Borough streets.

5. Historical
   - Maintain caboose and other historical sites.
6. Tourism

☑ Promote Lehigh River Gorge Area and the Audubon Trail and other tourist sites.
CHAPTER 7

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§909. Test Procedures
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CHAPTER 7

CONDUCT

Part 1
Offenses against Peace and Order

§101. Disorderly Conduct Defined and Prohibited.

   (a) Offense defined – A person is guilty of disorderly conduct if with intent to cause a public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:

       (1) engages in fighting or threatening, or in violent or tumultuous behavior;

       (2) makes unreasonable noise;

       (3) uses obscene language, or makes an obscene gesture; or

       (4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

   (b) Public – means affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are sidewalks, highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood, or any premises which are open to the public.

Editorial Note: As enacted, this section was “Disorderly Conduct.” The preamble to Ord. No. 2-1987 stated that council was desirous of providing for the peace and good order of the Borough. Section 6 of the Part stated that it was the intention of the council and it was ordained that the provisions of the Part were to become and be made part of this Code of Parts and that the section of the Part might be renumbered to accomplish that intention; Section 7 of the Part repealed all inconsistent Parts.

§102. Public Drunkenness Prohibited. Public drunkenness is prohibited. A person is guilty of public drunkenness if he or she appears in any public place manifestly under the influence of alcohol to the degree that he or she may endanger himself or herself, or other persons or property, or annoy persons in his vicinity.

§103. Obstruction of Travel, Lounging, Loitering or Loafing on Sidewalks, Street Corners or Public Passageways Prohibited. Any person who shall unnecessarily and willfully obstruct or interfere with the travel upon any foot pavements, sidewalks or passageway to any public place, or shall lounge, loiter or loaf thereupon or therein or upon any street corners, shall be guilty of disorderly conduct and shall be subject to the penalties provided in Section 105.
§104. Unlawful to Aid or Abet any other Person in Commission of Certain Offenses. Any person who shall aid, assist, encourage or abet any other person in the commission of any of the offenses prohibited by Section 101, Section 102 or Section 103 or who shall incite said commission, shall be guilty of disorderly conduct and shall be subject to the penalties provided in Section 105.

§105. Penalty for Violation. Any person who violates any provisions of this part shall, upon conviction thereof, be punishable by a fine not more than Three Hundred ($300) Dollars and cost of prosecution, or in default of payment of the fine and costs, by imprisonment in the county jail for a period not to exceed 30 days.
Part 2
Prohibition of Consumption and Possession of Intoxicants in Public Places

§201. Definitions. Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

(a) Alcoholic Beverages – means any spirits, wine, beer, ale or other liquid containing more than one-half of one percent (½ of 1%) of alcohol by volume which is fit for beverage purposes.

(b) Container – means any bottle, can or other vessel in which alcoholic beverages are contained.

§202. Consumption. No person shall consume any alcoholic beverage in any quantity upon any street, avenue, alley, sidewalk, stairway, thoroughfare, or other public property within the Borough of White Haven, nor shall any person consume any alcoholic beverage within five feet (5’) of any public way or thoroughfare while on a private stairway, doorway or other private property open to public view without the express or implied permission of the owner, his or her agent or other party in lawful possession thereof.

§203. Possession. No person shall possess any container of alcoholic beverage whether wrapped or unwrapped which has been opened or on which the seal has been broken in any manner on any public street, avenue, alley, thoroughfare or other public property within the Borough of White Haven, nor shall any person possess any container of alcoholic beverage within five feet (5’) of any public way or thoroughfare while on a private stairway, doorway, or other private property open to public view without the express or implied permission of the owner, his or her agent, or other person in lawful possession thereof.

§204. Exceptions. Provided however, that the provisions of Sections 202 and 203 above shall not apply to interior points of any private dwelling, habitat or building, not to the consumption or possession by persons in the areas herein designated of any duly prescribed and dispensed medication having alcoholic content as set forth in Section 201 hereof; and provided further that the provision of said Sections 202 and 203 above shall not apply to the premises duly licensed by the Pennsylvania Liquor Control Board and to the persons then and there patrons of said licensee.

§205. Repealer. All Parts which are inconsistent herewith are hereby repealed.

§206. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining previsions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that this Part would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.
§207. Penalty. Any person who violates any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) days.
Part 3
Establishment of a Curfew

§301. Definitions and Interpretation. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Minor – means a person or individual who has not yet attained the age of eighteen (18) years.

(b) Parent – means any natural parent of a minor, as herein defined, or a guardian, or any adult person responsible for the care and custody of a minor. When used in this Part, “parent” shall mean one or both parents.

(c) Public Place – means any public street, alley, sidewalk, park, playground, public building or vacant lot in the Borough of White Haven.

(d) Remain – means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets, for emergencies or ordinary purposes such as mere passage of going home.

In this Part, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§302. Purposes. This is a curfew Part prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in the Borough of White Haven from each other and from other persons on the streets during nighttime hours, for the enforcement of parental control and responsibility for their children, for the protection of the public from nocturnal mischief by minors and for the reduction of the incident of juvenile criminal activity, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

§303. Curfew; Exceptions. It shall be unlawful for any minor to be or remain in or upon any public highway, park, street, sidewalk or other public place within the Borough, or in any enclosure or vehicle which is on or in close proximity to any such public place within the Borough, between the hours of 11 P.M. and 6 A.M. on the following day. Exceptions to the above are the following:

(a) Minor accompanied by parent, guardian, or other person having legal care or custody of such minor.

(b) Minor possessing a written statement dated that day and signed by parent, guardian, or other person having the legal care or custody of such minor, which statement specifies the time, place, purpose and necessity of the minor being in a public place contrary to this Part.
(c) Minor lawfully employed making it necessary to be on or in highways, streets, parks, etc., as stated above and possessing a current letter certifying the same and signed by an employer, parent or guardian.

(d) Minor on an emergency errand.

(e) Minor traveling to and from church, school or municipal activity with parental permission statement as set forth in subsection (b) above.

§304. Parents not to Permit Violation. It is hereby made unlawful for any parent, guardian, or the person having the legal care or custody of a minor to allow or permit such minor to violate any of the provisions of this Part without legal justification therefor.

§305. Procedure upon Violation. Any minor found upon the streets, alleys, parks, sidewalks, or public places within the Borough in violation of Section 303 shall be taken into custody by the Borough Police, be delivered to the minor’s parent(s), guardian, or a person having legal custody of said minor, and be given a copy of this Part. A report shall be filed and kept in a book for that specific purpose. If said parent, guardian or person having the legal custody of said minor so offending shall, upon the second offense, be called along with offender and be so advised once again as to the penalty provisions contained in this Part. Upon third violation, said parent, guardian or person will be cited for the violation.

§306. Procedure in Case of repeated Violations or other Factors Interfering with Enforcement. Any minor who shall violate this Part more than three (3) times may, at the discretion of the proper Borough officials, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceeding shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provisions of Section 303 of this Part cannot be made effective by the imposition of fines and penalties.

§307. Police Discretion in Age Determination. The police officers of the Borough in taking minors into custody shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer’s judgment shall prevail.

§308. Repealer. All Parts which are inconsistent herewith are hereby repealed.

§309. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Part. It is hereby declared as the intent of the Borough Council that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
§310. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.
Part 4

Regulations for Protection of Public Property

§401. Definition and Interpretation. As used in this Part, the term “Person” includes any individual, corporation, partnership, association, firm, or other legal entity. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§402. Tampering with Public Property on Streets, Alleys or Public Ground Prohibited. No person shall destroy, injure, tamper with or deface any public property of the Borough, or any grass, walk, lamp, ornamental work, building or street light on or in any of the streets, alleys, sidewalks, or public grounds in the Borough.

§403. Tampering with Stakes, Posts and Monuments Prohibited. No person shall in any manner interfere or tamper with, or pull, drive, change, alter, or destroy any stake, post, monument, or other marking made, placed or set, or hereafter made, placed or set, or caused to be done by the authorities of the Borough, to evidence the location, elevation, line, grade, corner, or angle of any public street, alley, sidewalk, curb, gutter, drain, or other public work, or thing.

§404. Tampering with Warning Lamps, Signs or Barricades Prohibited. No person shall destroy, remove, deface, obliterate or cover up any lamp, sign or barricade erected as a warning of danger by the authorities of the Borough or by any person doing work by permission of the authorities of the Borough on any of the streets, alleys, sidewalks, or bridges in the Borough or on any public grounds of the Borough.

§405. Removal of Material from Streets, Alleys, or Public Grounds Prohibited. No person shall take any earth, stone, or other material from any street, alley, or public grounds in the Borough.

§406. Deposit of Harmful Substances on Streets, Alleys, Sidewalks or Public Grounds Prohibited. No person shall pour, throw or deposit any harmful or destructive substance or matter on any street, alley, sidewalk, or public grounds in the Borough.

§407. Exceptions. This Part shall not apply to normal activities in connection with construction, maintenance and repair of streets, alleys, sidewalks, and public grounds and the structures and fixtures located thereon or therein, or to incidental results of work done thereon or therein upon permit from or by authority of the Borough.

§408. Repealer. All Parts which are inconsistent herewith are hereby repealed.

§409. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that is Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein.
§410. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Everyday that a violation of this Part continues shall constitute a separate offense.
Part 5
Prohibition of Throwing Objects in Streets

§501. Prohibited Acts. The throwing, kicking, or knocking, of any ball, snowball, stone or any other missile or object upon or into any of the public streets, alleys, or sidewalks in the Borough is hereby prohibited.

§502. Repealer. All Parts which are inconsistent herewith are hereby repealed.

§503. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that is Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein.

§504. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.
Part 6
Prohibition of Discharging a Firearm

§601. Discharge of Firearms Prohibited. Except in necessary defense of person and property and except as provided in Section 603 of this Part, it shall be unlawful for any person to use, fire, or discharge any gun or other firearm within the Borough.

§602. Use of Air Rifles, Bow and Arrows, or Similar Devices Restricted. It shall be unlawful for any person to discharge any air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow, or similar device, or any implement that is not a firearm but which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm, at any place within the Borough, except as provided in Section 603 of this Part, and except on a target range which is properly constructed to trap or stop the projectile as ascertained by the police.

§603. Exceptions. This Part shall not apply to:

(a) Persons licensed to hunt in this Commonwealth while actually engaged in hunting where permitted under the laws of the Commonwealth of Pennsylvania;

(b) Members of any organization incorporated under the laws of this Commonwealth engaged in target shooting upon the grounds or property belonging to or under the control of such organization; and

(c) Any law enforcement officers when used in the discharge of their official duties.

§604. Repealer. All Parts which are inconsistent herewith are hereby repealed.

§605. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that is Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein.

§606. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.
Part 7

Prohibition of Distribution of Lewd Material

§701. Definitions. As used in this Part, the following terms shall have the meanings indicated:

(a) Audience – means one or more persons who are permitted to view a performance for valuable consideration or in or from a public place.

(b) Display Publicly – means exposing, placing, posting, exhibiting, or in any other fashion displaying in any location whether public or private, material or a performance in such a manner that it may be readily seen and its content or character distinguished by viewing it in or from a public place or vehicle.

(c) Disseminate – means manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material or to offer or agree to do the same, or to have in one’s possession with intent to do the same.

(d) Lewd Material – means any material or performance in which all of the following elements are present:

   (1) Considered as a whole, by the average person, applying the contemporary community standards of the Borough, it appeals to the prurient interest in sex; and

   (2) It depicts, describes or represents in a patently offensive way, sexual conduct, as hereinafter defined; and

   (3) Taken as a whole, it lacks serious literary, artistic, political, educational or scientific values.

(e) Material – means any printed matter, visual representation, or sound recording, including, but not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensional forms, sculptures, and phonograph, tape or wire recordings.

(f) Nudity – means uncovered, or less than opaquely covered, post-pubertal human genitals or pubic area, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only and the areola only are covered.

(g) Pander – means advertising or propagandizing in connection with the sale of material, the offering of a service, or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.
(h) Performance – means any live or reproduced exhibition including but not limited to any play, motion picture film, dance or appearance presented to or performed before any audience.

(i) Prurient Interest – means a desire or craving for sexual stimulation or gratification. In determining prurient interest, the material or performance shall be judged with reference to average persons, unless it appears from the character of the material or performance that it is designed to appeal to the prurient interest of a particular group of persons, including but not limited to, homosexuals or sado-masochists. In that case, it shall be judged with reference to the particular group for which it was designed.

(j) Public Place or Vehicle – means any street, alley, park, boulevard, school or other public property or any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation, or other private property in the Borough of White Haven generally frequented by the public for the purposes of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation, owned or operated by the government, either directly or through a public corporation or authority, or owned or operated by any non-governmental agency for the use, enjoyment, or transportation of the general public.

(k) Sado-Masochistic Abuse – means flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume, or the condition of such person being fettered, bound or otherwise physically restrained, in an apparent act of sexual stimulation or gratification.

(l) Sexual Conduct includes–

(1) masturbation;

(2) sexual intercourse, whether genital-genital, oral-genital, oral-anal, or anal-genital;

(3) any erotic fondling or touching of the covered or uncovered genitals, buttocks, pubic area, or any part of the breasts of the female, whether the conduct described in subsection 1 through 3 is engaged in alone or between members of the same or opposite sex, or between humans and animals or humans and inanimate objects;

(4) actual or simulated display or exhibition of the human pubic area or genitals or any part thereof;

(5) sexual excitement, as hereinafter defined; or

(6) sado-masochistic abuse as herein defined.

(m) Sexual Excitement – means the facial expression, movements, utterance or any other physical responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal, or
experiencing the physical or sensual reaction of humans engaging in or witnessing sexual conduct.

As used in this Part, the masculine shall include the feminine and the neuter.

§702. Disseminating and/or Promoting Lewd Material. It shall be unlawful for any person, to disseminate and/or promote and/or display publicly lewd material in the Borough of White Haven. A person shall be guilty of the offense of disseminating and/or promoting and/or displaying publicly lewd material, if, knowing its content and character he or she:

(a) Disseminates or causes to be disseminated any lewd material in or from a public place or vehicle, or for valuable consideration; or has in his or her possession any lewd material with intent to so disseminate; or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her, for such dissemination of lewd material; or

(b) Sells an admission ticket, or pass to premises where there is being exhibited or is about to be exhibited material or a performance which contains lewd material; or

(c) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which contains lewd material; or

(d) Produces, presents, directs, or knowingly allows the use of any business, building, vehicle or place, owned, leased, conducted or managed by him or her to be used for a performance which contains lewd material before an audience; or

(e) Participates in that portion of a live performance before an audience which makes the performance contain lewd material; or

(f) Panders, displays publicly, or disseminates door to door, any lewd material, or causes such pandering, public display, or door to door dissemination.

§703. Repealer. All Parts or parts of Parts which are inconsistent herewith are hereby repealed.

§704. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Borough Council that is Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein.
§705. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.
Part 8
Sexually Violent Predator

§801. Legislative Intent. The following is the legislative intent of Borough Council in adopting this Part:

WHEREAS, the Pennsylvania State Legislature adopted requirements for the registration of sexual offenders and sexually violent predators (commonly known as Megan’s Law II), as set forth at 42 Pa. C.S.A. at §9791, et seq. (hereinafter “Megan’s Law II or “the statute”);

WHEREAS, Megan’s Law II requires that persons convicted of various offenses, and persons adjudicated to be sexually violent predators, must register with the Pennsylvania State Police, which registration procedure is set forth in the statute;

WHEREAS, Megan’s Law II does not contain any restrictions with regard to where persons convicted of the crimes enumerated therein, subject to registration or persons adjudicated sexually violent offenders may reside;

WHEREAS, the Borough Council finds that there is a danger of recidivism posed by persons convicted of the crimes and subject to registration requirements in Megan’s Law II and persons adjudicated as sexually violent predators and that the danger of recidivism is of paramount concern to the Borough of White Haven;

WHEREAS, the Borough Council finds that persons convicted of the crimes and subject to the registration requirements referenced in Megan’s Law II, or who have been adjudicated as sexually violent predators, have a reduced expectation of privacy and finds further that residency restrictions for such persons provides additional protection for children in the community;

WHEREAS, the Borough Council has reviewed the findings of the Pennsylvania Legislature with regard to Megan’s Law II, and the findings of other jurisdictions that have adopted similar laws imposing registration requirements and residency restrictions upon sexually violent predators; and

WHEREAS, Borough Council wishes to enact this law for protection of children in the community and to protect and promote the health, safety, comfort, convenience and general welfare of the public.

§802. Definitions. Unless the context otherwise requires, the following words or phrases shall be construed according to the definitions set forth below:

(a) Child Care Facility. A licensed day care center, child care facility or any other child care service facility or home day care facility for children, whether the facility is licensed pursuant to the laws of the
Commonwealth of Pennsylvania or exempt from licensing or unlicensed.

(b) **Common Open Space.** The area of land and/or water restricted from future development for the purpose of protecting natural features or for providing recreational opportunities for residents of the Borough of White Haven, which said Open Space is regulated, maintained and/or owned by the Borough of White Haven.

(c) **Community Center.** Any building and all related facilities used for educational, social, cultural, or recreational activities.

(d) **Public Park or Recreational Facility.** Any recreational facility, playground or park, owned or operated by the Borough of White Haven or any other governmental agency, including, but not limited to, any school district, the County of Luzerne or the Commonwealth of Pennsylvania.

(e) **Residence.** A “Permanent Residence” is a place where a person lives, lodges, resides, stays, dwells, or inhabits, or maintains his/her abode for fourteen (14) or more consecutive or non-consecutive days during any calendar year.

A “Temporary Residence” is a place where a person lives, lodges, resides, stays, dwells, or inhabits, or maintains his/her abode for less than fourteen (14) days during any calendar year, if the person is able to identify a different address or addresses that constitute the person’s permanent residence.

(f) **School.** Shall mean any public or private school which provides education services to a minor or minors.

(g) **Library.** Shall mean any public or private library which provides service to a minor or minors.

(h) **Sexually Violent Predator.** Any person eighteen (18) years of age or older, who has been convicted of an offense set forth in section 9795.1 of Megan’s Law II (relating to registration), which includes, but is not limited to, kidnapping, luring a child into a motor vehicle, institutional sexual assault, indecent assault, incest, prostitution, receiving sexual materials, sexual abuse of children, unlawful contact with minors, sexual exploitation of children, rape, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, and any attempt to commit any of the enumerated offenses, and who is determined to be a sexually violent predator under section 9795.4 of Megan’s Law II (relating to assessments) due to a mental abnormality (as defined in section 9792 of Megan’s Law II) or personality disorder that makes the person likely to engage in predatory sexually violent offenses. The term includes an individual determined to be a sexually violent predator where the determination occurred in the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or by court martial. (Ordinance No. 3 of 2007, 9/10/07, Section 1).
§803. Residency Restriction/Prohibition.

(a) It shall be unlawful for any sexually violent predator to establish a permanent or temporary residence within 500 feet of any school, library, child care facility, common open space, community center, public park or recreational facilities.

(b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence of the sex offender to the nearest outer property line of a school, library, child care facility, common open space, community center, public park or recreational facilities. (Ordinance No. 3 of 2007, 9/10/07, Section 2).

§804. Notice to Move. Upon the discovery of a violation of the Residency Restriction/Prohibition, the White Haven Borough Police Department shall issue a written Notice of Violation by both regular mail and by certified mail, return receipt to the sexually violent predator. A sexually violent predator who receives a Notice of Violation shall within forty-five (45) days of receipt of the Notice, move to a new residence that is not within 500 feet of any school, library, child care facility, common open space, community center, park or recreational facility. The Notice of Violation shall be deemed to be received on the date reflected on the certified mail receipt, or if the certified mail is not accepted or signed-for, then fifteen (15) days from the date of mailing the regular mail. Each day beyond the forty-five (45) days that a sexually violent predator fails to move to a new residence that is in compliance with this Part shall constitute a separate and continuing violation of this Part. (Ordinance No. 3 of 2007, 9/10/07, Section 3).

§805. Exceptions. This Part shall not apply to any person who lawfully established residence prior to the effective date hereof, unless such person is convicted of the crimes enumerated in Megan’s Law II subsequent to the effective date of this Part. If a sexually violent predator is convicted of the crimes enumerated in Megan’s Law II or becomes subject to the registration requirements of Megan’s Law II subsequent to the effective date of this Part, then this Part shall become applicable to that sexually violent predator upon the date that the sexually violent predator is convicted of the new offense(s). This Part shall not be applicable to a sexually violent predator who lawfully established residence prior to the establishment of a school, library, child care facility, common open space, community center, public park or recreational facility within 500 feet of that person’s permanent or temporary residence, unless that person is subsequently convicted of the crimes or subsequently subject to the registration requirements set forth in Megan’s Law II. If the sexually violent predator re-offends and is convicted under the crimes enumerated in Megan’s Law II after the establishment of a school, library, child care facility, common open space, community center, public park or recreational facility, then this Part shall be applicable to the sexually violent predator on the date that the sexually violent predator is convicted of the new offense(s). The provisions of this Part shall not be applicable to persons incarcerated in any facilities owned, maintained and/or operated
§806. Penalties. Any person who violates the provisions of this Part shall, upon conviction, before a Magisterial District Judge, be sentenced to a term of imprisonment up to ninety (90) days and shall be fined not more than one thousand ($1,000) dollars for each violation, plus the costs of prosecution, court costs and the reasonable administrative costs and attorney’s fees of the Borough. Each day that the sexually violent predator fails to move after the forty-five (45) days Notice period shall constitute a new violation and shall be subject to the assessment of a separate fine. (Ordinance No. 3 of 2007, 9/10/07, Section 5).

§807. Enforcement. The White Haven Borough Police Department shall be charged with the enforcement of this Part. (Ordinance No. 3 of 2007, 9/10/07, Section 6).

§808. Publication. The Borough Administration is herein directed by the Borough of White Haven Council to have prepared and placed at the Borough of White Haven building during regular business hours a map of the Borough of White Haven depicting the area where sexually violent offenders are restricted from residing on a permanent or temporary basis. (Ordinance No. 3 of 2007, 9/10/07, Section 7).

§809. Inclusion in Code. It is the intent of the Borough Council of the Borough of White Haven that the provisions of this Part shall become and be made a part of the Code to the Borough of White Haven and the sections of this Part may be renumbered or re-lettered and word “Part” may be changed to “section” or “article” or such other appropriate work or phrase in order to accomplish the intention of the Borough Council. (Ordinance No. 3 of 2007, 9/10/07, Section 8).

§810. Severability. The provisions of this Part are severable. If any section, clause, sentence, part or provision hereof shall be determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not impair or affect any remaining provisions of the Part, it being the intention of Borough Council that it would have adopted the Part even if any illegal, invalid or unconstitutional provision(s) had not been included. (Ordinance No. 3 of 2007, 9/10/07, Section 9).

§811. Repeal. All Parts or parts of Parts inconsistent herewith are hereby repealed. (Ordinance No. 3 of 2007, 9/10/07, Section 10).

§812. Effective Date. This Part shall take effect in five (5) calendar days after the enactment hereof. (Ordinance No. 3 of 2007, 9/10/07, Section 11).

EDITORIAL NOTE: This Part was adopted by Borough Council on September 10, 2007 as Ordinance No. 3 of 2007. This Ordinance became effective on September 15, 2007. The Legislative Intent Section of this Part was found in the “Whereas” portion of the Ordinance.
Part 9
Noise Regulations

§901. Purpose and Scope. It is the purpose and scope of this Part to provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of prohibited noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of the Borough of White Haven.

§902. Application. This Part shall apply:

(a) To all types of vehicles, appliances and equipment whether privately or publicly owned.

(b) To sounds of any time duration.

(c) To both the owner and operator of vehicles, appliances, equipment, devices, animals or any other object creating noises.

§903. Exemptions. The following devices are exempt from the provisions of these regulations:

(a) Aircraft (except model aircraft).

(b) Police, fire, ambulance and other governmental vehicles.

(c) Back-up alarm devices on trucks and other equipment when installed and operated in accordance with Society of Automotive Engineers recommended practice J 994, “CRITERIA FOR BACK-UP ALARM DEVICES.”

(d) Governmental warning devices (i.e., civil defense fire siren).

§904. Definitions. All acoustical terminology shall be contained in ANSI S1.1 “Acoustical Terminology.”

(a) ANSI – means the American National Standards Institute or its successors.

(b) Appliance – means any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air conditioning unit.

(c) Day – means the twenty-four (24) hour period starting at local midnight.

(d) Day-Time – means 6:00 A.M. to 6:00 P.M.
(e) Decibel (dB) – means a unit of sound level which is a division of logarithmic scale used to express the ratio of the sound intensity of the source to the intensity of an arbitrarily chosen reference intensity. The ratio is expressed on the decibel scale by multiplying its “base ten logarithm” by ten.

(f) Equipment – means any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, etc.

(g) Excessive Noise – excessive noise is that sound which is:

1. Injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise.

2. Annoying to a person of ordinary sensibilities.

(h) Fluctuating Noise – a fluctuating noise is a noise whose sound level varies significantly with time.

(i) Impulsive Noise – impulsive noise is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one second.

(j) Intermittent Noise – an intermittent noise is a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is one minute or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one second or more.

(k) Noise – means any sound emitted by a person, animal, vehicle, appliance, equipment or other device and its environmental interaction.

(l) Person – either the owner or operator of vehicles, appliances, equipment or devices.

(m) Period of Observation – means the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.

(n) SAE – means the Society of Automotive Engineers.

(o) Sound Level (Noise Level) – airborne sound levels are expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified
in the referenced standards. The specific weighting network used must be indicated by
the proper notation. If the A-weighting is employed, the sound level is identified as
dB(A).

(p) Sound Level Meter – a sound level meter is an instrument, or combination
of instruments, which meets or exceeds the requirements for an ANSI Type S1A or Type
S2A Sound Level Meter.

(q) Steady Noise – a noise whose level remains essentially constant (i.e.,
fluctuations are less than five (5) dB) during the period of observation is a steady noise.

(r) Vehicle – any device, or combination of devices, used for or capable of
being used for transporting person or property. Vehicles include, but are not limited to,
the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles,
scooters, all-terrain vehicles, go-carts, racers and like devices, farm machinery, industrial
machinery, highway graders, trailers, graders and semi-trailers.

§905. Enforcement.

(a) Abatement. Any emission of noise from any source in excess of the
limitation established in or pursuant to his Part herein described shall be deemed and is
hereby declared to be a public nuisance and may be abated, in addition to the
administrative proceedings, fines and penalties here in provided. Such abatement may be
made by any Police Officer or the Zoning/Code Enforcement Officer, or may be made by
order of the Court of Common Pleas of Luzerne County on complaint or petition filed on
behalf of the Borough of White Haven.

(b) Nothing in this Part shall be construed to impair any cause of action, or
legal remedy thereof, of any person or the public for injury or damage arising from the
emission or release into the atmosphere or ground from any source whatever of noise in
such place or manner, or at such levels which may give rise to such cause of action.

(c) The Zoning/Code Enforcement Officer or Police Officer of the Borough of
White Haven shall:

(1) Be qualified by training and experience to perform the necessary
measurements and procedures required to determine violations of the provisions
of this Part.

(2) File complaints with the District Justice to prosecute violations of
this Part.

(3) Investigate complaints of violations of this Part and make
inspections and observations of noise conditions.
(4) Be authorized to issue a warning to persons considered in violation of these regulations, a warning which may allow an appropriate time not to exceed thirty (30) calendar days for correction to bring the offending vehicles(s), appliance(s), equipment or other device(s) within the provisions of these regulations before enforcement by prosecution.

§906. Administration. The Borough of White Haven shall:

(a) Have available in convenient form as in a unit the provisions of this Part and the recommended practices, rules, regulations and standards which have been adopted. A copy of the information sources shall be kept on file in the White Haven Borough offices.

(b) Prepare and maintain records of all orders issued by the Zoning/Code Enforcement Officer and Police Officers.

(c) Issue all standards, permits, certificates, notices, or other matters required under the provisions of this Part and will notify all persons concerned of any decisions rendered and provide such persons with an opportunity to be heard as herein set forth.

§907. Noise Limitations.

(a) General. No person shall make, permit or cause to be made, any excessive noise of any kind by crying, calling or shouting, or by any means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically-operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device unless said person has obtained a special permit from the Zoning/Code Enforcement Officer as provided in this Part.

(b) Musical Instruments. No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public open space of the Borough of White Haven before 6:00 A.M. or after 6:00 P.M. of the day unless said person has obtained a special permit from the Zoning/Code Enforcement Officer.

(c) Noise from Premises. No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for the purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood as measured at the property line in which such building or premise is situated, or be dangerous or detrimental to health.

(d) Equipment Noise. It shall be unlawful for any person to use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other mechanical equipment operated by fuel or electric power in building or construction operations from 9:00 P.M. to 6:00 A.M. of the following day, except for emergency work on public improvements,
work of public service utilities, and municipal services unless such equipment has been manufactured or modified for sound control and meets the provisions of this Part.

(e) Noise in Handling Refuse Cans. No person shall make any unnecessary noise in the handling of ash, trash and garbage cans, whether in loading or unlading, whether full or empty.

(f) Noise in Vicinity of Hospitals, Schools and Churches. No person shall make any unnecessary noise in the vicinity of any hospital, or church during hours of public worship, or school during school hours.

(g) Unlawful to Keep Noisy Animals. No person shall keep, or permit to be kept, harbor, or otherwise maintain any animal which shall disturb the quiet of any public street or other public place, or of any neighborhood. Provided, however, that a noisy animal shall be defined as one or more animals which makes noises habitually, so as to constitute annoyance to a person of ordinary sensibilities.

(h) Noise by Peddlers. No peddler or other person who plies a trade or calling of any nature on the streets of the Borough of White Haven shall use any horn, bell, or other sound instrument to make any noise tending to disturb the peace and quiet of the neighborhood, for the purpose of directing attention to his wares, trade or calling.

(i) Use of Horns and Other Devices on Vehicles. No person, operating any vehicle, other than police, fire, public service or ambulance operators shall sound any horn, bell, gong, siren, or whistle, except for the ordinary horn installed on such vehicle by the manufacturer, or sound any type of horn except when reasonably necessary to prevent accidents or otherwise comply with the law of motor vehicles.

(j) The operational performance standards established by this Part shall not apply to any public performance being conducted in accordance with provisions of a special permit obtained from the Zoning/Code Enforcement Officer for the conduct thereof.

(k) Vehicles. No person shall operate either a motor vehicle of a type subject to registration, except in police, fire equipment, ambulances or other government emergency vehicles at any time or under any condition of grade, load, acceleration or decleration in such manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50') from the center of the lane traveled on within the speed limit specified in this section under test procedures established by Section 909 of this Part.
<table>
<thead>
<tr>
<th>Type of Vehicle</th>
<th>Speed Limit of 35 MPH or less</th>
<th>Speed Limit of 35 MPH or less</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Any motor vehicle with a manufacturer’s gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle</td>
<td>86 dB(A)</td>
<td>90 dB(A)</td>
</tr>
<tr>
<td>(2) Any other vehicle or any combination of vehicles towed by such motor vehicle</td>
<td>76 dB(A)</td>
<td>82 dB(A)</td>
</tr>
<tr>
<td>(3) Any motorcycle or motor driven cycle</td>
<td>78 dB(A)</td>
<td>82 dB(A)</td>
</tr>
</tbody>
</table>

(1) This section applies to the total noise from a vehicle or a combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this code relating to motor vehicle mufflers for noise control.

(2) No person shall modify or change the exhaust muffle, intake muffler or any other noise abatement device of a motor vehicle so that the noise level is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance with this paragraph shall be those used to establish compliance of a new motor vehicle with the requirements of this Part.

(3) No person shall sell or lease or offer for sale or lease a new or second-hand vehicle that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50’) from the centerline of travel as stated in Section 907(k) of this Part. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the Borough of White Haven that his or her vehicles sold or leased within the Borough of White Haven comply with the provisions of this Part.

(l) Equipment.

(1) No person shall operate any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of fifty feet (50’), under test procedures establish by Section 909 of this Part.
<table>
<thead>
<tr>
<th>Type of Equipment</th>
<th>Noise Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Construction and industrial machinery, such as crawler-tractors, dozers,</td>
<td>86 dB(A)</td>
</tr>
<tr>
<td>rotary drills and augers, loaders, power shovels, cranes, derricks, motor</td>
<td></td>
</tr>
<tr>
<td>graders, paving machines, off-highway trucks, ditches, trenchers, compactors,</td>
<td></td>
</tr>
<tr>
<td>scrapers, pavement breakers, compressors and pneumatic power equipment, but not</td>
<td></td>
</tr>
<tr>
<td>including pile drivers</td>
<td></td>
</tr>
<tr>
<td>(2) Agricultural tractors and equipment</td>
<td>86 dB(A)</td>
</tr>
<tr>
<td>(3) Powered commercial equipment of 2HP or less intended for infrequent use in</td>
<td>86 dB(A)</td>
</tr>
<tr>
<td>residential areas, such as chain saws, pavement breakers, compressors and</td>
<td></td>
</tr>
<tr>
<td>pneumatic power equipment, but not including pile drivers</td>
<td></td>
</tr>
<tr>
<td>(4) Powered equipment intended for repetitive use in residential areas, such as</td>
<td>70 dB(A)</td>
</tr>
<tr>
<td>lawnmowers, small lawn and garden tools, riding tractors, snow removal equipment</td>
<td></td>
</tr>
<tr>
<td>etc.</td>
<td></td>
</tr>
</tbody>
</table>

(2) No person shall sell or lease or offer for sale or lease new or second-hand equipment that produces a maximum noise exceeding noise limit at a distance of fifty feet (50’) as stated in this Part (Subsection l(1) above). The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the Borough of White Haven that his equipment sold or leased within the Borough complies with the provisions of this Part.

§908. Use of Property.

(a) Any property use established in a zoning district as defined and designated under the provisions of the White Haven Borough Zoning Ordinance shall be such as to comply with the performance standard governing noise set forth hereinafter for the district in which such use shall be located.

(b) Noise levels shall be measured in terms of the sound level in dB(A) using equipment which meets requirements established by this Part.

(c) In all commercial and industrial zoning districts, at no point on the boundary of any residential zoning district shall the sound level of any individual operation or business, or the combined operations of any person, firm or corporation exceed the dB(A) levels shown below for the zoning district indicated from 9:00 P.M. to 6:00 A.M. of the following day, as measured under the test procedures established by Section 909(b) of this Part.

Maximum sound levels dB(A) along district boundaries as measured by conventional sound level meters on slow response:

<table>
<thead>
<tr>
<th>A – scale levels</th>
<th>Residential</th>
<th>Commercial/Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>55 dB(A)</td>
<td>62 dB(A)</td>
<td></td>
</tr>
</tbody>
</table>
In commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products, or any property use shall conform with the performance standards stated above, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which any such activities take place, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

In residential zoning districts, any property use shall conform with the performance standards stated above for residential district boundaries, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which such use is established, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

The maximum sound levels established in this section to be applied to the boundaries of a lot shall not apply to construction sites and emergency operations. Construction site noise levels shall be regulated by Section 907(l) of this Part.

§909. Test Procedures.

(a) Test procedures to determine whether maximum noises emitted by new motor vehicles sold or offered for sale or lease meet the noise limits stated in Section 907(k) of this Part shall be in substantial conformity with standards and recommended practice established by the SAE, Incorporated, and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standards as may be propounded in the Code of Recommended Practices of the Borough of White Haven.

(b) Test procedures to determine whether maximum noises emitted by powered equipment or powered hand tools, sold or leased, or offered for sale or lease, meet the noise limits stated in Section 907(l) of this Part shall be in substantial conformity with standards and recommended Practices established by the SAE, Incorporated and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standard as may be propounded in the Code of Recommended Practices of the borough of White Haven.

§910. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred Dollars ($600.00); and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of the Part continues shall constitute a separate offense.

§911. Severability. If any sentence, clause, section, or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Part. It is hereby declared as the intent of the Borough Council
that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§912. Repealer. All Parts or parts of Parts which are inconsistent herewith are hereby repealed.
CHAPTER 8

FEES

Part 1
Collection of Attorneys’ Fees

§101. Preamble
§102. Approval of Procedure
§103. Schedule of Fees

Part 2
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§202. Administration
§203. Litigation
§204. Emergency Services

Part 3
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§302. Permit Inspections
§303. Permit Inspection Fees
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§305. Bonding or Other Security

Part 4
Other Fees

§401. Schedule of Fees
CHAPTER 8

FEES

Part 1
Collection of Attorneys’ Fees

§101. Preamble.

WHEREAS, Borough Council of the Borough of White Haven (the “Council”) has determined it to be in the best interest of all citizens and taxpayers of the Borough to establish a procedure for the Borough to recover promptly the amount of delinquent unpaid taxes and other municipal charges in any manner permitted by law including, if necessary, legal proceedings; and

WHEREAS, in the past the amount recovered in such proceedings has been reduced by the cost of reasonable attorney’s fees incurred by the Borough in the proceedings, and in the case of smaller claims, making enforcement not financially feasible; and

WHEREAS, the General Assembly of Pennsylvania has recently enacted, as an amendment to the Municipal Claims Act, Act No. 1 of 1996 (the “Act”), which authorizes the adding to the amount of reasonable attorneys’ fees to the total payable with respect to unpaid taxes and other municipal claims, only if the municipality involved has approved by ordinance a schedule of reasonable attorney’s fees; and

WHEREAS, the Borough has determined it to be in the best interest of taxpayers and citizens of the Borough to have vigorous enforcement of all delinquent and other unpaid charges, utilizing the procedures set forth in this Act, except in the case of serious hardship, which the Borough will address on a case by case basis pursuant to uniform policies; and

WHEREAS, the Borough has reviewed the subject of attorneys’ fees for collection matters, and has determined that the fees set forth in the schedule hereby adopted are reasonable in amounts for the services herein described.

NOW, THEREFORE, it is hereby ORDAINED AND ENACTED by the Council of the Borough of White Haven as follows:

§102. Approval of Procedure. The Borough hereby approves the procedure for collection of delinquent unpaid taxes, user charges and other items covered by the Municipal Claims Act as presented at this meeting and which are on file with the minutes of this meeting.

§103. Schedule of Fees. The Borough hereby approves the following schedule of attorney’s fees for services in connection with the collection of unpaid taxes, user charges
and other items covered by the Municipal Claims Act, which is hereby determined to be fair and reasonable compensation for the services set forth below, all in accordance with the principles set forth in Section 3(a.1) of the Municipal Claims Law as added by Act No. 1 of 1996 (the “Act”):

<table>
<thead>
<tr>
<th><strong>LEGAL SERVICES</strong></th>
<th><strong>FEE FOR SERVICES</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing of municipal lien</td>
<td>$150.00 plus filing and service fees</td>
</tr>
<tr>
<td>Title search</td>
<td>$150.00</td>
</tr>
<tr>
<td>Preparation of Magistrate Complaint</td>
<td>$50.00 plus filing and service fees</td>
</tr>
<tr>
<td>Attendance at Magistrate Hearing</td>
<td>$250.00 for single hearing $100.00 when multiple hearings are scheduled at or around the same time</td>
</tr>
<tr>
<td>Preparation of Execution of Magistrate Judgment with Request</td>
<td>$35.00 plus filing and service fees</td>
</tr>
<tr>
<td>Appeal of Magistrate Judgment</td>
<td></td>
</tr>
<tr>
<td>Preparation of Complaint/Answer/ Pleadings/Discovery</td>
<td>$85.00 per hour – attorney/paralegal plus filing and service fees</td>
</tr>
<tr>
<td>Attendance at Arbitration</td>
<td>$750.00</td>
</tr>
<tr>
<td>Attendance at Trial</td>
<td>$1,250.00</td>
</tr>
<tr>
<td>Preparation of Brief/Attendance at Oral Argument at Appellate Court</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Discovery in Aid of Execution of Judgment</td>
<td>$85.00 per hour – attorney/paralegal plus filing and service fees</td>
</tr>
<tr>
<td>Execution and Levy upon Judgment at Court of Common Pleas level</td>
<td>$85.00 per hour – attorney/paralegal plus filing and service fees</td>
</tr>
<tr>
<td>Installment payment agreement at taxpayer’s request</td>
<td>$100.00</td>
</tr>
<tr>
<td>Services not covered above</td>
<td>$85.00 per hour – attorney/paralegal plus filing and service fees</td>
</tr>
</tbody>
</table>
(a) There shall be added to the above amounts the reasonable out-of-pocket expenses of counsel in connection with each of these services, including Sheriff’s and Prothonotary’s costs.

(b) The amount of fees determined as set forth above shall be added to the Borough’s claim in each account.

(c) The list of Fees above may be changed from time to time by Resolution of Council.
Part 2

Fees as Reimbursements for Extraordinary Services and Expenses

§201. Definitions.

(a) An “extraordinary expense” shall be those expenses and those related costs and fees that are incurred by the Borough, local, state or federal department or agency, emergency services organizations and from the private sector for actual costs or charge for labor, materials, and any other costs associated with the use of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, confine, neutralize, contain, clean or remove any hazardous material that is or may be involved in a fire, or release into the air, ground or water or the potential threat of any release or fire, and any and all activities associated with the implementation of a protective action (i.e. evacuation) to protect the public health, safety and welfare.

(b) An “extraordinary service” is a service performed by a Borough department or employees, or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protective action. “Extraordinary services” may include but are not limited to, the abatement and disposition of hazardous materials, spills, releases or the threat of spills or releases of hazardous materials, utility line breaks or leakages, and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be declared or contemplated in Section 201(a) above. (Ord. No. 8-1990, 11/8/1990, Sec. 1)

§202. Administration. The council of the Borough of White Haven shall collect all fees as follows:

(a) Fees and costs (including overhead costs) shall encompass all personnel, equipment, materials and maintenance expenses in such a form as to insure full reimbursement for charges from both the public and private sectors actually rendered.

A particular cost or fee schedule need not be set forth in this section or elsewhere in the Borough’s ordinance or by further formal action by Council. Council approval of this section shall constitute authorization for Council to collect all such fees and costs that are submitted to the Borough by affected public and private bureaus, agencies, departments.

(b) Within 30 days of the date of the extraordinary dangerous occurrence giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit their extraordinary service related costs, fees, charges and expenses to the Borough agent for an extended payback period of time not to exceed six (6) months.
(c) In case of hardship, or where circumstances are such that a full remittance cannot be made to the Borough within the 30 day period, the Borough Council shall hereby authorize the Borough Solicitor to enter into negotiations with the owner.

(d) All monies received under the provisions of this chapter shall be placed into the General Fund and reimbursement be made to all public and private sector departments, or agencies who had submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein.

(Ord. No. 8-1990, 11/8/1990, Sec. 2)

§203. Litigation. The Borough may enforce the provisions of this chapter by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorney’s fees or for any other relief that may be appropriate.

(Ord. No. 8-1990, 11/8/1990, Sec. 3)

§204. Emergency Services.

(a) Nothing in this chapter shall authorize any Borough bureau, department or personnel or staff members to refuse or delay an emergency service to any person, firm, organization or corporation that has not reimbursed the Borough for extraordinary services. Furthermore, nothing in this section shall be construed to demand reimbursement to the Borough for those municipal services that are normally provided to Borough residents and others as a matter of the Borough’s general operating procedure, and for which the levying of taxes, or the demand for reimbursement is normally made.

(Ord. No. 8-1990, 11/8/1990, Sec. 4)

(b) At such time as all costs, fees, charges and expenses related to the extraordinary service have been collected and reviewed, but in any case not later than 60 days from the date of determining the combined cost of rendering extraordinary services, the Borough Council shall submit a bill for all costs, fees, charges and expenses to the owner, agent or manager of the vehicle or fixed facility which caused the need for extraordinary services, with a demand that a full remittance be made within 30 days of receipt.
Part 3
Schedule of Fees for Highway/Driveway Occupancy and Street Excavation Permits

§301. Permit Issuance Fee. An application fee for the issuance of a Highway Occupancy Permit, Driveway Occupancy Permit, or a Street Excavation Permit is established at $75.00. The fee is to be applied to the administrative costs incurred in reviewing the application and plan(s) and issuing and processing the permit, whether or not a permit is issued. This fee may be changed from time to time by Resolution of Borough Council.

§302. Permit Inspections. In addition to the application fee specified in Section 301 above, the Borough may charge inspection fees if the Borough determines that one or more inspections are necessary to ensure that the permitted work:

(a) Has been completed in compliance with Borough specifications and permits provisions; or

(b) Is of sufficient magnitude or importance to warrant an inspection, whether or not by spot inspection basis or otherwise.

§303. Permit Inspection Fees. The Permittee shall be charged for every inspection at the hourly rate paid by the Borough to the inspector for the number of hours spent by the inspector to perform the inspection service.

§304. Exceptions. Permit issuance and fees and permit inspection fees are not payable by any of the following:

(a) The Commonwealth.

(b) White Haven Borough.

(c) The Federal Government.

(d) At the discretion of Borough Council, charitable organizations that are in compliance with Act No. 337, approved August 9, 1963, P.L. 629 as amended (churches, hospitals, schools, charitable institutions, veterans’ organizations, nonprofit organizations).

§305. Bonding or Other Security. Any fees charged under this Part shall be in addition to any bonding or other security that is required to be paid by a Permittee under a separate ordinance to guarantee or ensure compliance with that ordinance.
§401. Schedule of Fees.

(1) RESIDENTIAL PACKAGE FOR NEW S.F.D. DUPLEXES & TOWNHOMES per unit CONVENTIONAL FRAME...............$975.00
   Includes plan review and approval, and inspections noted below:
   • Footing (before pouring concrete)
   • Foundation (before backfill)
   • Frame / Draft stop Fire caulk includes:  HVAC (rough in)
     Plumbing (rough in)
     Electric (rough in)
   • Insulation
   • Wallboard
   • Final Electric
   • Final

(2) MODULAR/MANUFACTURED HOUSING, NEW S.F.D..........$575.00
   Includes plan review and approval, and inspections noted below:
   • Footing (before pouring concrete)
   • Foundation (before backfill)
   • Electric Service
   • Final Electric
   • Final

(3) RESIDENTIAL CONSTRUCTION
   Addition 1 story with electric..............................................$650.00
   Addition 2 story with electric..............................................$750.00
   Above with plumbing add $50.00

(4) RESIDENTIAL DECK PACKAGE.............................................$135.00
   Includes plan review and 2 inspections, as noted below:
   • Footing (before pouring concrete)
   • Final

(5) RESIDENTIAL POLE BUILDING OR DETACHED GARAGE
    (no electric)........................................................................$250.00
    Add $100.00 with electric

(6) RESIDENTIAL SWIMMING POOL PACKAGE
   • Above Ground Pool: Includes Plan Review, electrical and final inspection
     (2 inspections included)......................................................$150.00
• In-Ground Pool: Includes Plan Review, rough and final electric, rough and final inspection
(4 inspections included).................................................$275.00

(7) COMMERCIAL BUILDING FEES
USE GROUP:
A-1 ................................................................. 1.20
A-2 ................................................................. 0.84
A-3 ................................................................. 0.82
A-4 ................................................................. 1.06
B ................................................................. 0.76
E ................................................................. 0.83
F ................................................................. 0.47
I-1 ................................................................. 0.80
I-2 ................................................................. 1.18
I-3 ................................................................. 0.95
M ................................................................. 0.60
R-1 ................................................................. 0.85
R-2 ................................................................. 0.70
R-3 ................................................................. 0.60
S ................................................................. 0.44

NOTE: R-3 is for attached single family dwellings i.e. Duplexes & Townhouses etc.
All permit fees are based upon the total square footage of project times use group multiplier.

Minimum Commercial fees:

New Construction............................................... $1500.00
Commercial Alterations ..................................... $  575.00
Minimum Misc. Fee ............................................. $  250.00

Occupancy Permit Fees
......................... $  35.00 (Residential)
......................... $  75.00 (Two or Multi-Family and commercial)

Unless otherwise provided herein, all Re-inspection fees as a result of a failure to pass inspection...............................$  65.00

All fees due upon permit application and construction shall not begin until Building Permit secured.

Note: These fees were established by Resolution No. 3 of 2008 passed by White Haven Borough Council on April 14, 2008
(8) SIGN PERMIT FEES-
1. $45.00

(9) CERTIFICATE OF ZONING COMPLIANCE-
1. Commercial- $150.00
2. Residential (single family)- $75.00
3. Residential (two or multi-family)- $125.00

(10) ZONING PERMIT-
1. Residential - $125.00
2. Commercial- $250.00

(11) APPLICATION OR APPEAL TO THE ZONING HEARING BOARD-
1. Administrative Fees- $350.00

(12) APPLICATION FOR ZONING CHANGES OR CURATIVE AMENDMENT-
1. $500.00 plus the cost of advertising and stenographer transcript fees.
2. $1,000.00 must be placed in an escrow account at the time of making application, which escrow will be applied toward the application fee and costs of the hearing. Any excess will be refunded to the applicant within sixty (60) days from the conclusion of the hearing.

(13) CERTIFICATE OF NON-CONFORMING USE-
$100.00

(14) ZONING BOOKS AND MAPS-
1. Zoning Book- $25.00
2. Zoning Map- $15.00
3. Subdivision and Land Development Book- $25.00

(15) FEES LICENSES AND OTHER PERMITS-
1. Transient Amusement or Retail Business Permit -
   (a) $50.00 per year or
   (b) $25.00 per calendar month
2. Amusement Permit- $25.00 per amusement device or machine.
3. Demolition Permit-
   (a) Residential or Accessory Structures- $100.00
   (b) Commercial Structures including multi-family Buildings- $250.00
4. Moving Permit - $15.00 (Moving In Only)

5. Landlord/Tenant Registration Filings-
   (a) Initial filing by Landlord - $10.00 per property
   (b) New filing by Landlord - $10.00 per property
   (c) Change in Tenant or Vacancy - $10.00 per unit

6. Street Excavation Permit- $75.00 plus inspection costs and maintenance or security bond.

7. Grading Permit- $150.00 plus inspection costs and maintenance or security bond.

8. Fireworks Permit - $100.00 per event/per day.

(16) SUBDIVISION AND LAND DEVELOPMENT-
1. Minor Subdivision- $250.00
2. Major Subdivision- $450.00 plus $10.00 for each lot or dwelling in the subject plan.
3. Site/Land Development Plan- $250.00
4. In addition to the filing fees set forth above, the applicant, subdivider and agent shall individually or jointly be responsible for paying all review and inspection fees incurred by the Borough. These fees include:
   
   (a) The cost of the Solicitor, Borough Engineer and Land Use Planner to perform the following services:
       • Review of plan
       • Site Inspection
       • Preparation of cost estimates for required improvements
       • Inspection of required improvements during the course of construction and installation of said improvements
       • Final inspection of the subdivision and/or land development and the required improvements contained therein
       • Preparation or review of Development Agreements, Stormwater Maintenance and Monitoring Agreements, etc.

   (b) Review and inspection fees will be charged by the Borough at the current hourly rate being billed to the Borough by the Engineer and Land Use Planner at the time of the review or inspection.
(c) The review and inspection fees will be billed by the Borough monthly and the developer(s), subdivider(s), or their agent(s) shall be required to pay those bills within thirty (30) days from the date they are billed.

(d) Subdivision and/or land development approval will not be granted until all fees have been paid.

(17) **INSPECTION/ADMINISTRATION OF CODE OF ORDINANCES**

**CHANGING OF FEES:**

1. Street Laborer Hourly Rate $ 20.00
2. Engineer Hourly Rate $ 75.00
3. Lawyer Hourly Rate $ 85.00
   (Except for Collection - $150.00)
4. Police Officer $ 46.15

(18) **CHANGING OF FEES.** The fees established in this Part may be changed by Borough Council (either increased, decreased or omitted) from time to time by resolution.
CHAPTER 9

FINANCIAL ADMINISTRATION

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§102. Tax Collector’s Monthly Report
§103. Tax Collector’s Monthly Returns
§104. Tax Discounts and Penalties
§105. Tax Certifications and/or Duplicate Tax Bills

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§302. Incorporation of Statute
§303. Imposition of Tax
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CHAPTER 9

FINANCIAL ADMINISTRATION

Part 1
General Provisions

§101. Tax Collector’s Compensation. For his/her duties in connection with collection of those Borough taxes for which he or she is designated the tax collector shall receive a salary of $1800.00 a year, which amount is not greater than ten percent (10%) of the amount of taxes collected. (Res. No. 3-2005, 1/24/05)

§102. Tax Collector’s Monthly Report. The Tax Collector of the Borough shall on or before the tenth day of each month, make a true, verified statement, in writing, to the Secretary, of all taxes collected for the Borough during the previous month, giving the names of taxables, the amount collected from each and the total amount of taxes received. (Ord. of 12/7/1953, Sec. 1)

§103. Tax Collector’s Monthly Returns. The tax collector shall pay over on or before the tenth day of each month, to the Borough Treasurer; all monies collected as Borough taxes during the previous month and take his/her receipt for the amount paid over. (Ord. of 12/7/1953, Sec. 2)

§104. Tax Discounts and Penalties.

(a) Every taxpayer subject to the payment of real estate tax as levied by the Borough shall be entitled to a discount of two percent (2%) from the amount of the tax upon making payment of the whole amount of the tax due from him or her within two (2) months after the date of the tax notice.

(b) Every taxpayer who fails to make payment of any real estate tax levied by the Borough for four (4) months after the date of the tax notice shall be charged a penalty of ten (10%), which penalty shall be added to the taxes by the tax collector and be collected by the tax collector.

Editorial Note: This Section is derived from the first section of the annual tax ordinances beginning with Ord. No. 1977-5, and up to and including the current tax ordinance.

§105. Tax Certifications and/or Duplicate Tax Bills. White Haven Borough Council hereby authorizes the Tax Collector of the Borough to provide tax certifications and/or duplicate tax bills upon request by members of the public, and hereby authorizes said Tax Collector to assess, collect and retain, as compensation for providing such additional service, a fee of ten ($10.00) dollars, which fee, may be increased from time to time by resolution. (Ord. No. 2-2000, 10/19/08)
§201. Fiscal Year 2011.

(a) That a tax be and the same is hereby levied on all property within the Borough of White Haven, subject to taxation for borough purposes for the fiscal year 2011 as follows:

(1) the tax rate for general purposes for the fiscal year 2011 of the Borough shall be set at a rate of 1.39 mills.

(2) the tax rate for street lighting for the fiscal year 2011 of the Borough shall be set at a rate of 0.37 mills.

(3) the tax rate for the purpose of making appropriations for the volunteer fire company for the fiscal year 2011 of the Borough shall be set at a rate of 0.14 mills.

(b) Every taxpayer subject to the payment of any real estate tax as levied by the borough shall be entitled to a discount of two percent (2%) upon making payment of the whole amount of that tax due from him within two (2) months after the date of the tax notice.

(c) Every taxpayer who shall fail to make payment of any real estate taxes levied by the borough for four months after the date of the tax notice shall be charged a penalty of ten percent (10%), which penalty shall be added to the taxes by the tax collector and be collected by him or her.

(Ord. No. 2-2010, Section 1)

§202. Taxes Levied. The following taxes are hereby levied under the authority of Act 511 or 1965, of the general assembly of Commonwealth of Pennsylvania, approved December 31, 1965 and known as the Local Tax Enabling Act.

(a) That a transfer tax of one-half of one percent (1/2 of 1%) be and is hereby levied on the privilege of transferring real estate or any interest therein situated within the borough.

(b) That an occupational privilege tax of five dollars ($5.00) be and is hereby levied on the privilege of engaging in any occupation or profession within the corporate limits of the Borough of White Haven.

(c) That an earned income tax of one half of one percent (1/2 of 1%) be and is hereby levied on earned income, salaries, wages, commissions, and other compensation
and net profits earned during the period of January 1, 2011 and December 31, 2011 and continuing on a calendar year basis.

(Ord. No. 2-2010, Sec.2)

§203. **Repealer.** That any ordinance conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

(Ord. No. 2-2010, Sec. 3)
Part 3
Earned Income Tax

§301. Legal Authority, Short Title and Effective Date. This Part is enacted under authority granted by Act No. 511 of 1965, effective January 1, 1966 (known as the Local Tax enabling Act) and shall be known as the Earned Income Tax Ordinance. The provisions shall become effective July 1, 1968. (Ord No. 1967-5, 12/15/1967, Sec. 1)

§302. Incorporation of Statute. The provisions of Section 13 of the Local Tax Enabling Act (Act No. 511 of 1965), are incorporated into this Part by reference, except that where options are provided in that Section 13, this Part designated the option selected, and except as and where specifically provided otherwise in this Part (Ord. No. 1967-5, 12/15/1967, Sec. 2)

§303. Imposition of Tax. A tax for general revenue purposes in the amount of one-half of one percent (1/2 of 1%) is imposed on earned income and net profits earned by (a) non-residents within the Borough of White Haven and (b) by residents of the Borough of White Haven effective from July 1, 1968, and shall continue in effect on a calendar year basis without annual re-enactment unless the rate of tax is sub amended by Ord. No. 2-1988, 7/14/1988, Sec. 1.

Editorial Note: As enacted, this Ordinance established the tax on earned income and net profits earned by residents of the Borough only. The preamble to Ord. No. 3-1988 stated that Council was desirous of also imposing the tax on earned income and net profits earned by non-residents within the Borough, and Section 1 of that ordinance amended the Ordinance to do so. Section 2 of Ord. No. 2-1988 stated that it was the intention of Council that the ordinance become part of this Code of Ordinances and that the section of the Ordinance might be renumbered to accomplish that intention. Section 3 repealed all inconsistent ordinances and parts of ordinances.

Although not necessary to reenact the tax when the rate of the tax remains unchanged, it has been customary to do so in the annual tax-levying Ordinance, the most recent of which has been codified.

§304. Declaration, Return and Payment of Tax.

(a) Net profits. Every taxpayer making net profits in any year shall file a declaration of his estimated net profits for the current year, and shall pay the tax due thereon in quarterly installments, and shall file a final return and pay to the officer the balance of the tax due, all as provided in Section 13, III, A (1) of the Local Tax Enabling Act.

(b) Earned Income.

(1) For years succeeding the year 1968, every taxpayer shall make and file final returns and pay the taxes due all as provided in Section 13, III, B, first paragraph, of the Local Tax Enabling Act.
(2) Quarterly returns – Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer quarterly returns and shall pay quarter – annually the amount of tax as due on such returns, all as provided in Section 13, III, B, (2) of the Local Tax Enabling Act.

(Ord. No. 1967-5, 12/15/1967, Sec. 4)

Editorial Note: In codifying this section Paragraph 1 of subsection (a), paragraph (1) of subsection (b) and the final clause of subsection (b-3) have been omitted since they dealt only with the taxes for the year 1968 and are therefore of no further interest.

§305. Collection at Source. Every Employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough shall deduct the tax imposed by this Part of earned income due to his/her employee or employees shall file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as set forth in Section 13, IV, of the Said Local Tax Enabling Act. (Ord. No. 1967-5, 12/15/1967, Sec. 5)

Editorial Note: In codifying this Section special provisions applicable only for the year 1968 and no longer applicable, and an exception for employers of domestic servants, an unnecessary duplication of the Local Tax Enabling Act, have been deleted.

§306. Administration. The income tax officer shall be selected from time to time by resolution of, and shall receive such compensation for his/her services and expenses as determined from time to time by Council. That officer shall have the powers and duties, and be subject to the penalties provided in The Local Tax Enabling Act. (Ord. No. 1967-5, 12/15/1967, Sec.6)

§307. Applicability. The tax imposed in Section 303 above shall not be levied on the net profits of any person, institution or organization as to whom or which it is beyond the power of the Borough to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania. (Ord. No. 1967-5, 12/15/1967, Sec. 7)
§401. Imposition of Tax. Under authority granted by the Local Tax Enabling Act, a per capita tax of Five ($5.00) Dollars annually for general Borough purposes is hereby levied and assessed upon each resident or inhabitant of the Borough of the age of 18 years or over, which tax shall be in addition to all other taxes levied and assessed by the Borough pursuant to any other laws of the Commonwealth of Pennsylvania.

Editorial Note: By an Ordinance of 3/5/51, a $3 per capita tax was levied on all persons over the age of 21, by authority of the Act of 1947 P.L. 1145. At that time taxes of this nature were levied annually as part of the tax-levying ordinance, the most recent being Section 201. The tax was increased to $5 beginning in 1954 and the age reduced from 21 to 18 beginning in 1974. The law now provides that annual reenactment is not necessary unless that rate of the tax is changed.

§402. Collection by Tax Collector. The tax shall be collected by the duly elected or appointed tax collector of the Borough in the same manner as other Borough taxes are collected.

§403. Duplicate Constitutes Warrant for Collection. The entry of the per capita tax in the tax duplicate and the issuance of the duplicate to the tax collector shall constitute his/her warrant for the collection of the per capita tax levied and assessed under this Part.

§404. Expense of Collection, Collector’s Compensation. The expense of collection and compensation of the tax collector shall be the same as shall be fixed from time to time for the collection of other Borough taxes.

Editorial Note: Section 35 of the Local Tax Collection Law (1945 P.L. 1050, as amended) provides that the respective taxing districts (including boroughs) allow the tax collector “actual and needful expenditures for printing, postage, books, blanks and forms.”

§405. Authority of Collector. The tax collector shall have all rights and authority for the collection of this tax granted by existing law or laws hereafter passed.
Part 5
Real Estate Transfer Tax under The Local Tax Enabling Act


By the Act of 1986 P.L. 318 No. 77, the Tax Reform Code of 1971 (P.L. 6 No. 2) was further amended, particularly in respect to the provisions on the State Realty Transfer Tax, as added by the Act of 1981 P.L. 36 No. 14. In addition, the Act of 1986 added provisions allowing various political subdivisions to impose a realty transfer tax to the extent that the transactions are subject to the State tax as imposed in article XI-C of the Tax reform Code as added by the Act of 1981 and amended by the Act of 1986-77. The tax was to be administered, collected and enforced under the Local Tax Enabling Act.

Section 1101-D of the Act of 1971, as added by the Act of 1986 also provided as follows: “In addition, such political subdivision may impose a local real estate transfer tax upon additional classes or types of transactions if the tax was imposed by the political subdivision under the act of December 31, 1965 (P.L. 1257, No. 511), known as The Local Tax Enabling Act, prior to the effective date of this part. A tax imposed under this part shall be subject to rate limitations provided by section 5 and section 17 of The Local Tax Enabling Act.

The tax imposed under Ord. No. 1967-3 and codified in this part, being enacted under the Local Tax Enabling Act prior to the effective date of the Act of 1986-77, meets the criteria stated in the quoted material in the paragraph directly above. It has been retained in this Code of Ordinances for possible continued applicability.

The new Ordinance enacted under the Act of 1986-77 is Part 7, Sections 701 – 718.

§501. Definitions. The following words or phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicated a different meaning:

(a) Association – means any partnership, limited partnership, or other form of unincorporated enterprise owned, operated or conducted by two or more persons.

(b) Deed – means any document, instrument or writing, whereby any lands, tenements or hereditaments within the Borough or any estate or interest therein, shall be granted, bargained, sold or otherwise conveyed to the grantee, purchaser or any other person, but does not include wills, mortgages, transfers between husband and wife, transfers between parent and child or the spouse of such child, transfers between a grandparent and grandchild or the spouse of such grandchild, or leases. Further, no real estate transfer tax shall be due under the provisions of this article, if the transfer of real estate is to a corporation, association, trust, community chest or foundation organized exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private persons.

(c) Grantee – means the person named in the deed as party grantee.
(d) Grantor – means the person named in the deed as party grantor.

(e) Tax – means the tax levied, assessed and imposed by this article.

(f) Transferring real estate – means the transfer or change of title and/or possession of real estate from the grantor to the grantee by the surrender of title and/or possession by the grantor and his or her agent, the entry or constructive entry into possession by the grantee or his or her agent, which transfer or change of possession takes place at the site of the real estate involved, regardless of where the deed is prepared, executed, delivered, accepted, recorded, or where settlement is consummated.

(g) Value – In the case of any document, granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest or estate therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents or a commensurate part of the liens or other encumbrances thereon where those liens or other encumbrances also encumber or are charged against other lands, tenements, or hereditaments: Provided that where the document sets forth a small or nominal consideration, the “value” shall be determined from the price set forth in or actual consideration for the contract of sale, or in the case of a gift or otherwise conveyed, which in either event shall not be less than the amount of the highest assessment for those lands, tenements or hereditaments for local tax purposes.

Editorial Note: The enacting clause of Ord. No. 1967-3 stated that the Ordinance was enacted by authority of the Local Tax Enabling Act (1965 P.L. 1257). Section 13 contained severability provisions similar to those in Section 1-1005; Section 14 provided that the tax levied by the ordinance become effective 5/10/1967. Section 1 of Ord. No. 1-1981 deleted the definition of “Deed” as originally enacted in paragraph 2 of this section and section 2 of Ord. No. 1-1981 inserted a new paragraph 2. Section 5 of Ord. No. 1-1981 provided that all other sections and subsections of Ord. No. 1967-3, and any amendments to it, not inconsistent with Ord. No. 1-1981 were ratified and were to continue in full force and effect. Reenactment of the tax from year to year has not been necessary, but it has been customary to do so in the annual tax-levying ordinance, the most recent one being Section 201.

§502. Short Title; Applicability. Ordinance No. 1967-3 as amended, and this Part shall be cited as the “White Haven Borough Real Estate Transfer Tax Ordinance” and the tax herein and hereby imposed shall be designated as the “White Haven Borough Real Estate Transfer Tax.” This part shall not apply to any real estate transfers which are exempt from taxation by State Law based on family relationship, i.e. husband/wife, while married; parent/child, as long as all parties qualify as exempt; and grandparent/grandchild, provided that the nature of the specific relationship is noted on the deed. (Ord. No. 1967-3, 5/1/1067, Sec. 2, as amended by Ord. No. 1-1981, 2/10/81, Sec. 4)
§503. Imposition of Tax. An excise tax to provide revenue for general Borough purposes is imposed upon the privilege of transferring real estate or any interest or estate in real estate, situated wholly or partly within the Borough of White Haven, Luzerne County, Pennsylvania, at the rate of one-half (1/2) of one percent (1%) of the value of the real estate situated partly within and partly without the boundaries of the Borough, the tax so levied shall be only on that part of the value apportioned to the part of the real estate situated within the boundaries of the Borough. (Ord. No. 1967-3, 5/1/1967, Sec. 3)

§504. Grantee Liable for Payment of Tax; Exception. The tax shall become due from and be paid by the grantee except that if the grantee, for any reason shall not pay the tax, the grantor shall become liable and remain liable until the tax, penalty and interest have been discharged or paid according to the provisions of this part. (Ord. No. 1967-3, 5/1/1967, Sec. 4)

§505. Certificate to be attached to Deed; Deed not to be accepted for Recording without Stamp.

(a) On and after the effective date of this Ordinance, every grantee or his or her agent in any transfer taxable under this part, shall, prior to the delivery or acceptance of the deed, place on it a certificate signed by him or her or for him or her, which shall set forth the value of the real estate transferred, the amount of real estate transfer tax imposed by this Part, that the tax has been paid, and the date of payment. No grantee or his or her agent shall offer for recording or record any deed in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, which deed does not contain that certificate nor unless the tax shall first have been paid.

(b) No Recorder of Deeds shall accept for recording any deed that is not properly stamped in accordance with the provisions of this Part.

(Ord. No. 1967-3, 5/1/1967, Sec. 5)

Editorial Note: “The Effective Date of This Ordinance” applies to Ord. No. 1967-3, and not to this code of ordinances. See note following Section 501.

§506. Form of Certificate; Collection of Tax.

(a) The certificate to be attached to the document shall be in substantially the following form:
CERTIFICATE OF VALUE

Now, (date), it is hereby certified that the value (as defined by the White Haven Borough Real Estate Transfer Tax Ordinance) of the real estate transferred by this deed as described herein is $__________. The amount of the transfer tax is $__________ and has been paid. Receipt of $__________ is hereby acknowledged (date).

___________________________________
Secretary or Agent

(b) The real estate transfer tax shall be paid to the Secretary or the Recorder of Deeds, who shall account for the tax collected to the Secretary. In the event the tax is collected by the Recorder of Deeds, a commission, to be agreed upon by the Recorder of Deeds and the Council will be paid to the Recorder of Deeds.
(Ord. No. 1967-3, 5/1/1967, Sec. 6)

§507. Authority of Secretary.

(a) The tax, interest and penalties, if any, shall be paid to the Secretary, who is charged with its collection, from the Recorder of Deeds.

(b) The Secretary shall collect on behalf of the Borough, all taxes, interest and penalties received, collected, or recovered under this Part, in the same manner as other taxes are collected by the Borough. All payments made by the Secretary to the Borough shall be accompanied by an accurate written report of the collections transmitted by the Recorder of Deeds.

(c) The Secretary is authorized and empowered to prescribe, adopt, and promulgate rules, regulations, and forms relating to any manner or thing pertaining to the administration and enforcement of this Part and the collection of the taxes, interest and penalties imposed by this Part, subject to the approval of Council. (Ord. No. 1967, 5/1/1967, Sec. 7)

§508. Interest and Penalty added to Unpaid Tax. All taxes imposed by this Part not paid within then (10) days after due date shall bear interest from the due date at the rate of one-half of one per cent (1/2%) per month until paid, and in addition a penalty of ten per cent (10%) of the tax is hereby imposed for failure to pay the tax within ten (10) days after the due date (Ord. No. 1967-3, 5/1/1967, Sec. 8)

§509. Recovery of Taxes, Interest and Penalties. All taxes, interest and penalties imposed by this Part shall be recoverable as other debts of like character are now by law recoverable. (Ord. No. 1967-3, 5/1/1967, Sec. 8)
§510. **Tax, Interest and Penalties constitute Lien on Property.** The tax, together with interest and penalties imposed by this Part, when due and unpaid, shall be a lien upon the real estate within the boundaries of the Borough, which is the subject of the transfer, the lien shall continue until discharged by payment or as provided by law. The Solicitor is authorized and empowered by law to file a lien or claim, or otherwise proceed according to law, for the collection of any unpaid tax, interest or penalty under this article. (Ord. No. 1967-3, 5/1/1967, Sec. 10)

§511. **Prohibited Acts.** It shall be unlawful for any person falsely or fraudulently to do any act or make any return, statement or certificate under this part or to fail to pay the tax, interest, and penalty, if any, imposed by this Part. (Ord. No. 1967-3, 5/1/1967, Sec. 11)

§512. **Penalty for Violation.** Any person, who shall fail, neglect or refuse to comply with any provision of this Part in addition to any other penalty provided in this Part, upon summary conviction, shall be sentenced to pay a fine not to exceed $300 and costs of prosecution for each offense, and further shall be required to pay the amount of the tax, together with all interest and penalties, which should have been paid on the transfer taxed under this Part, to undergo imprisonment for not more than 30 days for this non-payment of fine and costs within ten (10) days from imposition. (Ord. No. 1967-3, 5/1/1967, Sec. 12)
Part 6
Realty Transfer Tax

§601. Imposition of Tax. The Borough of White Haven adopts the provision of Article XI-D of the tax Reform Code of 1971 and imposes a realty tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of one percent (1%) of the value of the real estate represented by the document. (Ord. No. 1-2007, 1/22/07, Sec. 1)

§602. Administration. The tax imposed under Section 601 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as “The Local Tax Enabling Act”; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of White Haven, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties. (Ord. No. 1-2007, 1/22/07, Sec. 2)

§603. Interest. Any tax imposed under Section 601 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53. P.S. §§ 7101, et seq.), as amended, known as “The Municipal Claims and Tax Liens Act”. The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806, as amended, known as “The Fiscal Code”, or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. (Ord. No. 1-2007, 1/22/07, Sec. 3)

§604. Repeal.

(a) As of the effective date of this Ordinance, all ordinances or parts thereof, inconsistent with this Ordinance are hereby repealed.

(b) The repealed ordinances, or parts thereof, remain effective for documents that became subject to tax prior to the effective date of this Ordinance.

(Ord. No. 1-2007, 1/22/07, Sec. 4)

§605. Effective Date. The provisions of this ordinance shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording five days after the enactment of this Ordinance, the same being 1/27/07. (Ord. No. 1-2007, 1/22/07, Sec. 5)
Part 7
Realty Transfer Tax under Act 1986-77

§701. Short Title. This part shall be known as the “Realty Transfer Tax Ordinance of the Borough of White Haven.” (Ord. No. 3-1987, 4/8/1987, Sec. 1)

Editorial Note: The title of Ord. No. 301987 states that the ordinance provides “for the levying, assessment and collection of a tax for general revenue purposes upon a transfer of an interest in real property to the extent that the transfers are subject to tax imposed by the Commonwealth of Pennsylvania pursuant to 72 P.S. Section 8101-C, et seq, authorized by Article XI-D, “Local Real Estate Transfer Tax,” 72 P.S. Section 8101-D et seq and administered, collected and enforced under the “Local Tax Enabling Act,” 53 P.S. Section 6901 et seq; providing a severability clause; and providing an effective date. Section 19 of Ord. No. 3-1987 repealed all ordinances resolutions or parts thereof inconsistent or in conflict with Ord. No. 3-1987. Following Section 19 was a provision that the ordinance was to become effective at the earliest date permitted by law.

§702. Authority. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of White Haven, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, “Local real Estate Transfer Tax,” 72 P.S. Section 8101-D et seq. (Ord. No. 3-1987, 4/8/87, Sec. 2)

§703. Definitions.

(a) Association – means a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two (2) or more persons other than a private trust of decedent’s estate.

(b) Corporation – means a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth , the United States, or any other state, territory, foreign country or dependency.

(c) Document – means any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise to title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under Section 708 (c).
(d) Governing Body – means the Borough of White Haven.

(e) Family farm Corporation – means a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

1. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
2. The raising, breeding, or training of game animals or game birds, cats, fish, dogs or pets or animals intended for use in sporting or recreational activities;
3. Fur farming;
4. Stockyard and slaughterhouse operations; or
5. Manufacturing or processing operations of any kind.

(f) Members of the same family – includes an individual, such individual’s brothers and sisters, the brothers and sister of such individual’s parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

(g) Real estate

1. includes all lands, tenements or hereditaments within this governing body, including without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
2. includes a condominium unit.
3. includes a tenant-stockholder’s interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

(h) Real estate company – means a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:
(1) derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or

(2) holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

(i) Title to real estate:

(1) means any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold; or

(2) means any interest in real estate enduring for a fixed period of years but which, whether by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group rights approximately those of an estate in fee simple, life estate or perpetual leasehold, an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

(j) Transaction – means the making, executing, delivering, accepting, or presenting for recording of a document.

(k) Value

(1) In the case of any bona fide sale of real estate at arm’s length for actual monetary worth, the amount of the actual consideration therefore, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the “value” thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

(2) In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level
ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania Realty Transfer Tax base calculations;

(3) In the case of an easement or other interest in real estate the value of which is not determinable under clause (1) or (2), the actual monetary work of such interest; or

(4) The actual consideration for or actual monetary worth of an executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer. (Ord. No. 3-1987, 4/8/1987, Sec. 3)

§704. Imposition of Tax; Interest.

(a) Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one percent of the value of the real estate represented by such documents, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

(b) The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds or his or her designee whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

(c) It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax at the rate of one percent of the value of the real estate represented by such documents, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

(d) If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected. (Ord. No. 3-1987, 4/8/1987, Sec. 4)
§705. Exempt Parties. The United States, the Commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment or the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. No. 3-1987, 4/8/1987, Sec. 5).

§706. Excluded Transactions. The tax imposed by Section 704 shall not be imposed on:

(a) A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include fine adjustments provided said reconveyance is made within one year from the date of condemnation.

(b) A document which the governing body is prohibited from taxing under the Constitution or statutes of the United States.

(c) A conveyance to a municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

(d) A transfer for no or nominal actual consideration which does not extend or limit existing record legal title or interest.

(e) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

(f) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband and wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

(g) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent’s devisee or heir.

(h) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
(i) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

(j) A transfer for no or nominal actual consideration from trustee to successor trustee.

(k) A transfer (1) for no or nominal actual consideration between principal and agent or straw party, or (2) from or to an agent or straw party where, if the agent or straw party were his or her principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by grantee from, or for the benefit of, his or her principal, there is a rebuttable presumption that the property is the property of the grantee in his or her individual capacity if the grantee claims an exemption from taxation under this clause.

(l) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

(m) A transfer from a corporation or association of real estate held of record in the name of the corporation where the grantee owns stock of the corporation or an interest in the association in the same proportion as his or her interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.

(n) A transfer from a nonprofit industrial development agency or authority or a grantee of property conveyed by the grantee to the agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency authority.

(o) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (1) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (2) the agency or authority has the full ownership interest in the real estate transferred.

(p) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

(q) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
(r) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. Section 501(c)(3)) and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

(s) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.

(t) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

(u) A transaction wherein the tax due is one dollar ($1.00) or less.

(v) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas, or minerals, the statement of value may be limited to an explanation of the reason for such document. (Ord. No. 3-1987, 4/8/1987, Sec. 6)

§707. Documents relating to Associations or Corporations and Members, Partners, Stockholders, or Shareholders thereof. Except as otherwise provided in Section 706, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ord. No. 3-1987, 4/8/1987, Sec. 7)

§708. Acquired Company.

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three (3) years.

(b) With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
(c) Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§709. Credits against Tax.

(a) Where there is a transfer of residential property by a licensed real estate broker which property was transferred to him/her within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him/her shall be given to him/her toward the amount of the tax upon transfer.

(b) Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

(c) Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given to the grantor toward the tax due upon the transfer.

(d) Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

(e) If the tax due upon the transfer is greater than the credit given under this section; the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

§710. Extension of Lease. In determining the a term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. No. 3-1987, 4/8/87, Sec. 10)

§711. Proceeds of Judicial Sale. The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim lien, judgment, estate, or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting the said sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. No. 3-1987, Sec. 11)

(a) As provided in 16 P.S. Section 11011-7, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to governing body based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the governing body.

(b) In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

(c) On or before the tenth of each month, the Recorder shall pay over to governing body all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collection of the Pennsylvania Realty Transfer Tax. The two percent (2%) commission shall be paid to the county.

(d) Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax only when both the state and local amounts and rerecording or recording fee has been tendered. (Ord. No. 3-1987, 4/8/1987, Sec. 12)

§713. Statement of Value. Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfer which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. (Ord. No. 3-1987, 4/8/1987, Sec 13)

§714. Lien. The tax imposed by this Part shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, being situated, wholly or in part within the boundaries of the governing body, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the taxes imposed, assessed and levied by this Ordinance, said lien to begin at the time
when the tax under this Ordinance is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a claim under the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments. (Ord. No. 3-1987, 4/8/1987, Sec. 15)

§715. Enforcement. All taxes imposed by this Part together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered. (Ord. No. 3-1987, 4/8/1987, Sec. 16)

§716. Regulations. The governing body is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 8101-C et seq., are incorporated into and made a part of this article. (Ord. No. 3-1987, 4/8/1987, Sec. 17)

§717. Severability. Should any section, subsection, sentence clause or phrase of this Part be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance in its entirety or of any part thereof other than that declared to be invalid. (Ord. No. 3-1987, 4/8/1987, Sec. 18)

§718. Civil Penalties.

(a) If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to Fifty Percent (50%) of the underpayment.

(b) In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding Fifty Percent (50%) in the aggregate. (Ord. No. 3-1987, 4/8/1987, Sec. 14)
Part 8
Investment of Idle Funds

§801. Borough becomes Settlor in Pennsylvania Local Government Investment Trust. This municipality shall join with other municipalities in accordance with the Pennsylvania Intergovernmental Cooperation Act by becoming a settlor of the Pennsylvania Local Government Investment Trust (the trust) and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which Ordinance No. 1-1982 was adopted. (Ord. No. 1-1982, 1/7/1982, Sec. 1)

Editorial Note: The preamble to Ord. No. 1-1982 stated that the Pennsylvania Local Government Investment Trust had been formed in accordance with the authorization contained in the Intergovernmental Cooperation Act (1972 P.L. 762 No. 180), initially by the Boroughs of Chambersburg and Emmaus; and that agreement has been adopted by ordinance by all cooperating municipalities. Section 5 of Ord. No. 1-1982 provided that the ordinance become effective at the earliest date permitted by law.

§802. Authority to Purchase and Redeem Shares in the Trust. This municipality is authorized to purchase shares in the trust from time to time with available municipal funds, and to redeem some or all of those shares from time to time as funds are needed for municipal purposes. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by Council. (Ord. No. 1-1982, 1/7/1982, Sec. 2)

§803. Custody of Borough’s Invested Funds. The trustees of the trust are designated as having official custody of this municipality’s funds which are invested by the purchase of shares in the trust. (Ord. No. 1-1982, 1/7/1982, Sec. 3)

§804. Findings and Determinations. As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

(a) The conditions of the agreement are set forth in the Declaration of Trust referred to in Section 901;

(b) This municipality’s participation in the trust shall be terminable at any time by ordinance;

(c) The Declaration of Trust and the purchase of its shares are for the purpose of investing this municipality’s funds in obligations which are otherwise legal investments as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of pooled investments;

(d) It is not necessary to finance the agreement authorized herein from municipal funds except through the purchase of shares in the trust;
(e) The trust shall be managed by a board of trustees as set forth in the Declaration of Trust and the by-laws provided for therein; and

(f) Shares may be purchased and redeemed from time to time as this municipality may determine to be necessary or appropriate to meet its cash investment requirements. (Ord. No 1-1982, 1/7/1982, Sec. 4)
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CHAPTER 10

FIRE PREVENTION AND FIRE PROTECTION

Part 1

Outdoor Burning, Open Burning and Outdoor Wood Fired Burners

§101. Short Title. This Part shall be known and may be cited as the Borough of White Haven Outdoor Burning and Outdoor Furnace Ordinance.

§102. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Clean Wood – means natural wood that is free of paint, stains, or other types of coatings and natural wood that has not been treated with including but not limited to copper chromium arsenate, creosote, or pentachlorophenol.

(b) Open Burning – means a fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue. Notwithstanding the foregoing, open burning shall not include grilling, cooking, or using charcoal, wood, propane, or natural gas in cooking or grilling appliances and the use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for construction or maintenance activities.

(c) Outdoor Burning – means any fire which is located outside of a structure used for human occupancy. Outdoor burning includes open burning and outdoor wood fire burners. Notwithstanding the foregoing, outdoor burning shall not include grilling, cooking, or using charcoal, wood, propane, acetylene, natural gas, gasoline, or kerosene in a device intended for construction or maintenance activities.

Exception to Open Burning and Outdoor Burning: Portable outdoor grills, fired by propane or charcoal, and designed for food preparation, and decorative chimineas, portable or fixed patio fireplaces and masonry fireplaces are all excluded from the provisions of this Ordinance.

(d) Outdoor Wood Fired Burner – means a fuel burning device:

(1) designed to burn wood or other approved solid fuels;

(2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and

(3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
§103. Outdoor Open Burning Prohibited.

(a) No person or persons, firm, association or corporation shall set or maintain any open burning upon any of the streets, roads, sidewalks, alleys, private property, or public lands in the Borough or burn or cause to be burned thereon any rubbish, leaves or any other kind of substance, nor shall any such person or persons set or maintain any outdoor burning anywhere in the Borough.

(b) Exceptions. Activities prohibited in this Part are subject to the following exceptions:

   (1) Open burning may be set in the performance of an official duty of any public officer if the fire is necessary for:

      (A) the prevention of a fire hazard which cannot be abated by other means; or

      (B) the protection of public health.

   (2) Open burning shall be permitted at any time when the same is conducted during an official act or exercise, pre-approved by the Borough Council

   (3) Open burning shall be permitted at any time when the same is pre-approved by the Borough Council for the following purposes:

      (A) conducted by any person during an official scheduled training exercise in firefighting/fire protection and control; or

      (B) utilized as a ceremonial bonfire by any person during an official scheduled public event, such as a school or university sponsored pep rally.

§104. Installation of Outdoor Wood Fired Burners. Any person desiring to install an Outdoor Wood Fired Burner with in the Borough shall obtain a permit from the Code Enforcement Officer. The applicant for such a permit shall:

(a) Present a plan showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the Outdoor Wood Fired Burner.

(b) Locate the Outdoor Wood Fired Burner at least 100 feet from any occupied structure not located on the lot which the outdoor wood fired burner will be located.

(c) Locate the Outdoor Wood Fired Burner at least 50 feet from all property lines.
(d) Present evidence that the applicant has obtained a zoning permit for the proposed Outdoor Wood Fired Burner.

(e) Present evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the Outdoor Wood Fired Burner and its connection to the mechanical system of the structure it will serve.

(f) Demonstrate that the chimney of the outdoor wood fired burner is five (5) feet in excess of the height of any occupied structure within 300 feet not located on the lot on which the Outdoor Wood Fired Burner will be located.

(g) Provide a copy of the manufacturer’s specification and instructions, which the applicant agrees to comply with and not alter at any time.

(h) Demonstrate that the Outdoor Wood Fired Burner has been laboratory tested and listed to appropriate safety standards such as (UL) (Underwriters Laboratories) and ANSI (American National Standard Institute) standards.

(i) Have the application signed by all owners of the lot on which the Outdoor Wood Fired Burner will be located, including the contractor installing the Outdoor Wood Fired Burner.

§105. Use of Outdoor Wood Fired Burners. Each person who owns a lot on which an Outdoor Wood Fired Burner is located and each person who occupies a lot on which an Outdoor Wood Fired Burner is located shall be responsible to insure that the Outdoor Wood Fired Burner is operated in accordance with all requirements of this Part and shall be responsible to obtain an annual permit to continue the use of such Outdoor Wood Fired Burner.

(a) The only substance that may be burned in an Outdoor Wood Fired Burner is clean wood.

(b) No person shall burn any of the following in an Outdoor Wood Fired Burner unless otherwise permitted by manufacturer specifications:

(1) Any wood that does not meet the definition of clean wood.
(2) Tires.
(3) Lawn clippings or yard waste.
(4) Materials containing plastic.
(5) Materials containing rubber.
(6) Waste petroleum products.
(7) Paints and paint thinners.
(8) Coal.
(9) Any type of paper.
(10) Construction and demolition debris.
(11) Plywood.
(12) Particleboard.
(13) Salt water driftwood.
(14) Manure.
(15) Animal carcasses.
(16) Asphalt products.
(17) Used cooking oils.

(c) The Outdoor Wood Fired Burner shall at all times be operated and maintained in accordance with the manufacturer’s specifications.

(d) The Outdoor Wood Fired Burner shall be maintained and operated in compliance with all emissions of air quality standards promulgated by the U.S. Environmental Protection Administration (EPA).

(e) The emissions from the Outdoor Wood Fired Burner shall not cause damage to vegetation or property of neighbors.

(f) Commencing on January 1 of each year, the owner of the lot upon which an Outdoor Wood Fired Burner is located shall apply for an operating permit which shall be valid for the entire year. The owner shall pay all fees imposed by the Borough for the application for such operating permit and the inspection of the Outdoor Wood Fired Burner to determine compliance with this Part.

(g) In the event that the Building or Construction Code is in conflict with any of the sections of this Ordinance, then the Building or Construction Code shall apply.

§106. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§107. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§108. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof in an action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than one hundred dollars ($100.00) and not more than one thousand dollars ($1,000.00) plus costs. Each day that a violation of this Part, or any Section of this Part, continues which shall constitute a separate offense.
§201. Definitions. For purposes of this ordinance, the following words shall have the following meaning:

(a) Dwelling Unit - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(1) Dwelling, Single Family – means a detached building, on a permanent foundation, containing one dwelling unit and designed, constructed, or occupied for exclusive occupancy for one family or household.

(2) Dwelling, Two Family – means a building containing two dwelling units entirely separated from each other by vertical walls or horizontal floor unplastered except for access to the outside or to a common cellar and arranged or used for occupancy by two individual families or households.

(3) Dwelling, Mobile Home – means a transportable, single-family dwelling unit, intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

(4) Dwelling, Multi-Family – means a building containing three (3) or more dwelling units, entirely separated by vertical walls or horizontal floors unplastered except for access to the outside or to a common cellar and arranged or used for occupancy by three or more individual families or households. Low-rise multi-family buildings shall include townhouses, garden apartments and any other housing type, not exceeding three stories in height. Any multi-family building exceeding three stories in height shall contain an elevator.

(b) Smoke Detector – means a device which detects visible or invisible particles of combustion, and is capable of providing a suitable audible alarm of at least eighty-five (85) decibels at ten feet (10’), either ionization or photo-electric type.

(c) Carbon Monoxide Detector - A carbon monoxide detector or CO detector is a device that detects the presence of the carbon monoxide (CO) gas in order to prevent carbon monoxide poisoning, and is capable of providing a suitable audible alarm of at least eighty-five (85) decibels at ten feet (10’).

§202. Smoke Detectors & Carbon Monoxide Detectors Required in Dwelling Units. In each dwelling unit, except where the Uniform Construction Code applies, there shall be provided by the owner of the real estate, a minimum of one (1) smoke detector and
one (1) carbon monoxide detector sensing device on each floor, in any common area, and in each bedroom, which has received Underwriters Laboratories approval.

§203. Alarm Requirements. Smoke detector and carbon monoxide sensing devices shall provide an alarm suitable to warn occupants within each dwelling unit or stairwell in the event of fire.

§204. Time of Installation. Smoke detectors and carbon monoxide detectors shall be installed in all dwelling units, by the owner. No later than upon a change of ownership of the real estate upon which the dwelling unit is located or within sixty (60) days of the adoption of this Ordinance, whichever occurs first.

§205. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§206. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§207. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.
Part 3
Fireworks

§301. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Fall Out Zone- means the maintaining of a safe distance during a Fireworks display between the audience or place where persons gather to observe the Fireworks and the location where the Fireworks are discharged.

(b) Fireworks- means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. The definition of Fireworks includes, but is not limited to, firecrackers, skyrockets, roman candles, aerial fireworks, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound.

§302. Manufacturing of Fireworks Prohibited. The manufacturing of Fireworks is prohibited within the Borough.

§303. Display or Discharge of Fireworks Permitted. The display or discharge of Fireworks within the Borough is only permitted when:

(a) A permit is first obtained from the Code Enforcement Officer.

(b) The Firework display is conducted by a certified, trained and experienced Pyrotechnician. The business entity performing, providing or supervising Fireworks must show proof to the Code Enforcement Officer that they are registered with the Pennsylvania Attorney General's Office.

(c) The White Haven Borough Fire Company must be: (i) notified of the date, time and location of the Firework's Display, and (ii) present with emergency equipment apparatus during the Firework's Display.

(d) A fall out zone of at least 300 feet in diameter must be maintained during a Fireworks display unless the White Haven Fire Company or Code Enforcement Officer believe a greater distance is required in which event the greater distance shall be maintained.

(e) The Firework’s must be discharged in a manner so that they do not cause damage or injury to persons or property.

(f) The Pyrotechnician and business entity performing, providing and supervising the Fireworks shall adhere to all other requirements imposed by the White Haven Fire Department and the Code Enforcement Officer.
(g) All refuse and debris must be removed and disposed of properly at the conclusion of the event or within twenty four (24) hours of the conclusion of the event.

§304. Permit Application. Applications for permits shall be made in writing at least 15 days in advance of the date of the display or discharge of Fireworks. The possession, use and distribution of Fireworks shall only be lawful when performed in accordance with §303 above and under the terms and conditions imposed by the permit. A permit granted hereunder may not be transferred nor extend beyond the dates set forth therein.

§305. Enforcement. The Code Enforcement Officer or the White Haven Fire Chief shall be responsible for the enforcement of this Ordinance.

§306. Violation/Penalties. Any person violating any section of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand ($1,000.00) Dollars, and in default thereof, for a term of imprisonment of not more than thirty (30) days.
Part 4

Insurance Proceeds

§401. Designation of an Officer. The Treasurer of the Borough of White Haven is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

§402. Claim Restrictions. No insurance company, association or exchange (hereinafter the “Insurance Agent”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within White Haven Borough (hereinafter the “Municipality”) where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars ($7,500.00), unless the Insuring Agent is furnished by the Borough Treasurer with a municipal certificate pursuant to Section 508 (B) of Act 98 of 1992 and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

§403. Procedures. Where pursuant to Section 508 (B)(1)(I) of Act 98 of 1992, Borough Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

(a) The Insuring Agent shall transfer from the insurance proceeds to the Borough Council in the aggregate of $2,000 for each $15,000 of a claim and for each fraction of that amount of a claim, this section is to be applied such that if the claim is $15,000 or less, the amount transferred to the Borough shall be $2,000; or

(b) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor’s signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

(c) The transfer of proceeds shall be on a pro-rata basis by all companies, associations, or exchanges insuring the building or other structure.

(d) After the transfer, the named insured may submit a contractor’s signed estimate of the costs of removing, repairing or securing the building or other structure, and Borough Council shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building or other structure.
Upon receipt of proceeds under this section, the Borough shall do the following:

1. The Treasurer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing of the building or any proceeds related thereto; and

2. It is the obligation of the Insuring Agent when transferring the proceeds to provide the Borough with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the Treasurer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed; and

3. When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the Treasurer and Code Enforcement Officer, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Borough shall transfer the remaining funds to the named insured; and

4. To the extent that interest is earned on proceeds held by the Borough pursuant to this Section, and not returned to the named insured, such interest shall belong to the Borough. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

§404. Adoption of Procedures and Regulations. The Borough Council may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.
§405. **Severability.** The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

§406. **Repealer.** All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

§407. **Penalties.** Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to One Thousand Dollars ($1,000.00) per violation. Each day that a violation occurs shall constitute a separate offense.
Part 5
Reimbursement of Costs for Emergency Services

§501. Definitions. As used herein, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Emergency Services - includes any service performed by a volunteer emergency services organization relating to any disaster, hazardous material incident, fire, industrial or private security or fire alarm systems incident, industrial accident, auto accident, or any other situation, incident or event that does or may present a potential danger, hazard or threat to the public health, safety and welfare.

(b) Volunteer Emergency Services Organizations - includes any non-governmental volunteer organizations such as the White Haven Borough Fire Company and any other organization located within White Haven Borough that provides or performs volunteer emergency services. This definition includes fire protection services, fire police services, volunteer rescue squads, and volunteer hazardous material response teams.

(Ord. No. 1-2004, 6/14/2008, Sec. 1)

§502. Authorization of Services and Equipment. The Borough authorizes all Volunteer Emergency Services Organizations to provide the labor, personnel, tools, equipment and materials necessary to perform emergency services as authorized by law, statute, rule, regulation, resolution or ordinance within the Borough or any other area in which a Volunteer Emergency Services Organization is authorized by the Borough or contracted with to provide such services. (Ord. No. 1-2004, 6/14/2008, Sec. 2)

§503. Schedule of Fees, Costs and Expenses. White Haven Borough Council may by resolution, from time to time, establish, revise, amend or rescind a schedule of fees for the emergency services, labor, personnel, tools, equipment and materials referred to herein. (Ord. No. 1-2004, 6/14/2008, Sec. 3)

§504. Requirement to Pay for Costs, Fees and Expenses. A person shall be liable for the costs, fees and expenses incurred by a Volunteer Emergency Services Organization that provides emergency services, labor, personnel, tools, equipment and materials unless the person has:

(a) Paid to the municipality where the volunteer emergency services organization is located, a tax which funds at least in part emergency services;

(b) Paid to a municipality a tax which funds at least in part emergency services and which municipality has contracted with the volunteer emergency services organization to perform emergency services for a fee paid by the municipality to the volunteer emergency services organization; or
(c) Paid dues or a monetary contribution to the volunteer emergency services organization within the preceding 12 months from the date that the emergency services were provided.

(Ord. No. 1-2004, 6/14/2008, Sec. 4)

§505. Reimbursement Procedures.

(a) Billing, Charges and Invoicing. Volunteer Emergency Services Organizations may bill, charge or invoice for the costs, fees and expenses associated with providing emergency services, including labor, personnel, tools, equipment, and material.

(b) Recovery of Costs. When a person receives a bill or invoice for reimbursement from the charges of a volunteer emergency services organization, the person shall be responsible for its payment. If the person is forwarding the bill or invoice to an insurance carrier, the person must first notify the volunteer emergency services organization that he or she is doing so, which notice must include the name, address, telephone number, insurance policy number, and contact person for the insurance carrier. However, the forwarding of a bill to an insurance carrier shall not relieve a person from the financial responsibility for payment of the bill or invoice.

(Ord. No. 1-2004, 6/14/2008, Sec. 5)

§506. Enforcement. In the event that any insurance carrier or person fails to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the volunteer emergency services organization who mailed or delivered the bill or invoice may enforce the provisions of this Ordinance by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due to that volunteer emergency services organization together with statutory interest, court costs, collection fees and/or reasonable attorney’s fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate or provided by law. (Ord. No. 1-2004, 6/14/2008, Sec. 6)

§507. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or application. (Ord. No. 1-2004, 6/14/2008, Sec. 7)

§508. Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this ordinance. (Ord. No. 1-2004, 6/14/2008, Sec. 8)
§601. Fire Company Reorganized. The Borough recognizes the White Haven Fire Company No. 1 as the official organization responsible for protecting the Borough from fire and for fighting fires within the Borough.

§602. Fire Chief and Assistant Fire Chiefs.

(a) At the first regular meeting of council of January of each year, council shall appoint from among the members of the White Haven Fire Company a "Fire chief", who shall be a resident and a property owner in the Borough.

(b) Council shall also appoint at least one assistant fire chief to be known as the "First Assistant Fire Chief" and may also appoint additional assistant fire chiefs if Council deems it necessary for the efficient operation of the Fire Company. Any qualified member of the Fire Company may be appointed an assistant fire chief and he/she need not be a resident or property owner in the Borough.

§603. Authorized Activities of Fire Company Members. In accordance with the requirements of Section 104 of the Workmen's Compensation Act, as amended, which includes members of volunteer fire companies as employees "while performing any other duties of such companies or fire departments authorized by such cities, boroughs, incorporated towns and townships," the borough authorizes the members of the White Haven Fire Company to engage in the following activities, in addition to actually fighting fires and going to or returning from a fire:

(1) Answer any type of fire alarm or call, whether general alarm, private call or investigation, or fire report or emergency call of any type, inside or outside the limits of the Borough;

(2) Engage in any type of drill, training, ceremonial, practice, test or parade when duly called or authorized by the Fire Chief;

(3) Engage in the performance of any duty or activity authorized by the Fire Chief;

(4) Engage in fund raising activities such as fairs, carnivals, bingo, banquets, barbecues, and other similar fund raising activities the Fire Company officers deem necessary for the efficient operation of the Fire Company;

(5) Participate in mutual aid and firemen’s training schools with its fire equipment; or
(6) Attend conventions, meetings and civic functions of the type customarily attended by and participated in by Volunteer Fire Company members without taking along its fire equipment.

**Editorial Note:** This Ordinance is Ord. No. 5-1983, 10/26/83, except that subsection 5(a) through (d) has been deleted since the Fire Company does not deputize bystanders to assist in emergencies.
WHITE HAVEN BOROUGH
LUZERNE COUNTY, PENNSYLVANIA
FLOODPLAIN
ORDINANCE
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CHAPTER 11

STATUTORY AUTHORIZATION

Part 1
Statutory Authorization

§101. Authority. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of White Haven Borough does hereby order as follows.

Part 2
General Provisions

§201. Intent. The intent of this Ordinance is to:

A. Promote the general health, welfare, and safety of the citizens of White Haven Borough.

B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

C. Minimize danger to public health by protecting water supply and natural drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

E. Comply with federal and state floodplain management requirements.


A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere in the identified floodplain area within White Haven Borough unless a Permit has been obtained from the Zoning Officer, who shall be the Floodplain Administrator.

B. A Permit shall not be required for minor repairs to existing buildings or structures.

§203. Abrogation and Greater Restrictions.

Part12 Flood Plain Management of the White Haven Borough’s Zoning Ordinance is hereby specifically repealed, shall become null and void, and shall cease to be in effect. This Ordinance supersedes any other conflicting provisions that may be in effect in identified floodplain areas. If there is any conflict between any of the provisions of this Ordinance, this Part and Ordinance shall apply and shall take precedence over any less restrictive requirements.
§204. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

§205. Warning and Disclaimer of Liability.

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of White Haven Borough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.
Part 3

Administration

§301. Designation of the Floodplain Administrator.

The White Haven Borough Zoning Officer is hereby appointed to administer and enforce this Ordinance and is referred to herein as the Floodplain Administrator.

§302. Permits Required.

A Permit shall be required before any construction or development is undertaken within any identified floodplain area within White Haven Borough.

§303. Duties and Responsibilities of the Floodplain Administrator.

A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

C. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary to ensure compliance with this Ordinance.

D. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.

E. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to Borough Council for whatever action it considers necessary.

F. The Floodplain Administrator shall maintain all records associated with the requirements
of this ordinance including, but not limited to, permitting, inspection and enforcement.

G. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

§304. Application Procedures and Requirements.

A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by White Haven Borough. Such application shall contain the following:

1. Name, address, telephone number, fax number and email address of applicant.
2. Name, address, telephone number, fax number and email address of owner of land on which proposed construction is to occur.
3. Name, address, telephone number, fax number and email address of contractor.
4. Name, address, telephone number, fax number and email address of the Professional Land Surveyor and/or Professional Engineer who is responsible for the plans and any hydraulic calculations that may be required.
5. Site location including the site’s physical address.
6. Listing and status of other permits required.
7. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
8. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to perform the following analyses for the construction or development within the identified floodplain area:

1. Review all permit applications, subdivision proposals and new development proposals to determine whether such proposals or proposed building sites will be reasonably safe from flooding.
2. In the identified floodplain area review all new subdivision proposals and other proposed new development to assure that
   i. all such proposals are consistent with the need to minimize flood damage;
   ii. all public utilities and facilities, such as sewer, gas, electrical and water systems
are located and constructed to minimize or eliminate flood damage; and

iii. adequate drainage is provided so as to reduce exposure to flood hazards.

3. In the identified floodplain area review all permit applications for proposed building sites with new construction and substantial improvements to assure that:

a. structures will be anchored to prevent floatation, collapse, or lateral movement from hydrodynamic and hydrostatic loads including buoyancy;

b. Building materials are flood-resistant.

c. Appropriate practices that minimize flood damage have been used.

d. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation within the components during conditions of flooding.

4. Structures will be anchored to prevent floatation, collapse, or lateral movement.

5. Building materials are flood-resistant.

6. Appropriate practices that minimize flood damage have been used.

7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

1. A completed Permit Application Form.

2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

   a. North arrow, scale, graphic scale and date.

   b. Topographic contour lines at a two foot interval.

   c. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.

   d. The location of all existing streets, drives, and other access ways.

   e. The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
f. Name, address, telephone number, fax number and email address of the Professional Land Surveyor and/or Professional Engineer who is responsible for the plan preparation.

3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:


   b. The elevation of the base flood.

   c. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.

4. The following data and documentation as applicable:

   a. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation.

   b. Detailed information concerning any proposed floodproofing measures and corresponding elevations.

   c. Documentation, certified by a registered professional engineer, to show that the cumulative effect of any proposed development within a Special Floodplain Area (See section 402 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.

   d. A document, certified by a registered professional engineer, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation.

      Such statement shall include a description of the type and extent of flood proofing measures that have been incorporated into the design of the structure and/or the development.

   e. Detailed information needed to determine compliance with Section 503 F., Storage, and Section 504, Development Which May Endanger Human Life, including:

      i. The amount, location and purpose of any materials or substances referred to in Sections 503 F. and 504 which are intended to be used, produced, stored or otherwise maintained on site.
ii. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 504 during a base flood.

f. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

g. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

D. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon a fee schedule as established by Resolution of the Borough Council and as revised from time to time by the same.

§305. Review of Application by Others.

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. Planning Commission, Borough Engineer, Borough Solicitor, etc.) for review and comment. The applicant is responsible for re-reimbursing the Borough for any and all review fees incurred by the Borough.

§306. Changes.

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Floodplain Administrator for consideration.


In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises at a location visible from a public right of way during the time construction is in progress. This placard shall show the number of the Permit; the date of its issuance; and be signed by the Floodplain Administrator.

§308. Start of Construction.

Work on the proposed construction or development shall begin within one hundred and eighty (180) days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or
footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

§309. Enforcement.

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his/her agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of the Commonwealth of Pennsylvania; and
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to White Haven Borough, of not less than One Hundred Dollars ($100.00) nor more than Six Hundred Dollars
($600.00) plus reasonable attorney fees and costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in violation of this Ordinance may be declared by Borough Council to be a public nuisance and abatable as such.

§310. Appeals.

A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the White Haven Borough Zoning Hearing Board (or Council)*. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.

B. Upon receipt of such appeal the White Haven Borough Zoning Hearing Board (or Council) shall set a time and place, within sixty (60) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

C. Any person aggrieved by any decision of the White Haven Borough Zoning Hearing Board (or Council) may seek relief by appealing to the Court of Common Pleas of Luzerne County, as provided by the laws of the Commonwealth of Pennsylvania including the Pennsylvania Flood Plain Management Act.

* If the decision of the Floodplain Administrator relates to a project involving a “Subdivision”, “Land Development” or a “Planned Residential Development” the person aggrieved by any action or decision of the Floodplain Administrator shall appeal to the White Haven Borough Council. All other appeals shall be heard by the White Haven Borough Zoning Hearing Board.
Part 4

Identification of Floodplain Areas

§401. Identification.

The identified floodplain area shall be any areas of White Haven Borough, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated November 2, 2012 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by White Haven Borough and declared to be a part of this Ordinance.

§402. Description and Special Requirements of Identified Floodplain Areas.

The identified floodplain area shall consist of the following specific areas:

A. Floodway Area

1. Description - the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.

This term shall also include floodway areas that have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Special Requirements:

   a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall not be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

   b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Special Floodplain Area

1. Description - the areas identified as Zones AE and A1-A30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by
detailed methods and have base flood elevations (BFEs) shown.

2. Special Requirements:
   a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
   b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

C. Approximate Floodplain Area

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

2. Special Requirements:
   a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
   b. When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, White Haven Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the White Haven Borough Engineer.

D. Shallow Flooding Area

1. Description - the areas identified as Zones AO and AH in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet.
2. Special Requirements - Establish drainage paths to guide floodwaters around and away from structures on slopes.

§403. Changes in Identification of Area.

The identified floodplain area may be revised or modified by Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes by submitting technical or scientific data.

§404. Boundary Disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the White Haven Borough Planning Commission and any party aggrieved by this decision or determination may appeal to Borough Council. The burden of proof shall be on the appellant.
Part 5
Technical Provisions

§501. General.

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.

3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Technical or scientific data shall be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:

1. Any development that causes a rise in the base flood elevations within the floodway; or

2. Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or

3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

§502. Elevation and Floodproofing Requirements.

Residential Structures for all new construction and substantial improvement in the identified flood plain area”

A.

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement
in the identified flood plain area shall have the lowest floor for all n (including basement) elevated up to, or above, the regulatory flood elevation.

2. In A Zones, where there no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation in accordance with Subsection 402.C.2b.b of this ordinance.

3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
   a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
   b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation in accordance with Subsection 402.C.2b.b of this ordinance.

3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above
referenced standards.

5. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

C. Space below the lowest floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
   a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
   b. the bottom of all openings shall be no higher than one (1) foot above grade.
   c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

2. floor area shall not exceed 100 square feet.

3. The structure will have a low damage potential.

4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

7. sanitary facilities are prohibited.

8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

b. the bottom of all openings shall be no higher than one (1) foot above grade.

c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

§503. Design and Construction Standards.

The following minimum standards shall apply within any identified for all new construction, proposed development, and sustainable improvements in floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;

2. consist of soil or small rock materials only (no stone sizes greater than three inches) - Sanitary Landfills shall not be permitted;

3. be compacted in minimum eight inch lifts to provide the necessary permeability and resistance to erosion, scouring, or settling;

4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and

5. be used to the extent to which it does not adversely affect adjacent properties.

B. Stormwater Management Facilities

Stormwater Management Facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along
streets, and provide positive drainage away from buildings. The system shall also be
designed to prevent the discharge of excess runoff onto adjacent properties. All
stormwater management facilities shall be designed to be in conformance with all of the
requirements outlined in the White Haven Borough Stormwater Management Ordinance
and, if applicable, the White Haven Borough Subdivision and Land Development
Ordinance.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water supply systems and sanitary sewer systems to be
designed to minimize or eliminate infiltration of flood waters into the systems.

2. All new or replacement Sanitary sewer facilities and systems shall be designed to
prevent the discharge of untreated sewage into flood waters.

3. No part of any on-site sewage system shall be located within any identified
floodplain area except in strict compliance with all State and local regulations for
such systems. If any such system is permitted, it shall be located so as to avoid
impairment to it, or contamination from it, during a flood.

D. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the
minimum obstruction to the flow of water and shall be designed to have a minimum
effect upon the flow and height of flood water.

E. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted
engineering practices to prevent flotation, collapse, or lateral movement.

2. All air ducts, large pipes, storage tanks, and other similar objects or components
located below the regulatory flood elevation shall be securely anchored or affixed
to prevent flotation.

F. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended
and not limited to the following provisions shall apply to the above and other sections
and sub-sections of this ordinance, to the extent that they are more restrictive and/or
supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.
§504. Development Which May Endanger Human Life.

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,

2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

3. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.

C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least two
(2.0’) feet above base flood elevation,

2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

D. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

§505. Special Requirements for Subdivisions and Land Developments.

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres of proposed earth disturbance, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

§506. Special Requirements for Manufactured Homes.

A. Within any Floodway Area/District, manufactured homes shall be prohibited.

B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:

1. placed on a permanent foundation.

2. elevated so that the lowest floor of the manufactured home is at least two feet (2.0’) above base flood elevation.

3. anchored to resist flotation, collapse, or lateral movement.

D. Installation of manufactured homes shall be done in accordance with the manufacturers’ installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development’s Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision
thereto shall apply and 34 PA Code Chapter 401-405.

E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers’ standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

§507. Special Requirements for Recreational Vehicles.

1. Recreational vehicles in Zones A1-30, AH and AE must either
   
   a. be on the site for fewer than 180 consecutive days,
   
   b. be fully licensed and ready for highway use, or
   
   c. meet the permit requirements for manufactured homes in Section 506.
Part 6
Activities Requiring Special Permits

§601. General.

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by White Haven Borough:

A. The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
   1. Hospitals
   2. Nursing homes
   3. Jails or prisons

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

§602. Application Requirements for Special Permits.

Applicants for Special Permits shall provide five (5) copies of the following items:

A. A written request including a completed Permit Application Form.

B. A small scale map showing the vicinity in which the proposed site is located.

C. A plan of the entire site, clearly and legibly drawn at a scale of one (1”) inch being equal to one hundred (100’) feet or less, showing the following:
   1. north arrow, graphic scale, written scale and date;
   2. topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
   3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
   4. the location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;

6. the location of the floodplain boundary line, information and spot elevations concerning the base flood elevation elevations, and information concerning the flow of water including direction and velocities;

7. the location of all proposed buildings, structures, utilities, and any other improvements; and

8. any other information which White Haven Borough considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;

2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;

3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood elevation;

4. detailed information concerning any proposed floodproofing measures;

5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;

6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and

7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

2. certification from a registered professional engineer that the proposed construction has been adequately designed to protect against damage from the base flood elevation;
3. a statement, certified by a registered professional engineer or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood elevation, including a statement concerning the effects such pollution may have on human life;

4. a statement certified by a registered professional engineer which contains a complete and accurate description of the effects the proposed development will have on base flood elevation elevations and flows;

5. a statement, certified by a registered professional engineer which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation elevations and flows;

6. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"

7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;

8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and

9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.


Upon receipt of an application for a Special Permit by White Haven Borough the following procedures shall apply in addition to those of Part 3:

A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the Luzerne County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the White Haven Borough Planning Commission and White Haven Borough Engineer for review and comment.

B. If an application is received that is incomplete, White Haven Borough shall notify the applicant in writing, stating in what respect the application is deficient.

C. If White Haven Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
D. If White Haven Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.

E. Before issuing the Special Permit, White Haven Borough shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by White Haven Borough.

F. If White Haven Borough does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.

G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify White Haven Borough and the applicant, in writing, of the reasons for the disapproval, and White Haven Borough shall not issue the Special Permit.

§604. Special Technical Requirements.

A. In addition to the requirements of Part 5 of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Part 5 of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

   a. the structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

   b. the lowest floor (including basement) will be elevated to at least two feet (2.0’) above base flood elevation.

   c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood elevation.

2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
All hydrologic and hydraulic analyses shall be undertaken only by professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by White Haven Borough and the Department of Community and Economic Development.
§701. Existing Structures.

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 702 shall apply.

§702. Improvements.

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.

B. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
Part 8

Variances

§801. General.

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, White Haven Borough may, upon request, grant relief from the strict application of the requirements.


Requests for variances shall be considered by White Haven Borough in accordance with the procedures contained in Section 311 and the following:

A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.

B. No variance shall be granted for any construction, development, use, or activity within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.

C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Part 6) or to Development Which May Endanger Human Life (Section 504).

D. If granted, a variance shall involve only the least modification necessary to provide relief.

E. In granting any variance, White Haven Borough shall attach whatever reasonable conditions and safeguards it deems necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

F. Whenever a variance is granted, White Haven Borough shall notify the applicant in writing that:

1. The granting of the variance may result in increased premium rates for flood insurance.

2. Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, White Haven Borough shall consider, at a minimum, the following:

1. That there is good and sufficient cause.

2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will
   a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
   b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

4. A complete record of all variance requests and related actions shall be maintained by White Haven Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one (1%) percent annual chance flood.
Part 9
Definitions

§901. General.

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

§902. Specific Definitions.

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

2. **Base flood** – a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

3. **Base flood elevation (BFE)** – the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

4. **Basement** - any area of the building having its floor below ground level on all sides.

5. **Building** - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

6. **Development** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

7. **Existing manufactured home park or subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

8. **Expansion to an existing manufactured home park or subdivision** – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

9. **Flood** - a temporary inundation of normally dry land areas.

10. **Flood Insurance Rate Map (FIRM)** - the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas
of special flood hazards and the risk premium zones applicable to the community.

11. **Flood Insurance Study (FIS)** - the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

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

13. **Floodproofing** - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

14. **Floodway** - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

15. **Highest Adjacent Grade** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

16. **Historic structures** – any structure that is:

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

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

   c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

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

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

      ii. Directly by the Secretary of the Interior in states without approved programs.

17. ** Lowest floor** - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not
considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

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

19. **Manufactured home park or subdivision** – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

21. **New construction** - structures for which the start of construction commenced on or after October 22, 1984 and includes any subsequent improvements thereto.

22. **New manufactured home park or subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

24. **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; and
   
   d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

25. **Regulatory flood elevation** - the base flood elevation (BFE) plus a freeboard safety
factor of one and a half feet (1.5’).

26. **Repetitive loss** – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

27. **Special permit** - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

28. **Special flood hazard area (SFHA)** - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

29. **Start of construction** - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

30. **Structure** – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

32. **Substantial damage** - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty
33. **Substantial improvement** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure’s continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

34. **Uniform Construction Code (UCC)** – The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

35. **Violation** - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §603(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
§1001. Adoption.

This Ordinance shall be effective on the date of its enactment and shall remain in force until modified, amended or rescinded by White Haven Borough, Luzerne County, Pennsylvania.
CHAPTER 12

FRANCHISES

Part 1
Cable Television

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CHAPTER 12
FRANCHISES

Part 1
Cable Television

§101. Short Title. This Ordinance shall be known and may be cited as the White Haven Borough Cable Television Franchise Ordinance. (Ord. No. 97-1, 13/3/1997, Sec. 1)

§102. Definitions. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(a) Community Antenna Television System – means antenna, coaxial cables, amplifiers, drop lines, other conductors, and other equipment or facilities not limited to the foregoing, including any of the same, and any services performed by the use of same furnished by any public utility or other person or entity, whether pursuant to tariffs or any other arrangement, necessary for or incidental to the receiving of television signals or the transmission thereof to customers at the selection of the company for a consideration, or as a public service.

(b) Cable Service – means any broad band telecommunications service that is receive and retransmitted or originated at the primary control center and distributed to a point of reception at the premises of the cable subscriber. Included within this definition are those retransmitted signals of Federal Communications Commission licensed television broadcast stations.

(c) Company – means Gans Multimedia Partnership/Pocono CATV, Inc., a Pennsylvania corporation, grantee of a franchise pursuant to the terms of this Ordinance.

(Ord. No. 97-1, 13/3/1997, Sec. 2)

§103. Grant of Authority. The municipality hereby grants the right and privilege to the Company to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the municipality, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the municipality of a community antenna television system for cable television services.

(a) Non-Exclusive Grant – The franchise granted to the Company is to be non-exclusive but otherwise in accordance with all the privileges and authorities granted by the agreement in this Ordinance. The municipality covenants and agrees with the
company that shall not during the term as set forth in Section 7 below grant to any other person, firm or entity a franchise, right or privilege to maintain and/or operate a community antenna television system for cable television service within the municipality unless such franchise imposes on any such person, form or entity all the same terms, conditions and requirements as imposed upon the company under the terms of this ordinance.

(b) Use of Existing Utility Facilities – It is hereby granted to the Company, its successors and assigns, subject to ordinances, rules, regulations of municipality; the right, privilege and authority to lease, rent, or in any other manner obtain the use of the towers, poles, lines, cables and other equipment and facilities from any and all present and future holders of public licenses of franchises within or partially within the municipality, and to use such towers, poles, lines, cables and other equipment and facilities.

(c) Use of Equipment and Facilities – All equipment and facilities of the company within the municipality may also be used for the reception, transmission and distribution of radio and television signal and audio, visual, electronic or electric signals or impulses to or from areas outside of the municipality.

(d) State Highway Department Permits – All rights and privileges granted to the company by the municipality pursuant to this Ordinance are subject to the provisions of the Second Class Borough Code of the Commonwealth of Pennsylvania. Where a state highway is involved, such construction shall be made under the conditions, restrictions and regulations as may be prescribed in the permit to be obtained from the Department of Transportation of the Commonwealth of Pennsylvania.

(e) Grant of Prescribed Rights – All rights and privileges granted to the company pursuant to this Ordinance further shall be subject to the company obtaining any and all necessary easements, right of ways and other grants from any and all property owners who may be affected by the construction, operation and maintenance of the aforesaid conductors and fixtures.

(Ord. No. 97-1, 13/3/1997, Sec. 3)

§104. Insurance Coverage.

(a) The company shall at all times keep in effect the following types of insurance coverage:

(1) Workmen’s Compensation upon its employees employed or performing services within the municipality.

(2) Property damage liability insurance and personal injury liability insurance in the aggregate amount of One Million (1,000,000.00) dollars as to any one (1) occurrence. Both the property damage and personal injury liability
insurance policies shall be in the name of the company and the municipality as their interests may appear.

(b) The company does hereby agree to indemnify, defend, protect and save harmless the municipality from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workmen’s Compensation Law and attorney’s fees which may arise out of or be caused by the erection, maintenance, presence, use or removal of the company’s equipment or facilities within the municipality or by an act of the company, its agents or employees, and shall carry insurance in the amount hereinafter set forth to protect the municipality from and against all claims, demands, actions, judgments, costs, expenses, liabilities and damages arising or resulting directly from or by reason of any such loss, injury or damage. The company shall also indemnify and save harmless the municipality from any and all claims in law or in equity and shall pay all legal expenses incurred by the municipality in defending any claim that the municipality acted illegally in granting the franchise and adopting this Ordinance. In case legal actions shall be filed against the municipality, whether independently or jointly with the company, to recover for any claim or damages, said company, upon notice to and by said municipality, shall defend the said municipality, shall defend the said municipality, its agents and employees against said action, and in the event of a final judgment being obtained against the said municipality, either independently or jointly with said company, the said company shall pay said judgment and all costs and hold the municipality harmless therefrom.

(Ord. No. 97-1, 13/3/1997, Sec. 4)

§105. Service Standards. The company shall operate and maintain the community antenna television system so that all customers shall receive signals of good technical quality and a full range of available services. Any complaints as to the quality of the signals or service shall be promptly and satisfactorily investigated by the company, and adjustments required to correct situations disclosed by such investigations shall be made forthwith. It is hereby agreed by and between the company and municipality, that all installations by the company shall be of a permanent and durable nature and installed in accordance with food engineering practices and comply with existing and future ordinances and regulations of the municipality so as not to interfere in any manner with the rights of the public or individual property owners. The system shall not interfere with the travel and use of public places or facilities by the public, nor shall it obstruct or impede traffic.

(a) The company shall at all times keep at its office full and complete maps, plans and records showing the location of all franchise equipment and facilities installed in the streets, alleys and other public places within the corporate limits of the municipality. The company shall make available a telephone number to the customers so that emergency interruptions to the service may be reported.

(Ord. No. 97-1, 13/3/1997, Sec. 5)
§106. Paymen to the Municipality. The company shall pay to the municipality for the privilege of operating its community antenna television system under this franchise the sum of five (5%) Percent of its gross revenues derived within the municipality (including revenues from all services furnished within the municipality, for example, basic cable, expanded service, premium channels consisting of HBO, Cinemax, The Movie Channel, and Showtime, and Pay TV revenues. The company shall make payments within 60 days after the end of each calendar year. Payment to being 30 days after the execution of this document. An annual summary report showing such gross revenues received by the company shall be filed with the secretary of the municipality and a copy shall be kept in the office of the company. This report shall be sworn to by either the president, vice-president, treasurer, or other finance officer of the company. The municipality shall have the right to inspect at reasonable time the records of the company relating thereto to the extent necessary to verify the payments to which it is entitled. The said sums of money to be paid to and accepted by the municipality for the purpose of carrying out this franchise, except as other fees and charges may be required and made by laws of the United States of America and the Commonwealth of Pennsylvania. (Ord. No. 97-1, 13/3/1997, Sec. 6)

§107. Term of Franchise. The term of this franchise shall be for fifteen (15) years, said term having commenced upon the adoption of this Ordinance. This Ordinance shall be renewable for an additional like term with the approval of the Borough. (Ord. No. 97-1, 13/3/1997, Sec. 7)

§108. Assignment. The franchise of privilege granted hereunder shall be fully and freely assignable, but no assignment to any person, firm or corporation shall be effective unless the company gives Council sixty (60) days prior written notice of its intent to assign the franchise. Written notice shall be sent to the Council c/o Secretary to Council. (Ord. No. 97-1, 13/3/1997, Sec. 8)

§109. Acceptance by the Company. This grant is made on the express condition that the company, within (30) days after this Ordinance takes effect and becomes operative, shall file with the secretary of the municipality a written acceptance of the same, and when this Ordinance shall have been accepted by the company, such Ordinance and acceptance shall constitute a contract between the municipality and company for all the uses, services, and purposes set forth in this Ordinance, and the company by its acceptance of the provisions of this Ordinance, binds itself to provide the necessary television antenna system and to establish, operate and maintain the local television antenna system contemplated by this Ordinance, continuing without substantial interruption except for causes beyond its control until the expiration of the term of this grant. In the event that the said company fails to file said written acceptance within the term hereinafter specified, this grant together with any rights or liabilities arising out of the proposal heretofore made for the furnishing of an adequate television antenna system for the benefit of inhabitants of said municipality, and the acceptance of such proposal by the municipality shall be, at the option of the councils, of no course and effect. (Ord. No. 97-1, 13/3/1997, Sec. 9)
§110. Federal Preemption. Should any federal or state agency hereafter exercise jurisdiction over the subject matter of this franchise Ordinance, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the municipality, the jurisdiction of the municipality shall cease and terminate. (Ord. No. 97-1, 13/3/1997, Sec. 10)

§111. Forfeiture. The councils of the municipality may at any time declare a forfeiture of this grant for violation or default by the company of any of the terms hereof, provided that non of the terms of this grant shall be deemed to be violated so as to permit such forfeiture unless the company shall first be given notice by the municipality of such violation or default and of the attempt to declare forfeiture, and thereafter such violation or default shall continue for a period of more than ninety (90) days, all of the rights and privileges of said company under the provisions of the Ordinance shall be forthwith declared forfeited and revoked. If any action shall be instituted or prosecuted directly or indirectly by the company or by its stockholders or creditors to set aside or have declared void any terms of this grant, the whole of the stockholders or creditors to set aside or have declared void any terms of this grant, the whole of this grant may be thereupon forfeited and annulled at the option of the councils of the municipality to be expressed by ordinance; provided, however that the company shall not be deemed to be in default of performance of any provision of this grant, not shall nay forfeiture be invoked for any violation of or failure to perform any provision hereof due to strikes, lockouts, insurrections, acts of God or any cause beyond the control of the company. Individual subscribers may sue the company if default as aforesaid occurs.

Notwithstanding anything to the contrary, if the company shall fail to make any payment required hereunder within thirty (30) days after the same is due, any privilege, franchise or permission granted under this Ordinance shall at the municipality’s option become null and void, and all rights and privileges of the company hereunder shall cease and terminate.

(Ord. No. 97-1, 13/3/1997, Sec. 11)

§112. Severance. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in this Ordinance is for any reason declared to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the within Ordinance. The councils of the Borough of White Haven, Luzerne County, Pennsylvania, hereby declare that it would have adopted the within Ordinance and each article, section, clause, phrase and word thereof, irrespective of the fact that any one or more of the sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid. (Ord. No. 97-1, 13/3/1997, Sec. 12)
§201. Preamble.

WHEREAS, the Borough of White Haven organized the White Haven Authority under the Municipal Authorities Act of 1945 on September 5, 1950;

WHEREAS, the White Haven Municipal Authority has been continuously in existence since that time performing the functions and duties for which it was established;

WHEREAS, the White Haven Municipal Authority has passed Resolution No. 2 of 2002, wherein it authorized and executed a Certificate requesting White Haven Borough Council to allow it to be terminated in accordance with 53 P.S. §317; and

NOW THEREFORE, be it enacted and ordained by White Haven Borough Council and it is hereby enacted and ordained by the authority of the same that:

§202. Municipal Approval. White Haven Borough Council does hereby APPROVE the Certificate of Termination of the White Haven Municipal Authority dated November 26, 2002, wherein the White Haven Municipal Authority by Resolution No. 2 of 2002 requests the termination of its existence pursuant to 53 Pa. C.S.A. §5619 effective upon the adoption of this ordinance and the proper Filing with the Secretary of the Commonwealth and the Luzerne County Recorder of Deeds Office. (Ord. No 5-2002, Sec. 1)

§203. Adoption. The Borough of White Haven is adopting this ordinance approving the Certificate requesting termination of the White Haven Municipal Authority based upon the representations of the Authority that it has paid and discharged all of its debt. (Ord. No 5-2002, Sec. 2)

§204. Transfer of Property and Assets. Upon the adoption of this Ordinance, the White Haven Borough Municipal Authority shall transfer all of its property and assets to the Borough of White Haven, who shall hereby be authorized to acquire title to the property and assets held or owned by the White Haven Municipal Authority. (Ord. No 5-2002, Sec. 3)

Editorial Note: White Haven Borough Municipal Authority was terminated by Resolution on 11/26/2002 and its assets transferred to White Haven Borough. However, prior to termination, the Authority sold its water and sewer facilities to Aqua Pennsylvania, Inc., which is the current sewer and water provider for White Haven Borough.
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CHAPTER 13

GRADING AND EXCAVATING

Part 1

Control of Soil Erosion, Sedimentation and Grading

§101. Short Title. This Ordinance shall be known and may be cited as the “Soil Erosion, Sedimentation and Grading Control Ordinance”, implementing Title 25, Rules and Regulations, Pt. 1, Commonwealth of Pennsylvania, Department of Environmental Protection, Sub-pat C, Protection of Natural Resources, Article II, Water Resources, Chapter 102 – Erosion Control.

§102. Purposes. The purposes of this Ordinance is to regulate the modification of the natural terrain, the alteration of drainage, and to provide for certain erosion and sediment control measures within the Borough. To assure and safeguard health, safety, ecology and general welfare in the Borough.

§103. Scope. From and after the effective date of this Ordinance, any subdivision and/or land development approved under the subdivision and land development or zoning ordinances, or activity qualified under sections 105 and 106 herein shall be in conformity with this Ordinance. In the event of a conflict between this Ordinance and flood plain regulations, the flood plain regulations shall take precedence. In the event of a conflict between this Ordinance and the Stormwater Ordinance, the Stormwater Ordinance shall prevail.

§104. Definitions. As used in this ordinance, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

(a) Alluvial Soils – means an agonal great group of soils, developed from transported and relatively recent deposited material (alluvium), characterized by a weak modification (or none) of the original material by soil-forming processes.

(b) Cut and/or Fill – means the process of earthmoving by excavating part of an area and/or using excavated material for embankments of fill areas.

(c) Erosion means:

(1) The wearing away of the land surface by running water, wind, ice, chemical or other geological agents; or

(2) Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
(d) Runoff (Hydraulics) – means that portion of the precipitation on a drainage area or watershed that is discharged from the area in stream channels; types include surface runoff, ground water runoff, or seepage.

(e) Slope – means degree of deviation of a surface form the horizontal usually expressed in percentages or degrees.

§105. General Requirements. Whenever the landscape is to be permanently disturbed as to either contours, soil or slope characteristics, or vegetations or any ground cover is to be permanently removed, a plan is required showing how resulting erosion and sediment shall be controlled. This plan shall include the following:

(a) The amount of site alteration proposed;

(b) A development schedule; and

(c) Erosion and sediment control practices (both temporary and permanent) and the operation and maintenance arrangements.

§106. Activities Requiring Grading Permit. The following activities require a grading permit:

(a) Modifying, disturbing, blocking, diverting, or otherwise adversely affecting the natural overland or subsurface flow of storm water;

(b) Construction, erection, or installation of any drainage dam, ditch, culvert, drain pipe, bridge or any other structure or obstruction affecting the drainage of any premises;

(d) Paving, filling, stripping, excavating, grading or regrading of any land; or

(e) Disturbing the landscape, vegetation or any ground cover by any proposal involving an area in excess of five thousand (5,000) square feet.

§107. Activities Not Requiring A Grading Permit. The following activities require no grading permit:

(a) Improvements, such as erection of retaining walls, driveway paving, minor regrading activities on a property which do not adversely affect the natural overland or subsurface flow of storm water, drainage of any premises, or adversely disturb the landscape, in a gross area of up to twenty-five (25) acres on any one property.

(b) Farming, gardening, or lawn restoration, but not including sod farming.
§108. Application for Permit.

(a) Any person, firm or corporation proposing to engage in an activity requiring a grading permit hereunder shall apply by the submission of a plan.

(b) The applicant should, before submitting a preliminary plan for review, consult the Zoning Ordinance, the Floodplain Regulations and the Subdivision and Land Development Ordinance, which regulate the development of land in the Borough.

(c) A separate plan shall be required for each grading permit.

(d) Five (5) copies of the proposed plan, including specifications and development schedules shall be submitted to the Borough Engineer for a grading permit. The Borough Engineer shall forward one copy of the plan to the Planning Commission, one copy to Borough Council, one copy to the Zoning Officer, and one copy to the Code Enforcement Officer.

(e) The plan for a grading permit shall be accompanied by a fee established in the Borough’s schedule of fees and collection procedure for all applications and other matters pertaining to the subdivision and land development ordinance and this ordinance.

§109. Data required on Plan. The plan for a grading permit shall include:

(a) A valid boundary line survey of the site on which the work is to be performed;

(b) A description of the features, existing and proposed, surrounding the site which are of importance to the proposed development;

(c) A plan of the general topography (including drainage) and soil conditions on the site (the later available through the Luzerne County Conservation District);

(d) The location and a description of existing and future man-made features of importance to the proposed development (i.e., cuts and/or fills, buildings, roads, and driveways);

(e) Plans and specifications of soil erosion and sediment control measures in accordance with standards and specifications of the Borough of White Haven and the Luzerne County Conservation District; and

(f) A development schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

§110. Special Requirements. In addition to the requirements of Section 109, and where deemed necessary by the Borough Engineer and the Planning Commission, or the
Borough Council, the applicant shall submit with the plan a detailed drainage study prepared by a registered professional engineer qualified in hydrology in the Commonwealth of Pennsylvania. This study shall include:

(a) A plan of the property showing the location of all present and proposed ditches, streams, pipes and other drainage structures, and proposed cuts and/or fills. In addition to showing present elevations and dimensions, and location and extent of all proposed grading and/or drainage, the plan shall clearly indicate all woodlands, buildings, parking areas, and driveways. Further, the plan shall indicate the present and proposed sources, storage and disposition of water being channeled through or across the premises, together with elevations, gradients, and maximum flow rates. The plan shall describe the work to be performed and disposition of cut and/or fill, the materials to be used and the manner or method or performance including provisions for protecting and maintaining existing drainage facilities whether on public or private property. The applicant shall also supply the supporting data for the plan as developed by the engineer.

(b) Calculations to determine runoff, which shall be based on the Soil-Cover Complex Method, a description of which is available from the U.S.D.A. Soil Conservation Service and outlined in the “Erosion and Sediment Control handbook, Luzerne County, Pennsylvania.

(1) The design criteria for storm sewer piping on inlet systems within a subdivision being developed shall be designed for a 25-year frequency storm; culverts across roadways shall be designed for a 50-year frequency storm; open watercourses or swales shall be designed for a 100-year frequency storm as prescribed in accordance with the following:

(A) The coefficient of runoff used for all areas up-stream of any drainage structure shall be computed on the basis of existing land use and the projected land use described and shown on the Borough of White Haven Comprehensive Plan, and adjacent municipalities’ comprehensive plans, where applicable.

(2) The following provisions apply to the carrying and disposal of storm water runoff:

(A) All drainage facilities shall be designed to carry surface water in such a manner as to prevent erosion or overflow.

(B) The applicant shall agree to the granting and recording of easements covering the installation and maintenance of drainage facilities.

(C) The rate of runoff shall be no greater during and after a 100-year frequency storm when the development is completed than that which existed before the development began and appropriate measurements of calculations shall be provided to verify such provisions.
(3) A soils investigation report, if load-bearing fill is proposed, which shall consist of test borings, laboratory testings and engineering analysis to correlate surface and subsurface conditions with the proposed grading plan. The results of the investigation shall be presented in a report by a registered professional soils engineer and shall include: data regarding the nature, distribution and supporting ability of existing soils and rocks on the site, conclusions and recommendations to insure stable soil conditions and ground water control as applicable. The Borough may require such supplemental reports and data as is deemed necessary by the Borough Engineer. Recommendations included in such reports and approved by the Borough Engineer shall be incorporated in the plan or specifications. In addition:

(A) Fills toeing out on natural slopes steeper than four (4) horizontal to one (1) vertical shall not be made unless a report is received which is deemed acceptable by the Borough Engineer and approved by the Borough Council. The report shall be made by a registered professional soils engineer certifying that he or she has investigated the property, made soils tests and that in his or her opinion such steeper slopes will safely support the proposed fill.

(B) Natural and/or existing slopes exceeding five (5) horizontal to one (1) vertical shall be benched or continuously stepped into competent materials prior to placing all classes of fill.

§111. Approval. Upon the approval of the plan by the Borough Council, the Code Enforcement Officer, or Zoning Officer, shall issue the necessary grading permit.

§112. Standards for Issuance of Grading Permit.

(a) Notwithstanding any provision of this ordinance or any condition of the grading permit, the permittee is responsible for the prevention of damage to other property, or personal injury, which may be effected by the activity requiring a grading permit.

(b) No person, firm or corporation shall modify, fill, excavate, pave, grade, or regrade land in any manner so close to a property line as to endanger or damage any adjoining street, alley, or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sediment, flooding, or any other physical damage or personal injury which might result.

(c) No person, firm or corporation shall deposit or place any debris or any other material whatsoever, or cause such to be thrown or placed, in any drainage ditch or drainage structure in such a manner as to obstruct the free flow of water.
(d) No person, firm, or corporation shall fail to adequately maintain, in good operating order, any drainage facility on his premises. All drainage ditches, culverts, drainpipes, and drainage structures shall be kept open and free-flowing at all times.

(e) The owner of any property on which any work has been done pursuant to a grading permit granted under this ordinance shall continuously maintain and repair all graded surfaces and anti-erosion devices, retaining walls, drainage structure of means and other protective devices, plantings and ground cover installed or completed. The Borough is responsible for maintenance and repair within the right-of-way of Borough roads.

(f) All graded surfaces shall be permanently seeded, sodded and/or planted or otherwise protected from erosion within thirty (30) days, weather permitting, and shall be tended and/or maintained until growth, is well established. The disturbed area and duration of exposure shall be kept to a minimum using temporary erosion and sediment control measure immediately, as outlined in the “Erosion and Sediment Control Handbook, Luzerne County, Pennsylvania”.

(g) All trees in an area of extreme grade change shall be protected with suitable tree wells, unless the necessity for removal is established. Precautions shall be taken to prevent the unnecessary removal of trees.

(h) When required, adequate provisions shall be made for dust control measures as are deemed acceptable by the Borough Engineer.

(i) All plans and specifications submitted for a grading permit shall include all provisions for both interim (temporary) and ultimate (permanent) erosion and sediment control.

The design installation and maintenance of erosion and sediment control measures shall be accomplished in accordance with standards and specifications established by the Luzerne County Soil Conservation District as adopted from standards and specifications of the United States Soil Conservation Service, and as outlined in the “Erosion and Sediment Control Handbook, Luzerne County, Pennsylvania.”

1. Technical standards for the design and installation of erosion and sediment control measure are on file with the Borough, the office of the County Conservation District and other governmental agency offices.

2. Standards and specifications adopted for the purposes of this ordinance and by the County Conservation District and other governmental agency offices include:

   (A) Temporary cover on critical areas,

   (B) Permanent grass and legume cover for critical areas on prepared seedbed,
(C) Permanent grass and legume cover for critical areas on unprepared seedbed,

(D) Sodding,

(E) Mulching,

(F) Temporary diversion,

(G) Permanent diversion,

(H) Grassed waterway or outlet,

(I) Grade stabilization structure,

(J) Debris basin,

(K) Drain, and

(L) Drainage – mains and laterals.

(j) A quality control program is critical for fills; therefore, whenever fill material is to be used, the person, firm, or corporation shall be responsible for testing to determine its dry density as per ASTM D1556. The density of each layer shall be not less than ninety-five percent (95%) of the maximum density as determined by ASTM D1557.

(1) Inspection procedure shall follow the general procedure as stated in Section 113.

(2) Compaction test reports shall be kept on file at the site and be subject to review at all times.

(3) Degree of compaction required shall be determined by the Borough Engineer following the guidelines in this section.

§113. Inspection Procedures.

(a) All inspections shall be the responsibility of the Borough Engineer, or, in his or her absence, a qualified person acceptable to the Borough.

(b) Inspection will be carried out on a random basis, except as stated below. However, a set of “as built” plans shall be on file at the site and authenticated by a registered professional engineer. When it is deemed acceptable to the Borough Engineer a designated qualified person may authenticate the “as built” plans and will assume full responsibility for the quality of work.
(c) Any and all “as built” plans shall be available on the site at all times and be subject to inspection and inquiry.

(d) Engineering check notes shall accompany all “as built” plans which involve structural or mechanical measures and shall serve as supporting evidence that structures meet design standards and specifications specified herein.

(e) A final inspection shall be conducted by the Borough Engineer to certify compliance with this ordinance. Satisfactory compliance with this ordinance shall be necessary before issuance of an occupancy or use permit.

§114. Costs of Inspection. Permittees shall bear all costs of inspections required or permitted hereunder and shall deposit with the Borough such sum as Borough Council shall determine, to guarantee payment of the costs of such inspections. The cost of inspections shall be in accordance with the established schedule of fees and collection procedure for matters pertaining to this ordinance.

§115. Fee. The fee for a grading permit shall be $150.00. This fee may be changed from time to time by Resolution of Borough Council.

§116. Remedy of Violation. In addition to the penalties as set for in Section 119, any movement of the landscape, vegetation, or any ground cover, performed in violation of this ordinance shall be restored to its previous condition, including replacement of excavated earth, removal of illegally placed fill, and restoration of grades and planting. In order to enforce this section the Borough solicitor may seek injunctive relief in accordance with the rules of civil procedure.

§117. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§118. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§119. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not exceeding thirty (30) days. Each day that a violation of this ordinance continues, shall constitute a separate offense.
Part 2
Openings and Excavations in Streets

§201. Definitions and Interpretation. The following words, when used in this ordinance, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise.

(a) Excavation – any activity within the right-of-way of any street, alley, or cartway which involves cutting, breaking, or distributing the surface thereof. In this ordinance, the term OPENING shall have essentially the same meaning as excavation.

(Ord. No. 2-2003, 12/16/2003, Sec. 1)

§202. Permit Required It shall be unlawful for any person to open or to make any excavation of any kind in or under the surface of any streets without first securing a permit from the Borough for each separate undertaking. Application for a permit shall be made on a form provided by the Borough. However, any person maintained facilities in, under or about the surface of any street, may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonable and practicably have been obtained beforehand. The person shall thereafter apply for a permit on the first business day on which the borough Office is open for business, and said permit shall be retroactive to the sate when the emergency work was begun. All applicants shall pay a Seventy-Five ($75.00) Dollar Fee, which may be raised or lowered by a subsequent Fee Resolution of Borough Council. Permits shall be issued for a period not to exceed one (1) year and any application to renew an expired permit shall be treated as a new application including the payment of a new permit fee.

(Ord. No. 2-2003, 12/16/2003, Sec. 2)

§203. Permit Approval/Disapproval. A permit may be issued to the applicant after all requirements therefore have been filed. If the application is disapproved, written notice of disapproval, together with the reasons therefore, shall be given to the applicant.

(Ord. No. 2-2003, 12/16/2003, Sec. 3)

§204. Responsibility to Contract Utilities. The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, 1 et seq. (73 P.S. §176 et seq.) as amended or supplemented from time to time. It shall be the Permittee’s responsibility to contract the utilities that have recorded their facilities in compliance with the Act.

(Ord. No. 2-2003, 12/16/2003, Sec. 4)

§205. Refilling of Excavation/Restoration of Surface/Responsibility for Defects Occurring within 2 Years. Any person who shall excavate any street in the Borough
shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before excavation. The surface shall conform to the proper grade and be of the same covering as the part of the thoroughfare immediately adjoining the opening. If within 2 years after the restoration of the surface as herein provided, defects shall appear therein, the applicant shall reimburse the Borough for the cost of all necessary repairs to the surface. (Ord. No. 2-2003, 12/16/2003, Sec. 5)

§206. Responsibility of Permit Holder for Certain Work/Right of Borough to Do Certain Work; Change Therefore. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his, her, or its expense, and all such work shall be subject to the provisions of this Ordinance and to the Supervision and approval of the Borough, provided that the Borough may, if it deems necessary to the proper performance of the work, requiring the cutting of the surface of street and the backfilling and resurfacing of all excavations therein shall be done by the Borough, in which event the applicant shall pay the actual cost of the work performed by the Borough. (Ord. No. 2-2003, 12/16/2003, Sec. 6)

§207. Permittee Responsibilities for Future Relocation of Work. If at anytime in the future the roadway is widened, reconstructed, or the alignment or grades are changed, the Permittee further agrees to change or relocate all or any part of the structures covered by this permits which interfere with the improvement of the roadway at his or her own cost and expense. (Ord. No. 2-2003, 12/16/2003, Sec. 7)

§208. Payment for Work done by Borough. Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefore under the provisions hereof within thirty (30) days after a bill therefore is sent to such person by the Borough. Upon failure to pay such charges within such time, the same shall be collectible by the Borough by an action in assumpsit or in the manner provided by law for collection of municipal claims. (Ord. No. 2-2003, 12/16/2003, Sec. 8)

§209. Limitations of Permits. Permits are not transferable form one person to another and the work shall not be made in any place or to any extent other than the specifically designated in the permit. (Ord. No. 2-2003, 12/16/2003, Sec. 9)

§210. Revocation of Permits. Any permit may be revoked by the Borough after oral or written notice to the Permittee, for:

(a) Violation of any condition of the permit or of any provisions of this Ordinance.

(b) Violation of any provision of any other applicable ordinance or law relating to the work.
(c) Existence of any condition or the doing of any constituting or creating a nuisance or endangering life or property.

When notice of any such violation or condition shall be served upon the Permittee of his or her agent engaged in the work, the Permittee must immediately take the necessary corrective measures before proceeding further with any work for which the permit was originally granted.

When, in the opinion of the Borough, the Permittee has failed to take the necessary corrective measures, and a condition or act constituting or creating a nuisance or endangering life or property exists, the Borough may order the work to be performed by the appropriate Borough designee or employee and the cost therefor incurred by the Borough shall be recovered from the bond the Permittee has filed with the Borough. (In the event of no bond or inadequate bond amount, the amount may be recovered by the Borough in accordance with Section 208 hereof.) When the above action is deemed necessary by the Borough, it shall constitute an automatic revocation of the permit and upon action filed by the Borough; the Permittee shall be subject to fine and penalties as provided for herein.

(Ord. No. 2-2003, 12/16/2003, Sec. 10)

§211. Inspection. The Borough shall make such inspections as it may deem necessary of all work authorized by a permit. The Borough is empowered to provide a full-time inspector if necessary to ensure compliance with the provisions of this Ordinance. All inspection costs shall be borne by the Permittee. Such costs shall be based on a schedule of fees adopted by the Borough as revised from time to time by adoption of a Resolution. Said inspection fee shall be recovered by the Borough in accordance with Section 208 hereof. (Ord. No. 2-2003, 12/16/2003, Sec. 11)

§212. Adoption of Specifications. The Borough does hereby adopt the following specifications and procedures:

(a) No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.

(b) No more than One Hundred (100’) feet measured longitudinally shall be opened in any street at any one time, except by special permission of the Borough.

(c) All utility facilities shall be located sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.

(d) Pipe drains, pipe culverts, or other facilities encountered shall be protected by the Permittee.

(e) Survey markers or monuments set forth the purpose of locating or preserving the line of any street or property subdivision, or a precise survey referenced point, or a permanent survey benchmark with the Borough shall not be removed or
distributed or caused to be removed or distributed, unless permission to do so is first obtained in writing from the Borough. Permission shall be granted only upon condition that the Permittee shall pay all expenses incident to the proper replacement of the monument. Any existing survey markers which are removed or displaced by any construction operation shall be reset by a surveyor licensed or registered in the Commonwealth of Pennsylvania, with such work being completed at the Permittee’s expense.

(f) Work performed by the Permittee interferes with the established drainage system of any street; provisions shall be made by the Permittee to provide proper drainage to the satisfaction of the Borough.

(g) When any earth, gravel, or other excavated materials caused to toll, flow or wash upon any street, the Permittee shall cause the same to be removed form the street within four (4) hours after deposit of such materials, or upon notice from the Borough to remove such materials. In the event the earth, gravel or other excavated materials so deposited is not removed, the Borough shall cause such removal, and the costs incurred by the Borough shall be recovered from the bond the Permittee filed with the Borough.

(h) Every Permittee shall place around the project such barriers, barricades, lights, warming flags and danger signs as necessary for the protection of the public. Barricading shall be in compliance with the regulations as set forth by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Traffic Engineering, for maintaining and protection of traffic on construction projects and handbook for work area traffic control and any future revisions thereto.

(1) All trenching and excavating shall conform to the requirements of the Pennsylvania Department of Labor and Industry standard for such work. Additional safety requirements may be prescribed by the Borough.

(2) Whenever any person fails to provide or maintain safety devices required by the Borough, such devices may be installed and maintained by the Borough. The amount or costs incurred shall be paid by the Permittee.

(3) No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this Ordinance.

(i) Access to private driveways shall be provided except during working hours when construction operations prohibit provisions of such access. Permittee must notify property owners in advance whenever a driveway is to be blocked. Free Access must be provided at all times to fire hydrants.

(j) The excavation shall be in two (2) classes; that portion in the area outside the cartway and that portion within the cartway.
(1) For excavation outside the cartway, excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Borough may require the Permittee to provide toe boards or binds, and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the Permittee as directed by the Borough. If the street is not wide enough to hold the excavated materials without using part of an adjacent sidewalk, the Permittee shall keep a passageway at least one-half (1/2) the sidewalk width open along such sidewalk line.

(2) For excavation within the cartway, all excavating material shall be wasted and removed from the site. This shall be done at the time of excavation or after excavation backfill has been completed. If excavation material is left at the site or until after completion of the work, all conditions stated in paragraph (j)(1) above shall be adhered to.

(k) Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the Permittee obtains written consent from the Borough to do the work authorized by the permits is to be performed in traffic-congested areas.

(l) In granting any permit, the Borough may attach such other conditions as may be reasonably necessary to prevent damage to public property or to prevent the operation from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to:

(1) Limitations on the period of time of the year in which the work may be performed;

(2) Restrictions as to size and type of equipment;

(3) Designation of routes upon which materials may be transported;

(4) The place and manner of disposal of excavated materials;

(5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof; and

(6) Regulations as to the use of streets in the course of work.

(m) During the progress of the work, gutters, and waterways must be kept open or other provisions made for the removal of storm water. Street intersections may be blocked one-half (1/2) at a time, and the Permittee shall lay and maintain temporary one (1) foot on either side of the trench opening at ground surface. Sawing or cutting shall
extend to full depth or existing surface. Where existing surfaces are damaged, taken up, undercut, or unraveled by construction excavation operations which extend beyond the original saw or cut marks for removal, the Permittee in resorting such bituminous or concrete surfaces to original condition shall re-saw or cut the surface to a straight and even lien six (6) inches beyond the furthest point of damage from the trench centerline.

(n) When temperatures fall below 33 degrees F., all grouting and concrete materials entering into the construction are to be preheated and used while warm. When any mortar or cement concrete work is carried out under freezing conditions, the heated area must be maintained for at least twenty-four (24) hours or the installation shall be protected form frost by covering with hay, straw, or similar substance to a depth of at least two (2) feet before auxiliary heat is removed. Where areas cannot be appropriately protected by covering with hay or straw and where it is impractical to completely cover the work area with an enclosure and heat the work to at least 40 degrees F., the work shall be suspended.

(o) The trench shall be excavated along the limits proposed by the permit holder and approved by the Borough. All trenches shall be vertical sides; no tapering of said trenches shall be permitted, unless approved in writing. The width of the trench, unless otherwise approved, shall be six (6) inches minimum and eighteen (18) inches maximum on each side of the utility pipe. The bottom of the trench shall be hollowed out so as to allow the body of the pipe to have a bearing throughout on the trench bottom. Ground adjacent to all excavations shall be grated to prevent water running in. Any accumulated water in the excavation shall be removed by pumping or other means approved by the Borough prior to the placement of pipes or utilities and before backfill is begun.

(Ord. No. 2-2003, 12/16/2003, Sec. 12)

§213. Maintenance and Performance Bonds. Applicants for permits shall submit, together with the application, a performance bond in the amount of One Thousand ($1,000.00) Dollars for each permit for opening up to one hundred (100) square feet. For opening in excess of one hundred (100) square feet, the bonds shall be in the amount as shall be determined and approved by the Borough. In the case of those who maintain utilities under the streets and rights-of-way, of the Borough, the performance bond shall be so written as to cover each and every opening made. The performance bond shall guarantee the work performed by the Permittee for a period of 2 years. (Ord. No. 2-2003, 12/16/2003, Sec. 13)

§214. Insurance Requirements. Each applicant, prior to the receipt of a permit, shall provide the Borough with an acceptable certificate of insurance, indicating that he or she is insured against claims for damage which may arise from or out of the performance of the work, whether such performance be by himself or herself, his or her subcontractor, or any one directly or indirectly employed by him or her. Such insurance shall cover collapse, explosion, hazards, and underground work by equipment on the street and shall include protection against liability arising from completed operations. In order to protect
the Borough and Permittee, the permittee shall provide a certificate of insurance for liability insurance in the amount of Five Hundred Thousand Dollars ($500,000.00) aggregate for bodily injury, Two hundred Fifty Thousand Dollars ($250,000.00) for each occurrence, and Two Hundred Fifty Thousand Dollars ($250,000.00) for aggregate property damage. Public Utilities and authorities may submit annually such evidence of insurance coverage in lieu of individual submissions for each permit. (Ord. No. 2-2003, 12/16/2003, Sec. 14)

§215. Penalty. Any person violating any of the provisions of this Ordinance or any regulations and specifications adopted thereunder shall, upon determination of the civil violation, be required to pay a fine not less than Three Hundred Dollars ($300.00) nor more than One Thousand Dollars ($1,000.00) for each violation. Any person who violates or permits the violation of this Ordinance shall, in addition to the payment of the fine be obligated to pay all courts costs, including reasonable attorney’s fees, incurred by the Borough. Each day that a violation is permitted to exist after notice by the Borough shall constitute a separate violation. (Ord. No. 2-2003, 12/16/2003, Sec. 15)

§216. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein. (Ord. No. 2-2003, 12/16/2003, Sec. 16)
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CHAPTER 14

HEALTH AND SAFETY

Part 1

Administration

Editorial Note: The Borough does not have its own Board of Health or Health Officer. The Health Laws are currently enforced and administered in the Borough by the Pennsylvania Department of Health and the Department of Agriculture. However, Luzerne County has opted to create a health department, wherein it may be enforcing some of the Health Laws in the future. Nevertheless, it is the intention of the Borough that the Health and Safety Codes of this Chapter are to be enforced by either the Police Department or the Code Enforcement Officer, or both.
Part 2
Grass, Weeds and Other Vegetation

§201. Grass, Weeds and Certain Other Vegetation Unlawful and a Nuisance under Certain Conditions. No person owning or occupying any property within the Borough, shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for a useful or ornamental purpose, to grow or remain upon such property so as to exceed a height of six (6) inches or to throw off any unpleasant or noxious odor or to conceal any filthy deposit or to create or produce pollen. Any grass, weeds or other vegetation growing upon any property in the Borough in violation of any of the provisions of this Section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the residents of the Borough.

§202. Responsibility for Cutting or Removing. The owner of any property, vacant or occupied, and the occupant, in case of premises occupied by someone other than the owner, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon or adjacent to the property in violation of any provision of Section 201.

§203. Notice to Remove, Trim or Cut; Authority for Borough to do so. The Code Enforcement Officer or a Police Officer shall have authority to give notice, by personal service or by United States mail, to the owner and/or occupant, as the case may be of any property on which grass, weeds or other vegetation is growing or remaining in violation of Section 201, directing and requiring that owner or occupant to remove, trim or cut the grass, weeds or vegetation so as to conform to the requirements of Section 201, within five (5) days after issuance of the notice. Whenever, in the judgment of the Borough Council it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Borough Council, or any officer or employee of the Borough designated thereby for that purpose, may give notice by posting conspicuously on the property where such a nuisance exists, a notice or order directing and requiring that such nuisance be abated within five (5) days. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated herein, the Borough Council may order the removal, trimming or cutting of such grass, weeds or vegetation and the cost thereof, together with a penalty of ten (10) percent of the cost thereof shall be collected by the Borough from such person, firm or corporation, in the manner provided by law.

Any notice issued for a violation of this Part shall be sufficient to constitute notice of any subsequent violation provided that the violation occurs within the same calendar year for the same property owner and the same property.
§204. Penalty for Violation. Any person who fails to comply with the provisions of Section 201 or Section 202 or with any notice issued under Section 203 shall be guilty of a violation of this Part, and, upon conviction, shall be sentenced to pay a fine of not less than One Hundred ($100.00) Dollars and no more than Six Hundred ($600.00) Dollars and costs of prosecution, and, in default of payment of fine and costs, to imprisonment for not more than thirty (30) days. The fine or penalty imposed under this Section may be in addition to any expenses and additional amounts collectible under Section 203 above. Each day that a violation continues shall be deemed a separate offense.
Part 3
Restriction on Open Storage of Unused or Unusable Personal Property

§301. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Lessee – means the owner for the purpose of this Ordinance when the lessor holds the lessee responsible for maintenance and repairs.

(b) Nuisance – means any condition, structure, or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Borough.

In this Ordinance, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§302. Storage of Nuisances Prohibited. It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment, or construction materials in the open on a private property. Such storage shall constitute a nuisance and/or health hazard if any of the following conditions exist:

(a) Broken glass or metal parts with sharp or protruding edges.

(b) Containers which are conducive to the harboring and growth of vermin or animals.

(c) Storage in any manner which would allow the equipment, machinery, material or any parts thereof to easily shift, tilt, or fall from its original storage.

(d) Containers of any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigerator agents, and poisons.

(e) Refrigerators with the doors remaining attached and unlocked.

(f) Any other condition which shall threaten the health, safety or welfare of the citizens.

§303. Inspection of Premises; Notice to Comply.

(a) The Code Enforcement Officer or a Police Officer is hereby empowered to inspect private property to determine if there is compliance with the provisions of this Ordinance. If noncompliance with the provisions of this Ordinance constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, he or she shall issue a written notice to be served by
registered or certified mail upon the owner of the property, or, if the owner’s whereabouts or identity is unknown, by posting the notice conspicuously upon the offending property.

(b) The notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§304. Hearing.

(a) Any person aggrieved by the decision of the Code Enforcement Officer or a Police Officer may request a hearing before Borough Council within ten (10) days after notice under Section 303 above. The request shall set forth a brief statement of the grounds for appeal. The hearing shall commence not later than thirty (30) days after the date on which the request was filed unless postponed for sufficient cause.

(b) After such hearing, the Borough Council shall sustain, modify or overrule the action of the Code Enforcement Officer or Police Officer.

§305. Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

§306. Remedies not Mutually Exclusive. The remedies provide herein for the enforcement of this ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of Borough Council.

§307. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§308. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.
Part 4
Regulation for Vector Control Program

§401. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Accessory Structure – means a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premises.

(b) Breeding Area – means any condition which provides the necessary environment of the birth or hatching of vectors.

(c) Collection of Water – includes water contained in ditches, pools ponds, streams, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, roof gutters, tanks of flush closets, reservoirs, vessels, receptacles of any kind, or other containers or devices which may hold water.

(d) Cover Receptacle – means a container of metal, wood heavy-duty plastic or synthetic material of solid construction, with a tight-fitting cover secured against wind and leakage.

(e) DEP – means the Department of Environmental Protection, Commonwealth of Pennsylvania.

(f) Dilapidated – means fallen into partial ruin of decay.

(g) Disposal – means storage, collection, disposal or handling of refuse.

(h) Extermination – means the control and elimination of vectors by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, fogging, larviciding, trapping or by any other recognized and legal vector control elimination methods approved by the local or State authority.

(i) Garbage – means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

(j) Harborage – means any place where vectors can live, nest or seek shelter.

(k) Occupant – means any person, over one (1) year of age, living, sleeping, cooking or eating in or actually having possession of a dwelling unit or a rooming unit; in dwelling units a guest will not be considered and occupant.
(l) Refuse – includes all solid wastes, except human body wastes, and including handling of refuse.

(m) Rubbish – includes glass, metal, paper, plant growth, wood, or non-putrescible solid wastes.

(n) Vector – includes any rodent, arthropod, or insect capable of transmitting a disease or infection, including but not limited to rats, mosquitoes, cockroaches, flies and ticks.

(o) Vector-proofing – means a form of construction to prevent ingress or egress of vectors to or from a given space or building or gaining access to food, water, or harborage, including, but not limited to, rat-proofing, fly-proofing and mosquito-proofing.

§402. Prohibited Acts. It shall be unlawful:

(a) for any person to deposit or to knowingly permit any person acting as agent, employee, or servant of said person to deposit any refuse, offal, pomace, dead animals, decaying matter, or organic substance of any kind in or upon any private lot, building, structure, accessory structure, premises, or in or upon any street, avenue, alley, parkway, ravine, ditch, gutter, or into any of the waters of the Commonwealth so that the same shall or may afford food, harborage or breeding areas for vectors.

(b) for any person to deposit or permit to accumulate in or upon any premises, improved or vacant, or on any open lot, or alley, any lumber, boxes, barrels, bottles, cans, glass, scrap iron, wire, metal articles, pipe, broken stone or cement, broken crockery, broken plaster, or rubbish of any kind, unless the same is kept in covered receptacles or placed on open racks that are elevated not less than eighteen (18) inches above the ground, and evenly piled or stacked; or unless disposed of in a manner approved by DEP.

(c) to maintain a junkyard or a place for the dumping or wrecking or disassembling of automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, in such a manner as to afford harborage or breeding areas for vectors.

(d) to store refuse in containers other than covered receptacles, which shall be kept clean by rinsing and draining as often as necessary so as not to provide food or breeding areas for vectors.

(e) to dump, burn, bury, destroy, or otherwise dispose of refuse except at an approved refuse disposal site.

(f) to collect, haul, transport, or convey garbage in open, unenclosed, nonleakproof vehicles.
(g) to construct, maintain or use a sewage system, privy, urinal, cesspool, or other receptacle for human excrement so that vectors have access to the excrementitious matter contained therein.

(h) to have, keep, maintain, cause or permit any collection of standing or flowing water except for agricultural or industrial purposes in which mosquitoes breed or are likely to breed, unless such collection of water is treated or maintained so as effectually to prevent such breeding.

§403. Responsibilities of Owners and Occupants.

(a) Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof, in such a manner as to prevent breeding areas and harborages for vectors.

(b) Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for extermination within his or her dwelling unit. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

§404. Vector-Proofing.

(a) Any dwelling, building, structure, accessory structure, premises or any other place shall be required to be vector-proofed when found to provide harborage or breeding areas for vectors, upon written notice at least ten (10) days prior to an inspection thereof.

(b) It shall be unlawful for the owner, occupant, contractor, Public Utility Company, plumber or any other person to remove and fail to restore in like condition the vector-proofing from any building, structure or accessory structure for any purpose.

(c) Within ten (10) days after notice the owner may petition for a hearing by the Borough Council with an opportunity for him or her to be present, to cross-examine witnesses, and to receive a written decision to be rendered within thirty (30) days after the hearing. An appeal of this decision may be filed with a court of competent jurisdiction in accordance with the rules of civil procedure.

§405. Private Vector Control Programs. A program plan and specifications for private vector control programs shall be required to be submitted by the owner to the Borough upon determination of the necessity by the Code Enforcement Officer or a Police Officer.
Said determination shall be served on the owner personally or by certified mail. Within ten (10) days of said service the owner may contest the necessity of the program by requesting a hearing to be conducted in accordance with Section 404 of this ordinance. Said program plan shall be submitted by the owner to the Borough Council within thirty (30) days of notice. The program plan shall state the type of vectors to be controlled, the name of the company contracted to carry out the program, if any, and any and all work to be conducted in an effort to control said vectors. The Code Enforcement Officer or a Police Officer shall review the program plan, and if the plan is found to be inadequate or incomplete, additional information may be required as well as additional control methods. The owner may request a hearing on the Code Enforcement Officer’s or a Police Officer’s determination in accordance with Section 404 of this Part.

§406. Authority to Abate Vector Problems.

(a) From and after passage of this ordinance, the Code Enforcement Officer or a Police Officer and/or a representative of the vector control program is empowered to make periodic inspections of the interior and exterior of all dwellings, buildings, structures, and accessory structures, premises, collections of water, or any other places to determine full compliance with the ordinance, and to determine evidence of vector infestation and the need for vector-proofing or additions or repairs to existing vector-proofing.

(b) Whenever it shall be determined by the Code Enforcement Officer or a Police Officer that any dwelling, building, structure, accessory structure, premises, collection of water, or any other place that is in violation of this ordinance, a notice shall be issued setting forth the alleged violation(s), and advising the owner, occupant, operator, or agent that such violation(s) must be given as well as the necessary methods to be employed in the correction.

(c) Whenever any violation(s) shall fail to be corrected within the time set forth, and an extension of time is not deemed to be necessary, the Borough may proceed to abate the violation(s) in the manner provided by law.

(d) The owner shall have the right to appeal from said determination by a hearing in accordance with Section 404(c) of this Part.

§407. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§408. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.
§409. **Penalties.** Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.
Part 5
Community and Individual Sewage Disposal Systems

§501. Purpose. The purpose of this Part is to provide for the planning and regulation of community and individual sewage disposal systems consistent with applicable State statutes and regulations, including the Pennsylvania Sewage Facilities Act of January 24, 1966 P.L. (1965) 1535, as amended, to require permits for the installation, change or alteration of those disposal systems; to provide for the inspection of those systems and to provide remedies and prescribe penalties.

§502. Definitions. The definitions set forth in the Pennsylvania Sewage Facilities Act of January 24, 1966, P.L. (1965) 1535, as previously and in the future amended are incorporated into this article and shall have the same meaning as set forth in that act as previously and in the future amended.

§503. Permit Required. No person shall install, construct or request to bid proposals for construction, or alter, change or modify an individual sewage disposal system or community sewage disposal system, or construct or request bids for construction or install or occupy any building or structure for which any individual or community sewage disposal system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of the system are in compliance with this part, the rules and regulations under this part, the applicable state laws, and regulations under those laws. A permit shall be required in every instance where a person desires to install, construct, alter, modify or change an individual or community sewage disposal system on any tract of land of any size or any location in the Borough.

§504. Application for Permit; Issuance. All permits for the construction, installation, alteration, modification or change of an individual or community sewage disposal system shall be obtained from the Borough Sewage Enforcement Officer or any other person lawfully designated by council to issue the permit, and shall be subject to all the conditions that may be required by this Part, the rules and regulations under this Part, the applicable state laws and regulations under those laws. The application form shall require the information that the Borough deems necessary in accordance with the rules and regulations adopted in accordance with this Part. No permit shall be issued until the owner of the property on which the sewage disposal system is located or is proposed to be located shall first have paid all prescribed permit fees, which shall be for the use of the Borough.

§505. System not to be Covered until Inspected and Approved. No part of any installation, construction, alteration, modification or change of an individual or community sewage disposal system shall be covered until it has been inspected and given final written approval by the Borough Sewage Enforcement Officer, or any other person lawfully designated by the Borough to inspect the work. The applicant shall notify the Borough when the sewage system is completed and ready for inspection. The applicant may cover the installation upon approval or disapproval, at the expiration of 96 hours, excepting Sundays and those legal holidays when Borough employees may inspect and
make tests at any time either before, during or after construction, installation, alteration, modification or change of the sewage system to be uncovered at the expense of the applicant if the system has been covered contrary to the foregoing provisions.

§506. Hearing on Denial or Revocation of Permit. Upon receipt by an applicant of a notice of denial or revocation of a permit, he or she may request in writing a hearing before Council which shall hold the hearing within 15 days after receipt of the request. At that time, the applicant may be represented by counsel, and may present evidence as to why a permit should be issued or retained, as the case may be. No transcript of testimony shall be required, but the applicant shall be notified in writing within seven (7) days after the hearing of the decision and the reasons for it.

§507. Standards for Work. Construction, installation, alteration, modification and change of individual and community sewage disposal systems and the maintenance of individual and community sewage disposal systems shall be in accordance with this Part, the rules and regulations promulgated under it; the Pennsylvania Sewage Facilities Act, as amended; the applicable standards, rules and regulations adopted in accordance with the Pennsylvania Sewage Facilities Act, as amended; and other applicable laws and regulations.

§508. Sewage Enforcement Officer. Council shall designate a properly qualified Sewage Enforcement Officer or another properly qualified person to receive applications for permits, issue permits, inspect installations and enforce the provisions of this Part.

§509. Fees. Council shall by resolution fix the applicable application and inspection fees and any other fees and costs associated with this Part and its enforcement and also by resolution may change and modify those fees from time to time.

§510. Authority for Additional Standards and Regulations. Council may adopt standards and regulations governing and regulating the subject matter of this Part.

§511. Abatement of Nuisances. In addition to any other remedies provided by this Part, any violation of this Part shall constitute a nuisance and may be abated by the borough by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

§512. Penalty for Violation. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 6
Hazardous Materials

§601. Identification of Hazards by Placarding Required; Periodic Inspection of Buildings. Hazardous materials on premises in the Borough shall be identified by color and order of severity indicated numerically on placards made of metal, 18 inches by 18 inches in size, and paid for and installed by the owner or occupant of the premises on the exterior of any structure containing same.

(a) Identification of the health hazard shall be made on a placard as indicated hereinbefore which is blue in color and marked numerically as to severity as follows:

(1) Materials which on very short exposure could cause death or major residual injury even though prompt medical treatment was given are to be marked as #4.

(2) Materials which on short exposure could cause serious temporary or residual injury even though prompt medical treatment was given are to be marked as #3.

(3) Materials which on intense or continued exposure could cause temporary incapacity or possible residual injury unless prompt medical treatment is given are to be marked as #2.

(4) Materials which on exposure would cause irritation but only minor residual injury even if no treatment is given are to be marked as #1.

(5) If there is no special hazard it is to be marked zero.

(b) Identification of flammability shall be made on a placard as indicated hereinbefore which is red in color and marked numerically as to severity as follows:

(1) Materials which will rapidly or completely vaporize at atmospheric pressure and normal ambient temperature or which are readily dispersed in air which will burn rapidly are to be marked as #4.

(2) Liquids and solids that can be ignited under almost all ambient temperature conditions are to be marked as #3.

(3) Materials that must be moderately heated or exposed to relatively high ambient temperatures before ignition can occur are to be marked as #2.

(4) Materials that must be preheated before ignition can occur are to be marked as #1.

(5) If there is no special hazard it is to be marked zero.
(c) Identification of reactivity shall be made on a placard as indicated hereinbefore which is yellow in color and marked numerically as to severity as follows:

(1) Materials which in themselves are readily capable of detonation or of explosive decomposition or reaction at normal temperatures and pressures are to be marked as #4.

(2) Material which in themselves are capable of detonation or of explosive reaction but require a strong initiating source of which must be heated under confinement before initiation of which react explosively with water are to be marked as #3.

(3) Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate and also materials which may violently react with water or which may form potentially explosive mixtures with water are to be marked as #2.

(4) Materials which in themselves are normally stable but which can become unstable at elevated temperatures and pressures or which may react with water with some release of energy but not violently is to be marked as #1.

(5) If there is no special hazard it is to be marked zero.

(d) Identification of materials indicating unusual activity with water shall be made on a placard as indicated hereinbefore which is white in color.

(e) The aforesaid placards are to be installed on at least two sides of the building in which the hazardous materials are contained and of which at least one of the placards can be easily seen and identified by anyone without trespassing on said premises.

(f) A Police Officer of the Code Enforcement Officer shall inspect all buildings containing hazardous materials whether they are commercial, industrial or domestic, at least once a year, to ascertain whether there is compliance with the provisions of this chapter.

(Ord. No. 7-1981, 10/15/81, Sec. 1)

Editorial Note: Section 3 of Ord. No. 7-1981 repealed all inconsistent ordinances and parts of ordinances. This codification changed inspection from twice a year to once a year and named a Police Officer or the Code Enforcement Officer as the inspector in Section 601(f).
§602. **Penalties for Violation.** Any person, partnership, association, syndicate, company, firm, or corporation violating any provisions of this chapter shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding Three Hundred ($300.00) Dollars and costs of prosecution, and in default of the payment of such fine and costs of prosecution, may be sentenced to imprisonment for a period of time not exceeding 30 days. Each day a violation exists shall constitute a separate offense. (Ord. No. 7-1981, 10/15/81, Sec. 1)
Part 7

Storage of Abandoned, Junked or Discarded Property

§701. Findings.

(a) The accumulation or storage of junked, abandoned or discarded vehicles, trailers, boats, appliances and household furnishings creates a hazard and danger to the health and welfare of the citizens of the Borough.

(b) The accumulation or storage of junked, abandoned or discarded vehicles, trailers, boats, appliances or household furnishings provides a breeding area for rodents and other unhealthy animals.

(c) The accumulation or storage of junked, abandoned or discarded vehicles, trailers, boats, appliances or household furnishings creates an attractive nuisance for children who are not aware of the danger involved in them.

(d) The accumulation or storage of junked, abandoned or discarded vehicles, trailers, boats, appliances, or household furnishings violates all concepts of ecological and environmental principles.

§702. Definitions. As used in this article, the following words and terms shall have the meanings ascribed to them in this section:

(a) Abandoned – means any item resting for 96 hours or more and which is inoperable, without current registration plates, or certificate of inspection, or in such a condition as to be unusable.

(b) Appliance – includes a stove, refrigerator, television, furnace, water heater, water softener, washer, dryer or mangle, household articles used to perform any of the necessary work in a household, and articles used in business to increase production or to speed, ease or eliminate work.

(c) Boat – means any vessel capable of transporting a person on any river, stream, creek, lake or ocean;

(d) Discarded – means any item resting for 96 hours or more with no known or apparent owner.

(e) Household furnishing – means all items normally found and used in a home.

(f) Junked – means items sold or to be sold for scrap, being stripped or being used or sold for parts.
(g) Trailer – means a wheeled device used as a means of carrying, hauling or conveying any vehicle, person, animal, object or boat.

(h) Vehicle – means an automobile, motorcycle, motorbike, minibike, bicycle, go-cart, truck or other wheeled means of conveyance, motorized or self-propelled.

§703. Unlawful to Accumulate or Store Certain Junked, Abandoned or Discarded Property. It shall be unlawful for any person to accumulate or store any junked, abandoned or discarded vehicle, trailer, boat, appliance or household furnishing on private or public property within the Borough, except when being stored in the ordinary case of a permitted commercial business or when a person is storing it with the intent to repair it when none of the findings in 701 are present.

§704. Penalty for Violation. Any person who shall violate any provision of this Part shall upon conviction be sentenced to pay a fine of not less than Three Hundred ($300.00) Dollars nor more than Six Hundred ($600.00) Dollars and costs, and in default of payment of the fine and costs, shall undergo imprisonment for a term not more than thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.
CHAPTER 15

LIBRARIES

Part 1

Designation of the Location of a Public Library

§101. Preamble.
§102. Resolved
CHAPTER 15

LIBRARIES

Part 1

Designation of the Location of a Public Library

§101. Preamble.

WHEREAS, WHITE HAVEN BOROUGH has acquired real property on September 5, 2002, located in White Haven Borough, Luzerne County, Pennsylvania, and commonly known as the “Round House” or “Engine House”;

WHEREAS, WHITE HAVEN BOROUGH wishes to lease the property to the WHITE HAVEN AREA COMMUNITY LIBRARY, INC., a Pennsylvania non-profit corporation, for the purpose of using the property for public library purposes and ancillary uses, including, but not limited to fund raising events, educational programs, and the uses by the community in general;

WHEREAS, WHITE HAVEN BOROUGH wishes to lease the property for a term of thirty (30) years beginning on March 6, 2003, with automatic renewals of twenty (20) year terms; and

WHEREAS, WHITE HAVEN BOROUGH is leasing the property to the WHITE HAVEN AREA COMMUNITY LIBRARY, INC. under and subject to certain terms, provisions and conditions of a Lease Agreement to become effective March 6, 2003.

(Res. 3/6/2003)

§102. Resolved. White Haven Borough does hereby authorize the leasing of its real property situated in White Haven Borough, Luzerne County, Pennsylvania commonly known as the “Round House” or “Engine House”, and more particularly described in a deed dated September 5, 2002 and appearing of record in Luzerne County Deed Book 3002 at Page 223236, to THE WHITE HAVEN AREA COMMUNITY LIBRARY, INC. under and subject to the terms, provisions and conditions of a Lease Agreement to be signed and executed by the parties on March 6, 2003. (Res. 3/6/2003)
CHAPTER 16

LICENSES

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§201. Permit required for Certain Activities on Streets and Sidewalks
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§401. Permit Required before Occupying or Moving from Premises
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§606. Prohibited Acts
§607. Certain Practices constitutes Nuisances
§608. Suspension or Revocation of License
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CHAPTER 16

LICENSES

Part 1

Proof of Contractor Registration

§101. Purpose and Intent. The purpose and intent of this Ordinance is to ensure that Contractors who perform Home Improvement Contracts in the Borough of White Haven are registered with the Commonwealth of Pennsylvania as required by State Law, and, therefore, maintain liability insurance as required by the Commonwealth of Pennsylvania.

§102. Definitions: Reference to State Law. The terms “Contractor” and “Home Improvement Contract” as used in this ordinance shall have the same definition as those terms have in the Pennsylvania Home Improvement Consumer Protection Act, Act of October 17, 2008, P.L., 1645 No. 132, as amended.

§103. Requirements for Contractors Performing Home Improvement Contracts. All contractors who seek to perform Home Improvement Contracts in the Borough of White Haven shall, prior to receiving a building or other permit from the Code Enforcement Officer for any Home Improvement Contracts in the Borough, provide proof to the Code Enforcement Officer that said contractor is registered with the Commonwealth of Pennsylvania, as required by the Act of October 17, 2008, P.L. 1645, No. 132, as amended, known as the Home Improvement Consumer Protection Act. No contractor performing a Home Improvement Contract in the Borough of White Haven shall be required to register with the Borough, obtain a license from the Borough, or pay a fee to the Borough to meet the requirements of this Ordinance.

§104. Violations and Penalties. Any person, firm or corporation violating Section 102 of this Ordinance, upon conviction in a summary proceeding by a District Justice, shall be sentenced to pay a fine to the Borough of White Haven of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), plus costs of prosecution.

§105. Severability. The provisions of this Ordinance are declared to be severable. If this ordinance or any section is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance.
Part 2
Activities on Streets and Sidewalks

§201. Permit required for Certain Activities on Streets and Sidewalks. No person shall conduct any parade, meeting, demonstration or gathering of any kind upon any street or sidewalk in the Borough without first having obtained a permit from Council. The permit shall be issued without payment of a fee. The application for the permit shall be made to the Borough, in writing, at least thirty (30) days in advance of the day on which the parade, meeting, demonstration or gathering is proposed to be held. Borough Council may attach reasonable conditions to any permit and restrict the date and time of such activities.

§202. Violation Penalties. Any person who shall violate any provision of this part shall, upon conviction thereof, be subject to a fine of not less than Three Hundred ($300.00) Dollars nor more than One Thousand ($1,000.00) Dollars or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
Part 3
Amusement Devices

§301. License required to operate Certain Amusement devices for Commercial Purposes. It shall be unlawful for any person, firm or corporation, either as principal agent (that person called “operator” in this Part) to operate or cause to be operated, or to permit to continue to be operated, or to permit to continue to be operated for commercial purposes, if within their control, anywhere within the Borough, whether on public or private property, any coin operated vending machine, any coin operated music machine, any pin ball machine, video machine, any machine operated as a game of skill, any other machine played for amusement, any bowling alley, any shuffle board, any shooting gallery, or any other gaming table, (Called “machines”) without first having obtained a license from the Police Department. (Ord. of 10/6/47, Sec. 1)

Editorial Note: Codification replaced the word “article” with “Part” and named the Code Enforcement Officer as granter of the license.

§302. License Fee; Restrictions on transfer of Licenses. The operator shall pay for a license for any coin operated vending machine the sum of $25 a year or any part thereof; for any coin operated music machine the sum of $25 a year or any Part thereof; for each pin ball machine, poker machine, video machine, machine operated as a game of skill, or other machine played for amusement, the sum of $25 a year or any part thereof; for each bowling alley, for each shuffle board, each shooting gallery, pool table, and for each and every other gaming table of any nature or kind, the sum of $25 a year or any part thereof. The license year shall be the calendar year of January 1st to December 31st; provided further, that the license shall not be transferable from one owner to another, and provided further, that it shall not be required that a new license be secured when one machine is replaced by another, so long as the operator is licensed to operate the total number of machines in his or her place of business. (Ord. of 10/6/47, Sec. 2, as amended by Ord. No. 4-1986, 5/16/86, Sec. 1)

Editorial Note: The preamble to Ord. No. 4-1986 stated that Section 901 established certain yearly license fees and that council was desirous of increasing those license fees; Section 2 of that ordinance provided that the provisions of the ordinance become and be made a part of the Code of Ordinances and that the sections of that ordinance might be renumbered to accomplish the intention of making the ordinance a part of the Code of Ordinances; Section 3 repealed all inconsistent ordinances and parts of ordinances.

Borough Council through its part of the Code on fees has made the license fees in Section 302 uniform so that they are all established at $25.00 per device or machine. This is a change, as the prior Section 302 established a coin operated vending machine at $10.00.

§303. Inspection of Machines. The Borough Police Department shall make periodic inspections of machines licensed under this Part. (Ord. of 10/6/47, Sec. 3)
§304. Exhibit of Licenses; Suspension or Revocation of Licenses. The licenses granted under this Part shall be exhibited on request of any police officer, and the Borough may, after affording a hearing to the licensee of which hearing the licensee shall have at least 48 hours’ notice, suspend or revoke any license granted under this Part, when the Borough deems it to be of benefit to the public health, safety or morals to do so, and when so suspended or revoked that portion of the license which is unearned shall be returned to the operator. (Ord. of 10/6/47, Sec. 4)

§305. Penalty for Violation. Any operator violating any provision of this Part shall be subject to a fine of not less than One Hundred ($100.00) Dollars, and not more than Three Hundred ($300.00) Dollars for each offense, and in default of payment of fine and costs, shall be imprisoned for not more than one (1) day for each dollar of fine imposed. (Ord. of 10/6/47, Sec. 5)

Editorial Note: In adopting the revised Codification of the Borough Ordinances, Council increased the sliding penalty provisions of Section 305 from $25.00 - $100.00 to $100.00 - $300.00.
Part 4
Moving of Personal Property

§401. Permit Required before Occupying or Moving into Premises. It shall be unlawful for any person to move into the Borough, or to have personal property moved into the Borough without first having obtained a permit, which shall be issued, from the Secretary, upon filing with him or her of the proper application as required by Section 402 or 403, as the case may be.

§402. Application for Permit to Occupy or Move Into Premises. Every person seeking a permit to occupy any premises in this Borough shall file an application with the Secretary, stating his or her name, the location of the premises, the name and address of the owner of the premises, the nature of the proposed use of the premises, and, if for residential purposes, the names and ages of the occupants.

§403. Permit Required before Transporting or Removing certain Personal Property. It shall be unlawful for any person to transport or remove his or her own personal property, or the property of another person who is moving into or vacating a property, dwelling or other building in the Borough, unless the person who is moving shall first have obtained a permit and paid a fee as established by Borough Council. It shall be the duty of every person transporting or moving the personal property of himself, or herself, or another person to any premises in the Borough to ascertain that the person whose property is to be transported or moved has obtained the required permit.

§404. Exemptions. Nothing in this Part shall be construed to require any owner of tangible personal property held for the purpose of manufacturing in the ordinary course of business, or held for the purpose of sale or resale in the ordinary course of business, to obtain any permit to transport or remove that tangible personal property from or to any storehouse, warehouse, or usable place of business; and nothing in this Part shall be construed as to require any hotel, lodging house, or rooming house to obtain any permit for the use of transient guests, or to require transient guests to obtain a permit.

§405. Penalties/Enforcement. Any person who shall violate any provision of this part shall, upon conviction thereof, be subject to a fine of not less than Three Hundred ($300.00) Dollars nor more than One Thousand ($1,000.00) Dollars or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Enforcement shall be carried out by the Borough Secretary, Code Enforcement Officer, and/or a Police Officer.
Part 5
Transient Amusements and Gatherings

§501. Applicability. This Part shall apply to all circuses, carnivals and other amusements, entertainments or gatherings, such as concerts, fairs, exhibitions, competitions or dances, held in or upon any public or private property, whether in a building, in a tent or outdoors, and whether or not an admission or entrance fee or other charge is made. These activities shall be referred to in this Part as “transient amusements and gatherings”. However, nothing in this Part shall apply to:

(a) Any activity held on a street or sidewalk for which a permit is required under Part 2, Section 201 of this Chapter;

(b) Any school or church sponsored activity, conducted on the premises of the sponsoring school or church; or

(c) Any activity conducted by any club or other organization, held on premises owned by or under the control of that organization.

§502. Purpose. The purpose of this Part is to protect the health, safety, welfare and morals of the community and its inhabitants by exercising some supervision and control over activities of a transient nature that might involve overcrowding of facilities, inadequate control of vehicular or pedestrian traffic, or other conditions constituting a threat to health, safety, welfare or morals.

§503. Permit Required. It shall be unlawful for any person to operate, install or conduct any transient amusement or gathering anywhere in the Borough without first having obtained a permit, as provided in Section 504, and unless all terms and conditions prescribed in this Part are complied with.

§504. Application for Permit; Issuance. Application for the permit required by this Part shall be made to Council, which shall have authority, before granting the permit, to have an investigation made of the proposed transient amusement or gathering and which may refuse to issue the permit when they deem the refusal to be in the interest of the health, safety, welfare or morals of the Borough and its inhabitants. The Code Enforcement Officer or a Police Officer may also, in their directions, refuse to grant a permit unless the applicant shows evidence that he or she has procured liability insurance in an amount required by Council. If the permit is granted, it shall be issued subject to the required fee, and for the specific period of time stated on the permit. It shall be unlawful for the permit holder to commence the holding of the transient amusement or gathering before the first day stated on the permit or to continue to hold the transient amusement or gathering after the last day stated in the permit.

§505. Revocation of Permit. The Code Enforcement Officer or a Police Officer shall have authority to revoke any permit issued under this Part when they shall deem the revocation to be in the interest of the health, safety, welfare or morals of the Borough and
its inhabitants, and it shall be unlawful, and a violation of this Part, for any person to hold or to continue to hold the amusement or gathering for which the permit was issued, after the permit has been revoked.

§506. Penalties/Enforcement. Any person who shall violate provision of this code shall, upon conviction thereof, be subject to a fine of not less than Three Hundred ($300.00) Dollars nor more than One Thousand ($1,000.00) or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
Part 6
Transient Retail Business

§601. Definitions. The term “transient retail business”, as used in this Part, shall mean and include the following:

(a) Engaging in peddling, selling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street, alley, sidewalk or public place, or from house to house, within the Borough; and

(b) Selling, soliciting or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, on a temporary basis, which shall include, but shall not be limited to, any activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of particular yearly holidays.

§602. License required to engage in Transient Retail Business. No person shall engage in any transient retail business within the Borough without first having obtained from the Code Enforcement Officer or a Police Officer a license for which a fee of Fifty Dollars ($50.00) for one (1) calendar year or Twenty Five Dollars ($25.00) for one calendar month, which shall be for the use of the Borough, shall be paid. Provided: no license fee shall be required under this section;

(a) from farmers selling their own produce;

(b) for the sale of goods, wares and merchandise, donated by their owners, the proceeds of which are to be applied to any charitable or philanthropic purpose;

(c) to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products: or

(d) for the sale of goods, wares and merchandise, for a profit, by vendors to established businesses operating in the Borough.

Provided further: any person dealing in one (1) or more of the above-mentioned exempted categories, and selling other goods, wares and merchandise not so exempted, shall be subject to payment of the license fee fixed by this section for his or her activities in connection with the sale of goods, wares and merchandise not so exempted. Provided further: the Borough may similarly exempt from payment of the license fee persons working without compensation and selling goods, wares or merchandise for the sole benefit of any non-profit corporation. Provided further: every license issued under the provisions of this Part shall be issued on an individual basis to persons engaging in a transient retail business; every individual shall obtain a separate license, issued to him in his name, and the license fee imposed by this section shall be applicable to every individual license.
§603. Application for License. Every person desiring a license under this Part shall first make application to the Code Enforcement Officer of a Police Officer for the license. If the person shall also be required to obtain a license from any state or county officer, he or she shall, when making the application, exhibit a valid license from the state or county officer. The applicant shall give his or her name and address; the name of the person by whom he or she is employed; the type of goods, wares and merchandise he or she wishes to deal with in the transient retail business; the number of persons to be employed by him or her in the Borough; and the type and license numbers of all vehicles to be used, if any. The application shall be accompanied by the license fee required by Section 602, and shall include a photograph of the applicant.

§604. Investigation; Issuance or Refusal of License. Following the making of the application by the applicant, no license shall be issued until the police department has investigated the application, but the waiting period for the purpose of the investigation shall not exceed seventy two (72) hours. Following the investigation, the Code Enforcement Officer or a Police Officer may refuse the license where the investigation discloses a criminal record or any false or misleading statement on the application. When a license is refused, the Borough shall return to the applicant the license fee that had been paid to the Borough at the time of making the application, less the costs of the investigation.

§605. Custody, Display and Exhibit of License. Every license holder shall carry the license upon his or her person or shall display it upon his or her vehicle, if he or she is engaged in a transient retail business from house to house or upon any street, alley, sidewalk or public ground, or he or she shall display the license at the fixed location where he or she shall engage in business if doing so from a fixed location. The holder shall exhibit the license, upon request, to all police officers, Borough officials and citizens or residents of the Borough.

§606. Prohibited Acts. No person engaged in any transient retail business shall:

   (a) Sell any product or type of product not mentioned in the license.

   (b) Market his or her wares upon any street, alley, sidewalk or public ground in the Borough, or use any loud speaker or horn or other device for announcing his or her presence by which the public may be annoyed.

   (c) When selling from a vehicle, stop or park the vehicle upon any street or alley in the Borough for longer than necessary in order to sell from the vehicle to persons residing or working in the immediate vicinity.

   (d) Engage in any house-to-house activity, except by prior appointment, before 9:00 a.m. or after 5:00 p.m., or in the summer months until 8:00 p.m.

§607. Certain Practices constitutes Nuisances. The practice or custom of going in and upon private residences in the Borough by solicitors, peddlers, itinerant merchants or
transient retail merchants, regardless of whether they hold a valid license under this Part, not having been requested or invited to do so by the owner or occupant of that private residence, for the purpose of soliciting orders for the sale of goods, wares, or merchandise, or of disposing of, peddling or hawking goods, wares or merchandise is declared to be a nuisance and punishable as such and is also a violation of this Part.

§608. Suspension, Revocation or Denial of License. The Code Enforcement Officer or a Police Officer is authorized to suspend, revoke or deny any license issued under this Part when it is the interest of the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any application for a license under this Part. Appeals from any suspension, revocation or denial may be made to Council at any time within 10 days after suspension, revocation or denial. No part of a license fee shall be refunded to any person whose license has been suspended or revoked.

§609. Penalties. In addition to the penalties set forth in Section 608 above, a person who shall violate any provision of this part shall, upon conviction thereof, be subject to a fine of not less than Three Hundred ($300.00) Dollars nor more than One Thousand ($1,000.00) Dollars or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
CHAPTER 17

MOBILE HOMES AND MOBILE HOME PARKS

Part 1

Trailer Park Regulations

§101. Trailer Parks and Trailers
§102. Mobile Homes and Prefab Homes
§103. Violations and Penalties.
CHAPTER 17

MOBILE HOMES AND MOBILE HOME PARKS

Part 1

Trailer Park Regulations

§101. Trailer Parks and Trailers.

(a) No trailer shall be permitted to be parked outside of a permitted trailer park, to provide living quarters or space for the conduct of business except that it may be used temporarily for office space during the construction of a principal building or road, on the issuance of a temporary permit by the Zoning Officer which shall not exceed six (6) months, subject to renewal upon demonstration of satisfactory progress of construction. Small utility or vacation type trailers are excluded from this provision in that such trailers may be temporarily parked over the winter season or when not being used for recreational purposes, outside of permitted trailer parks, provided always that such small utility or vacation type trailers may not, when parked in storage or on a residential lot, be used for any residential purposes for a period in excess of ten (10) days in any month.

(b) Trailer Parks where permitted shall observe the following requirements:

(1) No trailer park shall have an area less than five (5) acres, nor an average gross area per trailer of less than three thousand (3,000) square feet.

(2) Every trailer shall be supplied with a potable water service and shall be connected to a sanitary sewer and sewage disposal system, approved by the Pennsylvania State Department of Environmental Protection.

(3) A safe, usable recreation area shall be conveniently located in every trailer park and shall contain a total area equivalent to an allowance of three hundred (300) square feet per trailer, which shall not be less than ten (10%) percent of the gross area of the trailer park.

(4) No trailer shall be located less than fifty (50’) feet from the boundary of the trailer park and inside said boundary.

(5) The trailer park shall be permanently landscaped and maintained in good condition.

(6) Trailer sales are prohibited in trailer parks.

(c) In the event that this Ordinance conflicts with the Zoning Ordinance, the more restrictive provisions shall apply.
§102. Mobile Homes and Prefab Homes. Nothing in this Part shall prevent the placing of a mobile home or prefab home on private property within the Borough, subject to the following conditions:

(a) The owner of the home must be the owner of the land to which it is to be affixed.

(b) Temporary homes must be set on solid post frost-free footers with skirting.

(c) Permanent homes must be skirted with a solid brick, block or concrete wall, resting on frost free concrete footers. This provision shall also apply in flood prone areas unless superseded by Federal law or Floodplain regulations.

(d) Dimensional regulations such as area, space and set backs in the particular area where the home is to be located must be as required for single-family residences, and shall be landscaped with grass and other plantings to correspond with surrounding housing.

(e) Towing tongues, wheels and axles shall be removed from the home and the home must be secured with a safety strap or cable to the concrete footer or steel cross support.

(f) In the event that the Zoning Ordinance shall restrict the location of mobile homes and prefab homes in certain zoning districts, than the Zoning Ordinance shall take precedence.

§103. Violation and Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be subject to a fine of not less than Five Hundred ($500.00) Dollars nor more than One Thousand ($1,000.00) Dollars or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues shall constitute a separate offense.
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MOTOR VEHICLES AND TRAFFIC

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CHAPTER 18
MOTOR VEHICLES AND TRAFFIC

Part 1
General Regulations

§101. Definitions. Words and phrases, when used in this Part, shall have the meanings ascribed to them in the Vehicle Code (the Act of 1976 P.L. 155 No. 81, as amended), except that, in this Part, the word “street” may be used interchangeably with the word “highway” and shall have the same meaning as the word “highway” as defined in the Vehicle Code.

§102. Manner of Adopting Permanent Traffic and Parking Regulations. All traffic and parking regulations of a permanent nature shall be enacted as ordinances or as Parts of ordinances or as amendments to ordinances of this Borough, except where the law specifically authorizes less formal action for the purpose.

§103. Temporary and Emergency Regulations.
(a) The Mayor shall have the following powers to regulate traffic and parking temporarily and in time of emergency;

(1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and

(2) In the case of emergency or public events of limited scope or duration, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than seventy-two (72) hours.

(b) Those temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who drives or parks a vehicle in violation of any such regulation, or who moves, removes, destroys, injures or defaces any sign or marking erected, posted or made to give notice of any such regulation shall be guilty of a violation, and upon conviction, shall be liable to the penalty set forth in the law or elsewhere in this Part for a violation of that nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Part, to a fine of Twenty-five ($25.00) Dollars and costs.

§104. Experimental Regulations. Council may, from time to time, designate places upon and along the streets in the Borough where, for a period of not more than ninety (90) days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate those locations by proper signs and markings. Those regulations, prohibitions and restrictions shall be effective just as if they had been specified in this Part. No person shall drive or park a vehicle in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface.
any sign or marking erected, posted or made by authority of this section. Any person who violates any provisions of this section shall, upon conviction, be liable to the penalty set forth in the law or elsewhere in this Part for a violation of that nature and, in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Part, to a fine of Twenty-five ($25.00) Dollars and costs. Provided, the purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the Borough relative to traffic and parking.

§105. Traffic on Streets Closed or Restricted for Construction, Maintenance or Special Events.

(a) Council shall have authority to close any street or any specific Part of a street to vehicular traffic and to place barriers or station police officers at each end of the closed portion, while construction or maintenance work is under way or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a motor vehicle upon any such closed portion.

(b) Council shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is under way, and to station person at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when a person is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by a flag or other device, not to proceed.

(c) Any person who violates any provision of this section shall be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§106. Authority of Police Officers. The police officers of the Borough are given authority to direct traffic on the streets in the Borough and at intersections of those streets, in public parks and in other places where the Vehicle Code or this Part applies.

Editorial Note: Section 3103 of the Vehicle Code makes it unlawful for any person willfully to fail or refuse to comply with any lawful order or directions of any uniformed police officer, sheriff or constable or any appropriately attired person authorized to direct, control or regulate traffic.
Part 2
Traffic Regulations

§201. Maximum Speed Limits established on Certain Streets.

(a) No person shall operate any vehicle upon any portion of a street in the Borough listed in appendix I-A, that is incorporated by reference into and made a Part of this section, at a greater rate of speed than the maximum prescribed for that Part of the street in that appendix.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Thirty-Five ($35) Dollars and costs. Any person exceeding a maximum speed limit by more than five (5) miles per hour shall pay an additional fine of two dollars ($2.00) per mile for each mile in excess of five (5) miles per hour over the maximum speed limit.

§202. Maximum Speed Limits established on Certain Bridges and Elevated Structures.

(a) No person shall drive any vehicle upon any bridge or elevated structure listed in appendix I-B, that is incorporated into and made a Part of this section, at a greater speed than the maximum prescribed for that bridge or elevated structure in that appendix.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Thirty-five ($35.00) Dollars and costs. Any person exceeding a maximum speed limit by more than five (5) miles per hour shall pay an additional fine of Two Dollars ($2.00) per mile for each mile in excess of five (5) miles per hour over the maximum speed limit.

§203. Maximum Speed Limits established on Hazardous Grades.

(a) Upon any hazardous grade listed in appendix I-C, that is incorporated by reference into and made a Part of this section, no person shall drive a vehicle, having a gross weight in excess of that referred to for that grade, in the direction stated for that grade, at a speed in excess of that established by that appendix for that grade, and, if so stated for a Particular grade, every such vehicle shall stop before proceeding downhill.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Thirty-five ($35.00) Dollars. Any person exceeding the speed limit by more than five (5) miles per hour shall pay an additional fine of Two Dollars ($2.00) per mile for each mile in excess of five (5) miles per hour over the maximum speed limits.
§204. Traffic Signals at Certain Intersections.

(a) Official traffic signals shall be erected (or are ratified if previously erected) at those intersections listed in appendix I-D, which is incorporated by reference into and made a Part of this section, and traffic at those intersections shall be directed by those signals.

(b) Any driver of a vehicle who disobeys the directions of an official traffic signal shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§205. Intersections where Turn prohibited on Red Signal.

(a) Those intersections listed in appendix I-E, that is incorporated by reference into and made a Part of this section, are established as intersections where drivers of vehicles headed in the direction or directions indicated are prohibited from making a right turn (or a left turn from a one-way highway into a one-way highway) on a steady red signal.

(b) Any driver of a vehicle who makes a turn on a red signal, in violation of this section, shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§206. One-way Streets established.

(a) One-way streets are established as listed in appendix I-F, which is incorporated by reference into and made a Part of this section. On the days and between the hours applicable to a specific street, it shall be unlawful for any person to drive a vehicle upon a one-way street other than in the direction established for traffic upon that street.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§207. Turning at Certain Intersections Prohibited or Restricted.

(a) Appendix I-G, which is incorporated by reference into and made a Part of this section, lists intersections where turns are restricted and prohibited. It shall be unlawful for the driver of any vehicle, of the type indicated, traveling upon the first-named street at any intersection named in that appendix, in the direction or directions indicated in each case, to make a left turn and/or a right turn into the second-named street, as indicated, at any time when a turn is prohibited by that appendix.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.
§208. No-passing Zones established.

(a) All streets in the Borough are established as no-passing zones and it shall be unlawful for the driver of any vehicle to overtake or pass another vehicle or drive on the left side of the roadway in any no-passing zone.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§209. Through Highways established.

(a) Through highways are listed in appendix I-H, which is incorporated by reference into and made a Part of this section, and stop or yield signs shall be erected at every intersection of every through highway (except those intersections where traffic signals are erected and maintained as provided in Section 204), facing traffic approaching the through highway on intersecting streets. Every driver of a vehicle approaching the through highway on any intersecting street where there is a stop or yield sign shall stop the vehicle as required by Section 3323(b) or Section 3323(c) of the Vehicle Code, as the case may be, and shall not proceed into or across the through highway until he or she has followed all applicable requirements of that section of the law.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs of prosecution.

§210. Stop Intersections established.

(a) Those intersections listed in appendix I-I, which is incorporated by reference into and made a Part of this section (in addition to streets intersecting with the through highways established by Section 209) are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street upon the first-named street at each stop intersection. Every driver of a vehicle who approaches the intersection upon the first-named street, in the direction indicated in each case, shall stop the vehicle as required by Section 3323(b) of the Vehicle Code and shall not proceed into or across the second-named street until he or she has followed all applicable requirements of that section of the law.

(b) Any person who violates any provision of this section shall, upon conviction be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§211. Yield Right-of-Way Intersections established.

(a) Those intersections listed in appendix I-J which is incorporated by reference into and made a Part of this section (in addition to streets intersecting with the
through highways established by Section 209) are established as yield-right-of-way intersections, and official yield signs shall be rectified (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street upon the first-named street at each yield intersection, in the direction or directions located for that intersection. Every driver of a vehicle approaching the intersection upon the first-named street, in the direction indicated in each case, shall slow down or stop the vehicle as required by Section 3323(c) of the Vehicle Code, and then yield the right-of-way as required by that subsection of the Vehicle Code.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

§212. Vehicle Weight Limits established.

(a) On those streets and portions of streets listed in appendix I-K, which is incorporated by reference into and made a Part of this section, vehicle weight limits are established by authority granted by Section 4902(a) of the Vehicle Code, and it shall be unlawful for any person to drive on any of those streets or portions of streets, as the case may be, any vehicle or combination having a gross weight in excess of the maximum prescribed for that street or portion of street.

(b) Any person who violates any provision of this section shall be prosecuted under Section 4902(a) of the Vehicle Code and, upon conviction, shall be sentenced to pay a fine of One Hundred Fifty ($150.00) Dollars and costs, and an additional penalty of Seventy-five ($75.00) Dollars for each 500 pounds, or Part thereof, in excess of 3,000 pounds over the maximum allowable weight, as prescribed by Section 4902(e-1) of the Vehicle Code.

§213. Truck Traffic Restricted on Certain Streets.

(a) It shall be unlawful for any person to drive any vehicle other than a passenger vehicle upon any street or portion of a street listed in appendix I-L, which is incorporated by reference into and made a Part of this section, except that nothing in this section shall prohibit the driving of a commercial vehicle or truck on any portion of any such street listed in appendix I-L where necessary in order to pick up or deliver any goods, wares, merchandise or material from or to any premises located on that street or portion of a street or prohibit any landowner whose property abuts a street or portion thereof from otherwise legal access to his or her property.

(b) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Fifty ($50.00) Dollars and costs of prosecution, or to undergo imprisonment as provided by law. (As amended by Ord. No. 2-1982, 1/7/1982)
§214. Size and Weight Restrictions on Bridges.

(a) On those bridges listed in appendix I-M, which is incorporated by reference into and made a Part of this section, vehicle size and/or weight restrictions are established by authority granted by Section 4902(a) of the Vehicle Code, and it shall be unlawful for any person to drive any vehicle or combination, in violation of the size, type or load restrictions prescribed in that appendix for the bridge.

(b) Any person who violates any provision of this section shall be prosecuted under section 4902(a) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of One Hundred Fifty ($150.00) Dollars and costs, as prescribed by Section 4902(e-1) of the Vehicle Code.

§215. Snowmobile Roads designated.

(a) Those streets listed in appendix I-N, which is incorporated by reference into and made a Part of this section, are designated as special snowmobile roads. It shall be unlawful for any person to operate a snowmobile on any street in the Borough other than a snowmobile road, and, on those roads designated in appendix I-N for use only when closed to vehicular traffic; it shall be unlawful for any person to operate a snowmobile when those roads are not closed to vehicular traffic. Provided, nothing in this section shall prohibit any person from operating a snowmobile on any other street in the Borough;

(1) as authorized by Section 7721 of the Vehicle Code for emergency and bridge crossings and for direct crossings of streets or two-lane highways, or

(2) for special snowmobile events where authorized in advance and the street is blocked off as provided in Section 7723 of the Vehicle Code.

(b) Any person who violates any provision of this section shall be subject to the penalties prescribed in Section 7752(a) of the Vehicle Code.

§216. Regulation of Traffic on Privately Owned Business Lots which are held open to the Public as Business Invitees.

(a) As used in this section, the term “public parking lot” shall refer to privately owned business parking lots impliedly or expressly held open to the public as business invitees.

(b) Vehicle traffic upon parking lots is regulated as follows:

(1) No person shall drive a vehicle on a public parking lot at a speed greater than 15 miles per hour.
(2) No person shall drive a vehicle on a public parking lot in other than a safe and prudent manner after having given due regard to the actual and potential hazards then existing, including other motor vehicles, pedestrians and other obstacles such as shopping carts.

(3) Upon written permission given by the land owner, the Borough may erect appropriate signs in a public parking lot to give the public notice of pertinent provisions of this section.

(c) Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

(Ord. No. 4-1982, 1/7/1982)

§217. U-turns prohibited at Certain Locations.

(a) It shall be unlawful for the driver of any vehicle, traveling upon any of the following portions of streets, in the direction or directions indicated for that street, to make a U-turn:

<table>
<thead>
<tr>
<th>Street</th>
<th>Portion</th>
<th>Direction of Travel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Towanda Street</td>
<td>Between Allegheny Street and Erie Street</td>
<td>Southbound</td>
</tr>
<tr>
<td>2. Main Street</td>
<td>Between Berwick Street and Wilkes-Barre Street</td>
<td>Northbound</td>
</tr>
<tr>
<td>3. Intersection of Berwick Street and Church Street</td>
<td>ALL</td>
<td>ALL</td>
</tr>
</tbody>
</table>

(b) Any person who violates any portion of this section shall, upon conviction, be sentenced to pay a fine of Twenty-five ($25.00) Dollars and costs.

(Added by Ord. No. 2-1994, 5/20/1994, Sec. 6)
§301. Short Title. This Ordinance shall be known and may be cited as the “Snow and Ice Emergency Ordinance of the Borough of White Haven”.

§302. Definitions. As used in this Ordinance the following words or phrases shall have the meaning ascribed to them in this section:

(a) Person – shall mean any natural person, partnership, firm, unincorporated association, or corporation; whenever used in any clause prescribing or imposing a fine or penalty of imprisonment in default thereof, the terms applied to a partnership shall mean all partners thereof, as applied to unincorporated associations shall mean all members thereof and as applied to corporations shall mean all officers or directors thereof.

(b) Snow or Ice Storm - when used in instances where a snow or ice emergency has not been declared, shall mean any weather condition in which any accumulation of snow or sleet greater than two (2) inches has fallen or is predicted to fall, or in which there has been or is predicted any accumulation of ice.

(c) Street – shall mean the entire width between the boundary lines and every way, alley, highway or thoroughfare publicly maintained when any part thereof is open to use for the public purposes of vehicular travel.

(d) Vehicle or Vehicular - means any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets, alleys or highways, including trailers, semi-trailers, cargo trailers, coaches, wagons, cars, automobiles, buses, recreational vehicles, all terrain vehicles or motorcycles/bikes.

§303. Snow Emergencies. In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the streets within the Borough of White Haven, the Mayor, in his or her discretion, may declare a snow or ice emergency. Information on the existence of a snow or ice emergency shall be given by the Borough through radio, newspaper, or any other available media, and information regarding the termination of the snow or ice emergency shall be given by the use of the same media.

(a) After any snow or ice emergency is declared, it shall be unlawful, at anytime during the continuance of the emergency, for any person to:

(1) Park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated in the Mayor’s announcement, or in subsection 3, below;

(2) Drive any motor vehicle on any such snow or ice emergency route,
unless that vehicle is equipped with snow tires or chains, or unless a State of
Emergency prohibiting such vehicular travel has been declared by the Governor
of the Commonwealth of Pennsylvania or the Mayor of White Haven Borough.

(3) The following are designated as snow emergency routes:

(A) Both sides of Berwick Street from the Borough line to
Church Street.

(B) Both sides of Buffalo Street the entire length of the Street.

(C) Both sides of Towanda Street the entire length of the Street.

§304. Parking during Snow Storm and Snow Removal on Streets not designated as
Snow Emergency Routes or on all Borough Streets during the Snow Storms in
which a Snow Emergency has not been declared. During any snow or ice storm, where
a snow or ice emergency has not been declared, parking shall be regulated on all Borough
streets as follows:

(a) During the course of any snow or ice storm, parking shall be prohibited on
Main Street between the hours of 2:00 o’clock a.m. and 7:00 o’clock a.m.

(b) During the course of any snow or ice storm, parking shall be prohibited on
the even numbered sides of the streets if the storm falls on an uneven numbered date, or
parking shall be prohibited on the odd numbered sides of the streets if the storm falls on
an even date until such time as plowing, salting and/or cindering is completed. After 8:00
o’clock a.m. on the day following the date of the storm, and until plowing, salting and/or
cindering is completed, parking shall be prohibited on odd numbered sides of the streets
if the storm falls on an uneven numbered date, or parking shall be prohibited on the even
numbered sides of the streets if the storm falls on an even numbered date.

(c) At all times during and after any snow storm, it shall be prohibited for any
person to shovel, push, throw or plow snow from a sidewalk, driveway, lot, or any other
area into a street.

§305. Constrictive Parking Prohibited. No vehicle shall be parked in such a manner
that it prevents passage of any emergency vehicle or snow removal vehicle. A minimum
distance of fourteen (14’) feet shall remain clear to allow passage for any emergency
vehicle or snow removal vehicle.


(a) The Borough and/or the members of its Police Department are hereby
authorized to remove or have removed to a place of safety (including another place on a
street) any vehicle parked on a street in violation of this Ordinance which is interfering
with or about to interfere with snow or ice removal operations or constricting streets.
Whenever the Borough or any member of its Police Department removes or has removed a vehicle from a street as authorized in this section and knows or is able to ascertain from the registration records of said vehicle the name and address of the owner thereof, notice shall be given as soon as practically possible to the owner of said vehicle of the fact of the vehicles removal; the reasons for removal; and the place where the vehicle has been removed from and removed to.

Whenever the Borough or any member of its Police Department removes or causes to be removed a vehicle from a street as authorized in this section and does not know and is not able to ascertain the name of the owner, or for any other reasons is unable to give notice to the owner as provided in subsection (b) above, and in the event that the vehicle is not returned to the owner within a period of five (5) days following the removal of the vehicle, then and in that event a written report of such removal shall be sent by mail to the Department of Transportation whose duty it is to register motor vehicles and shall file a copy of such notice with the proprietor of any public garage in which the vehicle is being stored. Such notice shall include a description of the vehicle, the date, time and place from which it was removed, the reasons for removal, and the name of the garage or place where the vehicle is being stored.

The expense incurred in connection with the removal of a vehicle, including towing and storage, to a place of safety under and pursuant to this Ordinance, shall be the responsibility of the owner or owners of the vehicle.

§307. **Penalty.** Any person upon summary conviction of a violation of any provision of this Ordinance, shall for the first offense, be sentenced to pay a fine of not more than fifty ($50.00) dollars, together with costs, and for each and every subsequent offense, shall be sentenced to pay a fine of not less than one hundred ($100.00) dollars and not more than one hundred fifty ($150.00) dollars, together with costs, and in default of payment of fines assessed hereunder, shall undergo imprisonment for a term of not more than thirty (30) days. Each day the violation continues shall constitute a separate offense.

§308. **Administration.** In order to assist operators of vehicles in determining the highways affected by this Ordinance:

(a) There shall be placed on the street designated in Section 303 (a)(3) above, signs reading as follows:

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SNOW EMERGENCY ROUTE
SNOW TIRES OR CHAINS REQUIRED
NO PARKING DURING EMERGENCY
VEHICLES TOWED AWAY AND FINES IMPOSED
$50 FOR FIRST OFFENSE
$100 TO $150 FOR SUBSEQUENT OFFENSES
```
(b) In all other cases, the advertisement and adoption of this Ordinance shall be proper notice to any person or operator of any vehicle on a street within White Haven Borough during a snow or ice storm.

§309. Severability. The provisions of this Ordinance are severable and if any word, clause, sentence, section or provision of this Ordinance is declared unconstitutional, invalid or unlawful, then the remaining words, clauses, sentences, sections and provisions shall remain in full force and effect.

§310. Inconsistencies. Any and all ordinances inconsistent herewith are hereby repealed to the extent of the inconsistency.
Part 4
Parking Regulations

§401. Vehicles to be parked within Marked Spaces. Whenever a space shall be marked off on any highway for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space and it shall be a violation of this Part for any person to park a vehicle otherwise.

§402. Angle parking required on Portions of Certain Streets. Only angle parking shall be permitted on those portions of streets listed in appendix II-A, which is incorporated by reference into and made a Part of this section. In those angle parking zones every vehicle shall be parked with the front of the vehicle nearest the curb.

§403. Parking prohibited at All Times in Certain Locations. No person shall park a vehicle or allow a vehicle to remain parked, at any time, in any location along the streets in the Borough listed as a prohibited zone in appendix II-B, which is incorporated by reference into and made a Part of this section.

§404. Parking prohibited in Certain Locations, Certain Days and Hours. In the locations listed in appendix II-C, which is incorporated by reference into and made a Part of this section, parking shall be prohibited at all times on the days and between the hours indicated in that appendix.

§405. Parking Time limited in Certain Locations, Certain Days and Hours. In the locations listed in appendix II-D, which is incorporated by reference into and made a Part of this section, no person shall park a vehicle, or allow it to remain parked, for longer than the time indicated, at any time on the days and between the hours stated for the location.

§406. Special Purpose Parking Zones established; parking otherwise prohibited.

(a) Special purpose parking zones are established in the locations listed in appendix II-E, which is incorporated by reference into and made a Part of this section, and it shall be unlawful for any person to park a vehicle, or to allow a vehicle to remain parked, in any such zone, except as specifically provided in the appendix for that zone.

(b) All handicapped parking zones in the Borough of White Haven shall be established pursuant to Ordinance No. 1 of 1994, entitled “An Ordinance Establishing Criteria for Handicapped Parking Zones and Establishing Fees regarding same” now by codification Part 9 Section 901 et seq. (Section 901-908).

(Amended by Ord. No. 2-1994, 5/20/1994, Sec. 8)

Editorial Note: Section 8 of Ord. No. 1994-2 retained Section 3066 as enacted with the original contents being Subsection (a) of this section; and added Subsection (b). For Ordinance 1-1994, see Sections 901 through 908.
§407. **Penalty for Violation.** Any person who violates any provision of this Part shall, upon conviction, be sentenced to pay a fine of Twenty Five ($25.00) Dollars and costs of prosecution.

§408. **Temporary and Emergency Regulations.** The Borough Council shall have the following powers to regulate traffic and parking temporarily and in time of emergency.

   (a) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and

   (b) In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than seventy-two (72) hours.

Such temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall, upon conviction thereof, be sentenced to pay a fine of not more than Twenty Five ($25.00) Dollars and costs.

(Ord. No. 4-1994, 11/9/1994, Sec. 1)
EDITORS NOTE: Ordinance No. 3-1981, 3/10/81, Sections 1 et seq. is hereby repealed in that all of the parking meters have either been removed or are not calibrated and functional.
Part 6
Off-Street Metered Parking

[RESERVED FOR FUTURE REGULATIONS]

EDITORS NOTE: Ordinance No. 2-1982, 1/7/82, is hereby repealed in that all of the parking meters have either been removed or are not calibrated and functional.
Part 7

Removal and Impounding of Certain Vehicles

§701. Applicability and Scope. This Part is enacted under authority of Section 6109(a-22) of the Vehicle Code, and gives authority to the Borough to remove and impound; (i) vehicles that are parked overtime on any highway in the Borough, in violation of any provision of Part 3 or Part 4 of this Chapter; and (ii) vehicles parked in metered and unmetered parking lots, if and when the Borough operates such lots, in violation of any ordinance provision governing those lots.

§702. Authority to Remove and Impound. The Police Officers of the Borough shall have authority to remove and impound, or to order the removal and impounding, of any vehicle parked overtime or otherwise illegally, provided that the circumstances of that parking are within the authority of this Part, as stated in Section 701. Provided, no such vehicle shall be removed or impounded except in strict adherence to all provisions of this Part.

§703. Designation of Approved Storage Garages; Bonding; Towing and Storage. Removal and impounding of vehicles under this Part shall be done only by “approved storage garages” that shall be designated from time to time by Council. Every such garage shall submit evidence to Council that it is bonded or has acquired liability insurance in an amount satisfactory to Council as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garage keeper for the purpose of towing or storage. The approved storage garage shall submit to Council its schedule of charges for towing and storage of vehicles under this Part, and, when the schedule is approved by Council, those charges shall be adhered to by the approved storage garage; no different schedule of charges shall be adopted without approval of Council and no different charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this Part by any approved storage garage. Council shall delete from its list of approved storage garages any garage that shall make any unapproved charge in connection with any vehicle removed or impounded under this Part.

§704. Notification of Removal and Impounding. Within 12 hours after the time of removal of any vehicle under authority granted by this Part, notice of the fact that the vehicle was removed shall be sent by the Police to the owner of record of the vehicle. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding, and the garage in which it was impounded.

§705. Effect of Payment of Towing and Storage Charges. The payment of any towing and storage charges authorized under this Part shall, unless payment is made “under protest”, be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. If payment of any towing or storage charge is made “under protest”, the offender shall be entitled to a hearing before a Magistrate. Payment of towing and storage charges shall not relieve the owner or operator of any vehicle from liability for any fine
or penalty for the violation of the provision of this Chapter on account of which the vehicle was removed and impounded.

§706. Records of Removed and Impounded Vehicles. The Police shall keep a record of all vehicles impounded under this Part and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicles.

§707. Restrictions upon Removal of Vehicles. No vehicle shall be removed under the authority of this Part if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.
Part 8  
Pedestrians

§801. Pedestrians to obey Traffic Signals. In all locations in the Borough where official traffic signals are installed, pedestrians, except where directed otherwise by pedestrian-control signals installed under Section 802, shall obey the directions of those traffic-control signals, as follows:

(a) When facing a green signal, a pedestrian may proceed across the roadway within a crosswalk;

(b) When facing a steady yellow signal, a pedestrian shall not start to cross the roadway; and

(c) When facing a steady red signal, a pedestrian shall not enter the roadway.

§802. Pedestrian-Control Signal Locations Established.

(a) At the locations listed in appendix IV-B (Reserved), which is incorporated by reference into and made a Part of this section, pedestrian-control signals shall be erected (or are ratified if previously erected).

(b) Every pedestrian facing a steady signal exhibiting “Do Not Walk” shall not start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his or her crossing on the “Walk” signal shall proceed to a sidewalk or safety zone while the “Do Not Walk” signal is showing.

(c) Whenever the “Do Not Walk” indication flashing, pedestrians shall not start to cross the roadway in the direction of the indication, but any pedestrian who has Partly completed crossing during the “Walk” indication shall proceed to a sidewalk or safety zone, and all drivers of vehicles shall yield to the pedestrian.

§803. Locations where Pedestrians may cross Street only in Crosswalk. It shall be unlawful for any pedestrian:

(a) To cross any roadway in a business district within the Borough except in a crosswalk; and

(b) In locations listed as “Cross in crosswalk only” in appendix IV-B (Reserved), which is incorporated by reference into and made a Part of this section, to cross the roadway except in a crosswalk.

§804. Penalty for Violation. Any person who violates any provision of this Part shall, upon conviction, be sentence to pay a fine of twenty-five dollars ($25.00) and costs.
§901. Findings.

WHEREAS, the Borough of White Haven has received requests for handicapped parking zones pursuant to the Rules and Regulations of the Borough Code and the Pennsylvania Motor Vehicle Act; and

WHEREAS, the White Haven Borough Council wishes to establish criteria regarding handicapped parking zones; and

WHEREAS, the White Have Borough Council wishes to establish fees regarding the same insomuch that the number of requests for such handicapped parking zones has increased and the Borough is no longer able to afford to provide the necessary signs at no cost to the individuals requesting the same.


§902. Submission of Application for On-street Handicapped Parking Space. Any individual requesting an on-street handicapped parking space with the Borough of White Haven shall submit an application to the Borough Police Committee on an official Borough form. Any individuals who propose to maintain eligibility for existing handicapped parking spaces beyond July 1, 1994, shall, likewise, submit an application to the Police Committee on or before July 1, 1994. (Ord. No. 1-1994, 5/20/1994, Sec. 1)

§903. Review of Applications by Police Committee; Recommendations to Council; Approval or Rejection. The White haven Borough Police Committee shall review all applications so submitted and shall make a recommendation to Council which shall approve or reject all such applications. (Ord. No. 1-1994, 5/20/1994, Sec. 2)

§904. Continuing review by Police; Action by Council. The Police shall review all handicapped parking spaces or areas at least once annually to determine whether or not the individual so requesting the handicapped parking space or area continues to be eligible under the criteria set for in Section 905, and if not, the handicapped parking space shall be removed at the direction of Borough Council. (Ord. No. 1-1994, 5/20/1994, Sec. 3)

§905. Criteria for creation of Handicapped Parking Spaces. The criteria for creation of a handicapped parking space shall be as follows:

(a) The individual so requesting the space shall exhibit proof that his or her vehicle bears or displays either: (i) a handicapped registration plate; (ii) a handicapped parking placard; (iii) a disabled veteran registration plate; or (iv) a disabled veteran placard.
(b) No more than one (1) handicapped parking space shall be issued to any one individual within the limits of the Borough of White Haven.

(c) No more than one (1) handicapped parking space shall be provided per dwelling unit within the Borough limits of White Haven.

(d) No handicapped parking space shall be provided for the location so requested if there exists a reasonable accessible and practicable off-street parking space to serve such location.

(e) The creation of a handicapped parking space shall not create a safety hazard, and must not interfere with the smooth, safe and proper flow of traffic.

(f) No handicapped parking space shall be created unless it can be demonstrated that the physical condition giving rise to the request is reasonably expected to persist for a period of no less than six (6) consecutive months.

(g) The handicapped parking space shall be removed if there is a change in the circumstances such that the handicapped parking space shall no longer be appropriate under the criteria referred to herein.

(Ord. No. 1-1994, 5/20/1994, Sec. 4)

§906. Application Fee; Fee for Erection and Maintenance of Sign.

(a) For all existing handicapped parking areas within the Borough of White Haven, no application fee need accompany the application for the continuance of the handicapped space. Unless otherwise applied for and approved as set forth above, all existing handicapped parking spaces shall terminate as of July 1, 1994.

(b) For all other applications for handicapped parking areas, there shall be submitted, along with the application, a non-refundable application fee of ten dollars ($10), together with a check in the amount of one hundred dollars ($100), also payable to the Borough of White Haven, which one hundred dollars ($100) shall represent a fee for the erection and maintenance of the necessary sign. Said one hundred dollars ($100) shall be returned to the applicant if permission is not given for the creation of the handicapped parking space, but shall be retained by the Borough if said application is approved.

(Ord. No. 1-1994, 5/20/1994, Sec. 5)

§907. Erection and Location of Signs. If the individual’s application is approved by the White Haven Borough Council, the Council shall take steps to erect the appropriate signs purchased from an approved sign manufacturer on the street as close as possible to the place of residence of the applicant, indicating that the place is reserved for handicapped parking. All such signs shall be erected on approved breakaway posts. (Ord. No. 1-1994, 5/20/1994, Sec. 6)
§908. Authority of Council to Establish other Handicapped Parking Areas. This Ordinance shall not limit the discretion of the Council to establish handicapped parking areas at other locations where they deem appropriate. (Ord. No. 1-1994, 5/20/1994, Sec. 7)
## MOTOR VEHICLE AND TRAFFIC APPENDICES

### Appendix I-A
**Maximum Speed Limits on Streets**

<table>
<thead>
<tr>
<th>Street</th>
<th>Portion</th>
<th>Direction of Travel</th>
<th>Max Speed Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Berwick Street</td>
<td>Between Church and east borough line</td>
<td>eastbound and westbound</td>
<td>25</td>
</tr>
<tr>
<td>2 Buffalo Street</td>
<td>a) Between Church and west borough line</td>
<td>eastbound and westbound</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>b) Between Church and Towanda</td>
<td>eastbound and westbound</td>
<td>25</td>
</tr>
<tr>
<td>3 Church Street</td>
<td>a) Between north and south borough line</td>
<td>northbound</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>b) Between north and south borough line</td>
<td>southbound</td>
<td>35</td>
</tr>
<tr>
<td>4 Towanda Street</td>
<td>Between Berwick and north borough line</td>
<td>northbound</td>
<td>25</td>
</tr>
<tr>
<td>5 Wilkes-Barre Street</td>
<td>Between Towanda and Church</td>
<td>eastbound and westbound</td>
<td>25</td>
</tr>
<tr>
<td>6 Towanda Street</td>
<td>Between Erie and Lehigh</td>
<td>northbound and southbound</td>
<td>25</td>
</tr>
<tr>
<td>7 Lehigh Street</td>
<td>Between Towanda and Church</td>
<td>eastbound and westbound</td>
<td>25</td>
</tr>
<tr>
<td>8 All other streets</td>
<td>Entire extent except portions above</td>
<td>both directions</td>
<td>25</td>
</tr>
<tr>
<td>9 Powerhouse Road</td>
<td>Between Old Route 940 and end of the road</td>
<td>eastbound and westbound</td>
<td>10</td>
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</tbody>
</table>

### Appendix I-B
**Maximum Speed Limit on Bridges and Elevated Structures**

<table>
<thead>
<tr>
<th>Bridge or Elevated Structure</th>
<th>Location</th>
<th>Max Speed Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Berwick Street Bridge</td>
<td>Over Lehigh River between boroughs of White Haven and East Side</td>
<td>25</td>
</tr>
</tbody>
</table>

### Appendix I-C
Reserved.

**Maximum Speed Limits for Certain Vehicles on Hazardous Grades.**
Appendix I-D Reserved.

Traffic Signals

Appendix I-E Reserved.

Intersections where Turn Prohibited on Red Signal

Appendix I-F

One-Way Streets

| Street               | From         | To           | Direction of Travel | Days   | Hours        
|----------------------|--------------|--------------|---------------------|--------|--------------
| 1 Northumberland     | Church       | Towanda      | eastbound           | everyday | at all times |
| 2 Barry's Lane       | Unnamed alley| Laurel       | westbound           | everyday | at all times |

(added by Ord. No. 4-1992, 7/10/1991, Sec. 1)

3 Locust Street       | Wilkes-Barre Street | Barry's Lane | southbound     | everyday | at all times |

(added by Ord. No. 4-1992, 7/10/1991, Sec. 1)

Appendix I-G

Intersections where Turns are Prohibited or Restricted

<table>
<thead>
<tr>
<th>Vehicles Traveling on</th>
<th>Direction of Travel</th>
<th>Not to Make</th>
<th>Into</th>
<th>When</th>
<th>Types of Vehicles Applicable to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Chemung Street</td>
<td>northbound</td>
<td>left turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td></td>
<td>southbound</td>
<td>right turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td>2 Elmira Street</td>
<td>northbound</td>
<td>left turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td></td>
<td>southbound</td>
<td>right turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td>3 Towanda Street</td>
<td>northbound</td>
<td>left turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td></td>
<td>southbound</td>
<td>right turn</td>
<td>Northumberland</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
<tr>
<td>4 Laurel Street</td>
<td>northbound</td>
<td>right turn</td>
<td>Barry's Lane</td>
<td>All times</td>
<td>All vehicles</td>
</tr>
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</table>

(added by Ord. No. 2-1994, 5/20/1994, Sec. 2)

Appendix I-H Reserved.

Through Highways
## Appendix I-I
### Stop Intersections

<table>
<thead>
<tr>
<th>Stop Street</th>
<th>Through Street</th>
<th>Direction of Travel</th>
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</thead>
<tbody>
<tr>
<td>Allegheny Street</td>
<td>Church Street</td>
<td>westbound</td>
</tr>
<tr>
<td>Allegheny Street</td>
<td>Elmira Street</td>
<td>eastbound</td>
</tr>
<tr>
<td>Ash Street</td>
<td>Church Street</td>
<td>westbound</td>
</tr>
<tr>
<td>Berwick Street</td>
<td>Church Street</td>
<td>eastbound</td>
</tr>
<tr>
<td>Berwick Street</td>
<td>Laurel Street</td>
<td>eastbound and westbound</td>
</tr>
<tr>
<td>Buffalo Street</td>
<td>Church Street</td>
<td>westbound</td>
</tr>
<tr>
<td>Buffalo Street</td>
<td>Towanda Street</td>
<td>eastbound</td>
</tr>
<tr>
<td>Church Street</td>
<td>Berwick Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Elmira Street</td>
<td>Berwick Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Elmira Street</td>
<td>Erie Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Elmira Street</td>
<td>Lehigh Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Elmira Street</td>
<td>Northumberland Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Elmira Street</td>
<td>Wilkes-Barre Street</td>
<td>southbound</td>
</tr>
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<td>Erie Street</td>
<td>Church Street</td>
<td>Westbound</td>
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<td>Erie Street</td>
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<td>Eastbound</td>
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<td>Hemlock Street</td>
<td>Chemung Street</td>
<td>eastbound</td>
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<td>Hemlock Street</td>
<td>Church Street</td>
<td>eastbound and westbound</td>
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<tr>
<td>Hemlock Street</td>
<td>Vine Street</td>
<td>westbound</td>
</tr>
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<td>James Place</td>
<td>Church Street</td>
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<td>Laurel Street</td>
<td>Buffalo Street</td>
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<td>Laurel Street</td>
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<td>Elmira Street</td>
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<td>Main Street</td>
<td>Berwick Street</td>
<td>northbound and southbound</td>
</tr>
<tr>
<td>Maple Street</td>
<td>Church Street</td>
<td>westbound</td>
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<td>Northumberland Street</td>
<td>Church Street</td>
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<td>Northumberland Street</td>
<td>Main Street</td>
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<td>Susquehanna Street</td>
<td>Church Street</td>
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<td>Chemung Street</td>
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<tr>
<td></td>
<td>Street 1</td>
<td>Street 2</td>
</tr>
<tr>
<td>---</td>
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<td>-------------------------------</td>
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<td>Chemung Street</td>
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</tr>
<tr>
<td>63</td>
<td>Susquehanna Street</td>
<td>Towanda Street</td>
</tr>
<tr>
<td>64</td>
<td>Barry's Lane</td>
<td>Laurel Street</td>
</tr>
<tr>
<td>65</td>
<td>Oak Street</td>
<td>Vine Street</td>
</tr>
<tr>
<td>66</td>
<td>Oak Street</td>
<td>Laurel Street</td>
</tr>
<tr>
<td>67</td>
<td>Susquehanna Street</td>
<td>Main Street</td>
</tr>
<tr>
<td>68</td>
<td>Northumberland Street</td>
<td>Elmir Street</td>
</tr>
<tr>
<td>69</td>
<td>Berwick Street</td>
<td>Laurel Street</td>
</tr>
<tr>
<td>70</td>
<td>Northumberland Street</td>
<td>Towanda Street</td>
</tr>
<tr>
<td>71</td>
<td>South Woodhaven Drive</td>
<td>East Woodhaven Drive</td>
</tr>
<tr>
<td>72</td>
<td>East Woodhaven Drive</td>
<td>Buffalo Street</td>
</tr>
<tr>
<td>73</td>
<td>West Woodhaven Drive</td>
<td>Buffalo Street</td>
</tr>
<tr>
<td>74</td>
<td>South Woodhaven Drive</td>
<td>West Woodhaven Drive</td>
</tr>
<tr>
<td>75</td>
<td>Oak Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>76</td>
<td>Chemung Street</td>
<td>Berwick Street</td>
</tr>
<tr>
<td>77</td>
<td>Pine Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>78</td>
<td>Susquehanna Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>79</td>
<td>Wilkes-Barre Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>80</td>
<td>Buffalo Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>81</td>
<td>Beech Street</td>
<td>Church Street</td>
</tr>
<tr>
<td>82</td>
<td>Dam II Ave</td>
<td>Route 940</td>
</tr>
<tr>
<td>83</td>
<td>Old Route 940</td>
<td>Route 940</td>
</tr>
<tr>
<td>84</td>
<td>Powerhouse Road</td>
<td>Route 940</td>
</tr>
<tr>
<td>85</td>
<td>Thriftway Parking Lot</td>
<td>Berwick Street</td>
</tr>
<tr>
<td>86</td>
<td>First Eastern Bank Lot</td>
<td>Main Street</td>
</tr>
<tr>
<td>87</td>
<td>Powerhouse Road</td>
<td>Old 940</td>
</tr>
<tr>
<td>88</td>
<td>Elmir Street</td>
<td>Cherry Street</td>
</tr>
<tr>
<td>89</td>
<td>James Place</td>
<td>Cherry Street</td>
</tr>
<tr>
<td>90</td>
<td>Erie Street</td>
<td>Elmir Street</td>
</tr>
</tbody>
</table>

**Appendix I-J**

Yield-Right-of-Way Intersection

(Deleted by Ord. No. 5-1984, 12/18/1984, Item (a))
Appendix I-K
Vehicle Weight Limits

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
<th>Direction of Travel</th>
<th>Max Gross Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Buffalo</td>
<td>eastern and western terminus of Buffalo Street</td>
<td>eastbound and westbound</td>
<td>7 tons</td>
</tr>
<tr>
<td>2 Erie</td>
<td>Church Street and Main Street</td>
<td>eastbound and westbound</td>
<td>7 tons</td>
</tr>
<tr>
<td>3 Main</td>
<td>Susquehanna Street and Berwick Street</td>
<td>northbound and southbound</td>
<td>7 tons</td>
</tr>
<tr>
<td>4 Northumberland</td>
<td>Main Street and western terminus of Northumberland Street</td>
<td>eastbound and westbound</td>
<td>7 tons</td>
</tr>
<tr>
<td>5 Towanda</td>
<td>Berwick Street and Lehigh Street</td>
<td>northbound and southbound</td>
<td>7 tons</td>
</tr>
<tr>
<td>6 Wilkes-Barre</td>
<td>Vine Street and eastern terminus</td>
<td>eastbound and westbound</td>
<td>7 tons</td>
</tr>
</tbody>
</table>

Appendix I-L
Streets where Truck Traffic is Restricted

<table>
<thead>
<tr>
<th>Street</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Berwick</td>
<td>Church Street and Vine Street</td>
</tr>
<tr>
<td>2 Buffalo</td>
<td>Church Street and Towanda Street</td>
</tr>
<tr>
<td>3 Erie</td>
<td>Church Street and Towanda Street</td>
</tr>
<tr>
<td>4 Lehigh</td>
<td>Church Street and Towanda Street</td>
</tr>
<tr>
<td>5 Northumberland</td>
<td>Church Street and Towanda Street</td>
</tr>
<tr>
<td>6 Susquehanna</td>
<td>Church Street and Main Street</td>
</tr>
<tr>
<td>7 Towanda</td>
<td>Northumberland and Lehigh Street</td>
</tr>
<tr>
<td>8 Allegheny</td>
<td>Towanda Street and Church Street</td>
</tr>
<tr>
<td>9 Maple</td>
<td>Church Street and Chemung Street</td>
</tr>
<tr>
<td>10 Beach</td>
<td>Church Street and Chemung Street</td>
</tr>
<tr>
<td>11 Ash</td>
<td>Church Street and Chemung Street</td>
</tr>
<tr>
<td>12 Elmira</td>
<td>Lehigh Street and Buffalo Street</td>
</tr>
<tr>
<td>13 Oak</td>
<td>Chemung Street and Vine Street</td>
</tr>
<tr>
<td>14 Chemung</td>
<td>Lehigh Street and Buffalo Street</td>
</tr>
<tr>
<td>15 Hemlock</td>
<td>Vine Street and Chemung Street</td>
</tr>
<tr>
<td>16 Pine</td>
<td>Church Street and Towanda Street</td>
</tr>
<tr>
<td>17 James</td>
<td>Church Street and Elmira Street</td>
</tr>
<tr>
<td>18 Cherry</td>
<td>Towanda Street and Elmira Street</td>
</tr>
<tr>
<td>19 Chemung</td>
<td>Hazle Street and Cherry Street</td>
</tr>
<tr>
<td>20 Laurel</td>
<td>Buffalo Street and Oak Street</td>
</tr>
<tr>
<td>21 Vine</td>
<td>Buffalo Street and Park Street</td>
</tr>
</tbody>
</table>

Appendix I-M Reserved.
Size and Weight Restrictions on Bridges

Appendix I-N Reserved.
Snow Mobile Roads
Appendix II-A
Angle Parking Zones
(added by Ord. No. 2-1994, 5/20/1994, Sec. 4)

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lehigh Street</td>
<td>South</td>
<td>Towanda Street and Chemung Street</td>
</tr>
</tbody>
</table>

(added by Ord. No. 2-1994, 5/20/1994, Sec. 4)

Appendix II-B
Parking Prohibited at All Times

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffalo Street</td>
<td>north</td>
<td>In front of fire house</td>
</tr>
<tr>
<td>Main Street</td>
<td>east</td>
<td>Between Berwick Street and a point 50 feet north from the northeast corner of Wilkes-Barre Street, if extended, and Main Street</td>
</tr>
<tr>
<td>Northumberland Street</td>
<td>both</td>
<td>Between Towanda Street and Main Street</td>
</tr>
<tr>
<td>Susquehanna Street</td>
<td>north</td>
<td>At the dead end turnaround</td>
</tr>
<tr>
<td>Towanda Street</td>
<td>west</td>
<td>Between Pine Street and Susquehanna Street</td>
</tr>
</tbody>
</table>

(Deleted by Ord. No. 16-1982, 12/2/1982)

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffalo Street</td>
<td>south</td>
<td>Across from Fire House</td>
</tr>
</tbody>
</table>

(added by Ord. No. 16-1982, 12/2/1982, and renumbered by Ord. No. 3-1989, 6/8/1989, Sec. 3(C))

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interstate 80 westbound ramp</td>
<td>both</td>
<td>Adjacent to Lehigh Street</td>
</tr>
</tbody>
</table>

(added by Ord. No. 1-1985, 4/11/1985, Sec. 3(C))

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Woodhaven Drive</td>
<td>east and west</td>
<td>From Buffalo Street to North Woodhaven Drive</td>
</tr>
<tr>
<td>West Woodhaven Drive</td>
<td>east and west</td>
<td>From Buffalo Street to North Woodhaven Drive</td>
</tr>
<tr>
<td>South Woodhaven Drive</td>
<td>north and south</td>
<td>From West Woodhaven Drive to East Woodhaven Drive</td>
</tr>
</tbody>
</table>

(added by Ord. No. 3-1989, 6/8/1989, Sec. 1(D))

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lehigh Street</td>
<td>north</td>
<td>Between Towanda and Chemung Streets</td>
</tr>
<tr>
<td>Trimmer Ave</td>
<td>west</td>
<td>From Church Street to and including the entrance to the Laurel Cemetery, a total distance of 330 feet</td>
</tr>
<tr>
<td>Trimmer Ave</td>
<td>east</td>
<td>From Church Street to a point perpendicular from the northernmost side of the entrance to Laurel Cemetery, a total distance of 290 feet</td>
</tr>
</tbody>
</table>

(added by Ord. No. 2-1994, 5/20/1994, Sec. 5(A))
14. Pine Street south

Beginning at the east end of Pine Street (at the intersection of Pine Street and Towanda Street) and continuing west for a distance of 125 feet

(added by Ord. No. 2-1995, 6/14/1995, Sec. 1-A)

15. N/A

An area of forty-five (45’) feet north and south of a proposed driveway access for the White Haven Community Library entering on the east side of Towanda Street, also known as SR 2041; the center line of the proposed driveway is located four hundred five (405’) feet north of the centerline of Cherry Street at Penn Dot highway station SR 2041, Segment 0010 Offset 1475. The no parking area is located entirely along frontage of land owned by the Borough of White Haven and lease to the White Haven Area Community Library.

(added by Ord. No. 2-2009, Sec. 1)

Appendix II-C
Parking Prohibited in Certain Locations Certain Days and Hours

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Between</th>
<th>Days</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>both</td>
<td>Susquehanna Street and alley</td>
<td>Every day</td>
<td>2:00 a.m. to 7:00 a.m.</td>
</tr>
</tbody>
</table>

Appendix II-D
Parking Time Limited in Certain Location Certain Days and Hours

<table>
<thead>
<tr>
<th>Street</th>
<th>Side</th>
<th>Location</th>
<th>Days</th>
<th>Parking Time Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Towanda Street</td>
<td>both</td>
<td>approx. 100 feet in front of and across the street from the Post Office</td>
<td>Every Day</td>
<td>2 hours</td>
</tr>
<tr>
<td>Main Street</td>
<td>West</td>
<td>Entire length</td>
<td>Every Day</td>
<td>2 hrs (6 am - 6 pm)</td>
</tr>
</tbody>
</table>

Appendix II-E
Special Purpose Parking Zones

(Deleted by Ord. No. 5-1984, 12/18/1984, Item (c))
CHAPTER 19

PARKS AND RECREATION

Part 1
Establishment of Parks and Recreation Places

§101. Definitions
§102. Park Hours
§103. Prohibited Conduct
§104. Fishing
§105. Reservation for Specific Uses
§106. Authorization to Promulgate Additional Rules
§107. Authority to Close Areas
§108. Enforcement
§109. Repealer
§110. Severability
§111. Penalties

Part 2
Authority to Make Regulations

§201. Authority to make Regulations
§202. Penalty for Violation

Part 3
Liquor and Alcoholic Beverages

§301. Restrictions on Public Transportation and Use
§302. Permit required for Transportation, Possession or Consumption in Park or Playground
§303. Application for Permit
§304. Information on Application
§305. Late Applications may be considered by Council
§306. Time Limit for Consideration by Council and for Notifying Applicant of Denial of Permit
§307. Conditions for Grant of Permit
§308. Hours Permit in Effect
§309. Alternate Permits
§310. Copies of Permits furnished Certain Officials
§311. Revocation of Permits
§312. Custody of Permit
§313. Permit Holder to comply with Applicable Laws and Ordinances, and with Conditions of Permit
§314. Penalty for Violation
CHAPTER 19

PARKS AND RECREATION

Part 1

Establishment of Parks and Recreation Places

§101. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Park or Parks – unless specifically limited, shall be deemed to include all parks playgrounds, recreation areas, recreation structures and facilities, and also entrances and approaches thereto, and all other land or property or structures under the jurisdiction of the Recreation Board, now or hereafter owned or acquired by the Borough for park or recreational purposes. Borough parks include but are not limited to the following:

<table>
<thead>
<tr>
<th>Name of Park</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Lehigh Street Park</td>
<td>on Lehigh Street</td>
</tr>
<tr>
<td>2 Hemlock Street Park</td>
<td>on Hemlock Street</td>
</tr>
<tr>
<td>3 Pine Street Park</td>
<td>on Pine Street and Susquehanna Street</td>
</tr>
<tr>
<td>4 Linesville Park</td>
<td>on Vine Street and Buffalo Street</td>
</tr>
</tbody>
</table>

(b) Rules and Regulations – any rules and regulations hereby or hereafter promulgated by the Recreation Board under the authority herein conferred.

§102. Park Hours. All parks shall be opened daily to the public at such hours as the Recreation Board may from time to time designate, but in no event shall any person be permitted to be in attendance in any park between dusk and sunrise, unless special permission is granted by the Recreation Board, or Borough Council.

§103. Prohibited Conduct. No person in attendance at a park shall:

(a) Injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, structures, signs, or fixtures, or any other property of the Borough located within the park.

(b) Litter any area of the park with garbage, paper, bottles, cans or other waste material; nor dispose of the same in any way except in receptacles designated for such purpose.

(c) Kindle or maintain any fire in the park except in fireplaces or areas specially designated for that purpose and located by authority of the Recreation Board or Council.
(d) Remove any park equipment, bench, seat, table or other appliance without permission of the Recreation Board or Borough Council.

(e) Injure, deface, destroy or remove any notice, rule or regulation posted at any place within the park by authority of the Recreation Board or Council; nor shall any notice or placard be posted within the park other than by authority of the Recreation Board or Borough Council.

(f) Set up any booth, table or stand for the sale of any part or service whatsoever within the limits of the park without permission of the Recreation Board; distribute, sell, service or rent any services or commodity or solicit for any purpose without permission of the Recreation Board or Borough Council.

(g) Operate, stop or park any vehicle, bicycle or other means of conveyance except in areas where permitted or designated by proper authority of the Recreation Board or Borough Council, or operate the same in a reckless or negligent manner or in excess of any posted speed limit or in such a manner as to become a nuisance to other area users.

(h) Operate commercial vehicles, unless providing authorized services.

(i) Bring onto the premises, possess or consume any alcoholic beverage or illegal drugs of any kind; no person shall enter the park in an intoxicated state or otherwise be under the influence of alcohol or illegal drugs.

(j) Carry or discharge any firearms, slingshots, firecrackers, fireworks or other missile propelling instruments or explosives or arrows, or other dangerous weapons which have such properties as to cause annoyance or injury to any person or property, unless permission has been granted by the Recreation Board or Borough Council in designated areas; Police Officers in the performance of their duties will be exempt from these provisions.

(k) Play ball, swim, golf, pitch horseshoes, engage in archery, camp, or launch dock or land any boat, engage in finding buried objects with special detectors, or participate in any other form of recreation, sporting endeavor or pastime, except in those areas which may be designated from time to time for that purpose by the Recreation Board or Borough Council.

(l) Disrobe or change clothing except in buildings or facilities made available for that purpose.

(m) Disturb the peace by any conduct so as to annoy any other person using the park for recreational purposes.

(n) Operate a snowmobile, minibike, motorcycle, or any vehicle, recreational or otherwise, except on designated roads, trails, or areas set aside for their use.
(o) Use threatening, abusive, insulting, profane or obscene language or words.

(p) Commit any disorderly or immoral acts.

(q) Hold any public meeting or rally with more than five (5) persons or engage in any marching or driving as member of a military, political or other organization without permission of the Recreation Board or Borough Council, which requires a statement of information, including the name of the organization, its purpose, number of persons expected to be invited, except duration and name(s) of person(s) in charge.

(r) Disobey a proper order of a Police Officer or Recreation Board member, or Council member, or disobey or disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction given by authorized person and posted or displayed by sign notice, bulletin, card, poster, or when notified or informed as to its existence by the Recreation Board, Borough Council, or an authorized person.

(s) Hunt for, capture or kill, or attempt to capture or kill, or aid or assist in the capturing or killing of, in any manner, any wild bird or wild animal of any description, with game or otherwise, and to that end, it is unlawful for any person to carry onto or possess in any park, a shot gun or rifle or pistol or firearm of any make or kind unless specific permission is granted for a designated area by authority of the Recreation Board or Borough Council.

(t) No pet(s).

§104. Fishing. All laws pertaining to fishing in the Commonwealth shall apply to fishing in parks and recreation areas, and provisions thereof are hereby incorporated by reference.

§105. Reservation for Specific Uses. The use of all parks shall be on a first come, first serve basis unless otherwise reserved:

(a) by annual permission granted by the Recreation Board or Borough Council for the scheduling of various league games, etc.;

(b) for school or college athletic games, practice, contests, or exhibitions;

(c) for regularly scheduled school district or municipal recreation programs; or

(d) by permission granted by the Recreation Board or Borough Council for a specific requested use.
§106. Authorization to Promulgate Additional Rules or Change Existing Rules. The Recreation Board is authorized to establish additional rules and regulations as deemed necessary and with approval of the Borough Council, or Borough Council is authorized to establish additional rules and regulations or change existing rules as it deems necessary.

§107. Authority to Close Areas. Recreation facilities which become hazardous for public use due to weather, water, fire or unforeseeable conditions may be closed only at the discretion of the Borough Council.

§108. Enforcement. The Police Officers or Code Enforcement Officers are charged with enforcement of the provisions of this Ordinance and of the rules and regulations promulgated by the Recreation Board or Borough Council.

§109. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§110. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§111. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not exceeding thirty (30) days. Each day that a violation of this ordinance continues, shall constitute a separate offense.
Part 2
Authority to Make Regulations

§201. Authority to make Regulations. Council may, from time to time, by resolution, establish rules and regulations for the management and control of activities and conduct in parks, recreational areas, playgrounds, school grounds, cemeteries, public or semi-public parking lots, public thoroughfares, and private business parking lots and thoroughfares held open to the public within the limits of White Haven Borough. (Ord. No. 1980-3, 7/17/80, Sec. 2)

§202. Penalty for Violation. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not exceeding thirty (30) days. Each day that a violation of this ordinance continues, shall constitute a separate offense.

EDITORS NOTE: Section 202 has been changed to be consistent with Part 1, Section 111. Old Section 202 established fines of between $25.00 and $300.00, which conflicted with Part 1, Section 111.
Part 3
Liquor and Alcoholic Beverages

§301. Restrictions on Public Transportation and Use. No person shall transport or possess on his or her person or in a motor vehicle any beer, wine or alcoholic beverage in an open container, or consume any beer, wine or alcoholic beverages in or upon any street, sidewalk, alley, park, recreation area, tennis court, school grounds, cemetery, public or semi-public parking lot, private business parking lot open to the public or public way of the Borough or areas under jurisdiction of the Police Department except as provided in Sections 302 through 315. (Ord. No. 1980-2, 8/12/80, Sec. 1)

§302. Permit required for Transportation, Possession or Consumption in Park or Playground. No person shall possess, carry or transport any beer, wine or other alcoholic beverage in an open container, or consume any beer, wine or alcoholic beverage in or upon a park or playground in the Borough, except as provided in Sections 303 through 313. (Ord. No. 1980-2, 8/12/80, Sec. 2)

§303. Application for Permit. Any person seeking issuance of a permit to consume or possess beer, wine, liquor or other alcoholic beverages shall personally present nine (9) copies of a written application to Council, at a Council Meeting scheduled for general business purposes. The application, at minimum, shall conform with the requirements of Section 304. Council shall have the right at the meeting to question the applicant and to request any additional information as it feels necessary to render its decision as to whether it shall or shall not issue the permit. The “permit” shall be in the form of a formal resolution of Council approving the application subject to the terms and conditions as set forth in Section 307 as well as subject to any other terms and conditions Council feels are necessary to protect the public health, welfare and safety. (Ord. No. 1980-2, 8/12/80, Sec. 3, as amended by Ord. No. 1-1984, 5/10/84)

§304. Information on Application. The application for a permit shall set forth the following information:

(a) The name, address and telephone number of the person seeking the permit;

(b) The name, address and telephone number of the headquarters of the organization or association requesting the permit and of the authorizing and responsible head of that organization or association;

(c) The name, address and telephone number of the person who will be the chairman and who will be responsible for the conduct of the activity;

(d) The date when the activity is to be conducted;

(e) The specific location of the activity proposed;

(f) The approximate number of persons who will participate in the activity;
(g) The hours when the activity will start and terminate; and

(h) Any additional information which Council finds reasonably necessary to make a fair determination as to whether a permit should be issued.

(Ord. No. 1980-2, 8/12/80, Sec. 4)

§305. Late Applications may be considered by Council. Council, where good cause is shown, shall have authority to consider any application under this Part which is filed less than 20 days before the date when the activity is proposed to be conducted. (Ord. No. 1980-2, Sec. 5)

§306. Time Limit for Consideration by Council and for Notifying Applicant of Denial of Permit. Council shall act on the application no later than the next scheduled meeting of Council for general business purposes. Should the permit application be for a date between the date of the Council meeting at which the petition is presented and the next scheduled meeting of Council, as aforementioned, and the application is not approved at the Council meeting at which the application is presented, the application shall be deemed to have been denied. A “permit” is a privilege which Council, in its sole discretion, has the right to grant or withhold. A “permit” is not a public legal right. Should any party applicant obligate himself or herself to third parties in anticipation of a grant of a “permit”, and before a “permit” is issued by Council by way of a formal resolution, and should the “permit” be denied and the party applicant thereafter become legally damaged by virtue of applicant’s pre-approval obligations to third parties, or if the applicant shall himself or herself suffer damages, then the applicant shall be responsible for the damages and Council shall not be in any way responsible therefore. There shall be no appeal from Council’s denial of a permit as its decision to grant or withhold a permit is a purely administrative act. (Ord. No. 1980-2, 8/12/80, Sec. 6, as amended by Ord. No. 1-1984, 5/10/84)

§307. Conditions for Grant of Permit. Council shall issue a permit as provided for under this Part when, from a consideration of the applicant and from such other information as may otherwise by obtained, they find that:

(a) The conduct of the activity proposed will not substantially interrupt the safe and orderly activity of the park or playground in question or the safe and orderly movement of traffic, pedestrian and vehicular.

(b) The conduct of the activity will not require the diversion of so great a number of Police Officers of the Borough to properly police the activity so as to prevent normal police protection to the Borough.

(c) The concentration of persons of the activity will not unduly interfere with proper utilization of the parks and playgrounds or with proper fire and police protection of the parks and playgrounds and areas contiguous to those areas.
The conduct of the activity is not reasonably likely to cause injury to persons or property, provoke disorderly conduct or create a disturbance.

The conduct of the activity is not reasonably likely to cause littering or a health hazard to the citizens of the Borough.

(Ord. No. 1980-2, 8/12/80, Sec. 7)

§308. Hours Permit in Effect. No permit shall be granted under this Part for an activity to convene before 9:00 a.m. or terminate after 2:00 a.m. (Ord. No. 1980-2, 8/12/80, Sec. 8)

§309. Alternate Permits. Council, in denying an application for a permit, shall be empowered to authorize the activity on a day, at a time, or at a location different from that named by the applicant. An applicant desiring to accept an alternate permit, shall, within two (2) days after notice of the action of Council, file a written notice of acceptance with the Secretary. An alternate permit shall conform to the requirements for and shall have the effect of a permit under this Part. (Ord. No. 1980-2, 8/12/80, Sec. 10)

§310. Copies of Permits furnished Certain Officials. Immediately upon the issuance of a permit the secretary shall send a copy to each of the following: the Mayor, the Fire Chief, the President of Council and the Chairperson of the police committee and any other Borough officials affected by the permit. (Ord. No. 1980-2, 8/12/80, Sec. 11)

§311. Revocation of Permits. The chief of Police or Council shall have the authority to revoke any permit issued under this Part upon violation of any of the standards prescribed for issuance by Section 307. (Ord. No. 1980-2, 8/12/80, Sec. 12)

§312. Custody of Permit. The activity chairperson or other person heading or leading the activity shall carry the permit upon his or her person during the conduct of the activity. (Ord. No. 1980-2, 8/12/80, Sec. 13)

§313. Permit Holder to comply with Applicable Laws and Ordinances, and with Conditions of Permit. The permit holder under this Part shall comply with all permit directions and conditions, and with all applicable laws and ordinances. (Ord. No. 1980-2, 8/12/80, Sec. 14)

§314. Penalty for Violation. Any person or the chairman of any activity or the person in charge of or leading any activity subject to this Part, who violates any provision of this Part or any items of a permit granted under this Part, shall be guilty of an offense, and upon conviction, shall be subject to a fine not less than One Hundred ($100.00) Dollars or more than Three Hundred ($300.00) Dollars and costs of prosecution for each violation, and in default of payment of fine and costs, to imprisonment, not to exceed 30 days for each violation. (Ord. No. 1980-2, 8/12/80, Sec. 15)
CHAPTER 20

PUBLIC RECORDS

Part 1

Access Policy

§101. Purpose
§102. Public Records
§103. Public-Records Officer
§104. Inspection
§105. Requests
§106. Fees
§107. Redaction
§108. Response
§109. Appeal Process
§110. Other Applicable Policies
§111. Repealer

SCHEDULE “A” FEES
REQUEST FORM
CHAPTER 20

PUBLIC RECORDS

Part 1
Access Policy

§101. Purpose. The Borough of White Haven has adopted this policy so that the public fully understands and is afforded the opportunity to inspect and obtain copies of public records of the Borough, and to meet the requirements of the Pennsylvania Right to Know Law (Act 3 of 2008, effective January 1, 2009), which law governs the rights of the public to inspect and obtain copies of public records.

EDITOR’S NOTE: Resolution No. 9-2004, 10/18/2004, Sec. 1-10 has been repealed in part and replaced with new provisions to comply with the new Pennsylvania Right to Know Law, Act 3 of 2008).

§102. Public Record. Is defined under the Right to Know Law as a record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708 of the Right to Know Law; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege. The following records are not public records under Section 708(b) of the Right to Know Law:

(a) Records which result in the loss of funds from Federal or State agencies.

(b) Records that jeopardize physical or personal security.

(c) Records that imperil the military, homeland security, or threaten public safety or activities.

(d) Records that endanger physical security of buildings, infrastructure or computer storage.

(e) Records that jeopardize employees’ health information including workers’ compensation or unemployment compensation records.

(f) Personal information such as employee identification number, Social Security Number, drivers’ license number or home information.

(g) Personnel documents such as letters of reference, performance rating or grievance materials (until a decision is made based on the latter).

(h) Material which details negotiation strategy for collective bargaining agreements.
(i) Drafts of ordinances, policies or resolutions until they are finally adopted.

(j) Pre-decisional information/deliberations for proposals or budgets, until presented to a quorum of the Borough.

(k) Information that discloses a trade secret or other confidential proprietary material.

(l) Personal notes for public official’s own use; also includes telephone notes if not used for an official use.

(m) The identity of a donor, except when the donation is for “the personal benefit of either a public official use.

(n) Unpublished lecture notes, manuscripts, articles or other creative works in progress.

(o) Academic transcripts (including licensing exams).

(p) Police investigative materials, except for the police blotter.

(q) Reports of non-criminal investigations (this includes complaints).

(r) 911 tapes; however response time logs are public.

(s) DNA & RNA records.

(t) Autopsy records.

(u) Draft minutes, until the next regularly scheduled meeting, or minutes from an executive session.

(v) Real estate appraisals, engineering studies or environmental reports.

(w) Library circulation records.

(x) Certain archival records and museum materials.

(y) Any material that would identify a protected archaeological site or endangerment to any habitat for a threatened animal/plant species, which is not public.

(z) Any material such as contract bids, construction, etc. until the contract has been awarded.
(aa) A record related to communications between insurance carriers, administrative service organization or risk office except for contracts.

(bb) The identity of anyone who applies for social services.

(cc) Correspondence between legislator and constituent.

(dd) Records that identify, home address or birth date of a child 17 years or younger.

§103. Public-Record’s Officer. Borough Council shall appoint an Open-Record’s Officer annually to receive requests submitted to the Borough under the Right to Know Law, direct requests to other appropriate persons within the Borough, or to appropriate persons in another agency, track the agency’s progress in responding to requests and issue interim and final responses under the Right to Know Law. Upon receiving a request for a public record, legislative record or financial record, the open-records officer shall do all of the following: (a) Note the date of receipt on the written request; (b) Compute the day on which the five-day period under section 901 of the Right to Know Law will expire and make a notation of that date on the written request; and (c) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) of the Right to Know Law or the appeal is deemed denied.

§104. Inspection. Public Records are open for inspection and copying at the White Haven Borough Municipal Building, 312 Main Street, White Haven, PA 18661, during normal office hours, with the exception of holidays.

§105. Requests. A request for public records must be in writing on the form attached to this Policy.

§106. Fees. A request for copies of public records will be subject to a fee. All applicable fees shall be paid in order to receive access to the records being requested. Prior to granting a request for access, the Borough may require a requester to prepay an estimate of the fees authorized under Schedule “A” of this Part if the fees required to fulfill the request are expected to exceed $100.00. At the time of adoption of this policy, the reasonable fees to cover the direct costs incurred by the Borough are established in Schedule “A” attached hereto. The Borough may from time to time change the fees established in Schedule “A” by resolution.

§107. Redaction. If the Borough determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the Borough’s response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the
Borough shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted.

§108. Response.

(a) Response Time. Upon receipt of a written request for access to a record, an agency shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. The time for response shall not exceed five business days from the date the written request is received by the open-records officer. If the Borough fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied.

(b) Extension of Time. Upon receipt of a written request for access, the open-records officer for the Borough shall determine if one of the following applies:

1. the request for access requires redaction of a record in accordance with section 107 above;
2. the request for access requires the retrieval of a record stored in a remote location;
3. a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
4. a legal review is necessary to determine whether the record is a record subject to access under the Right to Know Law;
5. the requester has not complied with the agency’s policies regarding access to records;
6. the requester refuses to pay applicable fees authorized by the Right to Know Law; or
7. the extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed in subsection (b) (1) through (7) above applies, the open-records officer shall send written notice to the requester within five business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for in section 108(a) above, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Borough has not provided a response by that date.
§109. Appeal Process. If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) of the Right to Know Law within 15 business days of the mailing date of the Borough’s response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the Borough for delaying or denying the request.

§110. Other Applicable Policies. This policy may be affected by the Retention and Disposition schedule for Records of Pennsylvania Municipalities, as well as other state and federal laws and regulations relating to public record retention and disposition scheduled. (Res. No. 9-2004, 10/18/2004, Sec. 9)

§111. Repealer. Any and all other ordinances, resolution, policies, or parts thereof, consistent or in conflict herewith, are hereby repealed. (Res. No. 9-2004, 10/18/2004, Sec. 10)
SCHEDULE “A”

EDITOR’S NOTE: The following fee schedule has been changed and established at the recommendation of the Office of Open Records pursuant to Section 1307 of the Right-To-Know law.

**Fee Structure**

<table>
<thead>
<tr>
<th>Record Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Copies:</strong></td>
<td>.25 per page.</td>
</tr>
<tr>
<td>(A &quot;photocopy&quot; is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5” x 11” page)</td>
<td></td>
</tr>
<tr>
<td><strong>Certification of a Record:</strong></td>
<td>$5.00 per record to certify a public record. Please note that certification fees do not include notarization fees.</td>
</tr>
<tr>
<td><strong>Specialized documents:</strong></td>
<td>Actual Cost</td>
</tr>
<tr>
<td>(For example, but not limited to, blue prints, color copies, non-standard sized documents)</td>
<td></td>
</tr>
<tr>
<td><strong>Facsimile/Microfiche/Other Media:</strong></td>
<td>Actual Cost</td>
</tr>
<tr>
<td><strong>Redaction Fee:</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Conversion to Paper:</strong></td>
<td>If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).</td>
</tr>
<tr>
<td><strong>Postage Fees:</strong></td>
<td>Actual Cost</td>
</tr>
</tbody>
</table>
RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:__________________

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTER:________________________________________________________

STREET ADDRESS:__________________________________________________________

CITY/STATE/COUNTY/ZIP CODE (Required)

TELEPHONE: ( )____________________________________________________________

RECORDS REQUESTED:______________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

______________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

*Provide as much specific detail as possible so the Borough can identify the information.

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES

**

** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL **

FOR BOROUGH USE ONLY

RIGHT TO KNOW OFFICER: ____________________________

DATE RECEIVED BY THE AGENCY: _______________________

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE: _____________

** The Borough will only respond to written requests where the identity of the requestor is provided on this form. The requestor may only pursue the relief and remedies provided for in the Act, if the request is in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)
CHAPTER 21

PUBLIC SAFETY

Part 1

Police Department Organization, Powers and Duties

§101. Police Department Established; Classification and Number of Members
§102. Supervision over Police Department
§103. Status of Existing Police Force
§104. Appointment of Special Policemen by Mayor-
§105. Regular Full-time Police Officer
§106. Part-time Police Officer
§107. Special Police Officer
§108. Chief of Police
§109. Classifications of Officers
§110. Powers of Borough Police
§111. Directives and Reporting Manual
§112. Police authorized to use Electronic Speed Timing Devices

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Intergovernmental Cooperation Agreement

§201. Intergovernmental Cooperation Agreement with Dennison Township
§202. Intergovernmental Cooperation Agreement with Penn Lake Park Borough

Part 3

Drug Task Force

§301. Authority to enter into Municipal Police Cooperative Agreement
§302. Legal Authority for Agreement
§303. Purposes and Objectives
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Part 4

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§401. Adoption Agreement
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CHAPTER 21
PUBLIC SAFETY
Part 1
Police Department Organization, Powers and Duties

§101. Police Department Established; Classification and Number of Members. A police department is established in and for the Borough. The number of members of the police department, full-time and/or part-time, shall be as determined by Council from time to time, and Council shall further have the authority to establish the ranks, and classifications in the police department, and the number of persons, if any, to serve in each of those ranks and classifications.

§102. Supervision over Police Department. Appointments, suspensions, reductions in rank, discharges, and powers in regards to the Police Department shall be in accordance with Section 1121 of the Borough Code; 53 P.S. 46121.

§103. Status of Existing Police Force. The existing police force of the Borough is hereby designated as the police department established by this Part.

§104. Appointment of Special Police by Mayor. Nothing herein shall affect the authority of the Mayor to appoint special police during emergencies.

§105. Regular Full-time Police Officer.

(a) A police officer who is available, for scheduling purposes, for full employment at any and all times, seven days a week, twenty-four hours a day, for normal police duties is a “regular full-time police officer.”

(b) Regular full-time police officer shall respond to any emergency call, 24 hours a day, seven (7) days a week, if available.

(c) Regular full-time police officer may be self-employed or otherwise employed so long as his employment is not inconsistent with his or her position as a police officer and so long as his or her outside employment does not interfere with his or her ability to perform his duties as a police officer or affect his or her availability as scheduled.

(Added by Ord. No. 2-1983, 4/21/1983, Sec. 1-a)

Editorial Note: Section 1(a) of Ord. No. 2-1983 added Sections 105 through 111; the introductory paragraph of section 1 of the ordinance stated that the ordinance was to become part of this Code of Ordinances and that the sections of the ordinance might be renumbered to accomplish that purpose. See also Petras v. Union Township, 28D, & C.
§106. Part-time Police Officer.

(a) A “part-time police officer” (hereinafter PTPO) is a police officer retained by Council pursuant to Section 101 to supplement the services of the “regular full-time police officer(s)” (hereinafter FTPO) as defined in Section 105.

(b) A PTPO shall not be part of the Act III bargaining unit which shall be composed of FTPOs only. Further, PTPOs shall not form or become part of any bargaining unit.

(c) Pursuant to Section 101, Council may retain one or more PTPOs from time-to-time to supplement the capabilities of the FTPOs in meeting the day-to-day variations in the Borough’s law enforcement requirements in comport with the Borough’s budgetary constraints.

(d) Council shall contract with each PTPO individually. A PTPO shall be compensated for services rendered at an agreed-upon hourly rate of pay.

(e) All PTPOs shall serve at the pleasure of Council and may be discharged at any time without Council being accountable to anyone as to its reason for discharge. A PTPO shall be a casual employee who may or may not be called to work at irregular intervals and he/she shall not receive or be entitled to receive such so-called “fringe benefits” as unemployment compensation insurance, sick leave, vacation pay, medical insurance coverage and etc. as are normally paid to FTPOs. A PTPO, however, shall be covered for on-the-job injuries under Workmen’s Compensation and Professional Liability Insurance in the same manner as is a FTPO.

(f) As contrasted with a FTPO, PTPO need not be available, for scheduling purposes, seven days a week, twenty-four hours a day, for police duties. A PTPO shall not be required to respond to any emergency call, 24 hours a day, seven (7) days a week.

(g) Council shall have the full authority to submit a list of PTPOs to the Mayor and it shall have the right to designate which officers on the list shall be given first, second, etc. preference for call-up. In setting preference standards, Council shall take into consideration such factors as an individual’s flexibility and responsiveness to call-up, job performance and experience. Council may also take these and other factors into consideration in setting individual PTPO hourly rates. For purposes of establishing a call-up priority list, Council shall pre-empt the powers and duties of the Mayor. Further, Council, by virtue of its power and authority in establishing a budget and expending public funds, shall establish the maximum amount of PTPO employment by the Mayor and police by establishing a budget for such purpose which shall not be exceeded unless, of course, there is a public emergency. Finally, no PTPO shall be scheduled for more than ten (10) hours of police work within any given 24 hour calendar day.
(h) A PTPO shall have the right to give first preference to his or her regular full-time employment for purposes of his or her personnel time scheduling as contrasted with the requirements set forth for a FTPO is Section 105 (c).

(Added by Ord. No. 2-1983, 4/21/83, Sec. 1-a, and amended by Ord. No. 2-1984, 7/26/84, Sec. 3)

Editorial Note: Section 1 of Ord. No. 2-1984 provided that the provisions of that ordinance were to become and be made a part of the Code of Ordinances and that the sections of the ordinance might be renumbered to accomplish that intention; Section 2 repealed Section 106 of this code as originally enacted; Section 3 adopted the amended Section 106, as codified above to replace the repealed Section 106; Section 4 provided that the ordinance take effect immediately upon passage; Section 5 contained severability provisions similar to those in Section 1-1005.

§107. Special Police Officer. A special police officer is one who is subject to call by the Mayor or a ranked police officer with supervisory authority on account of special circumstances, unusual conditions or emergencies, and it is so stated in his or her employment agreement at the time of his or her employment. (Added by Ord. No. 2-1983, 4/21/83, Sec. 1-a)

§108. Chief of Police.

(a) Since Council has deemed it necessary, the rank of Chief of Police is hereby established.

(b) The Chief of Police shall not be considered to be part of management for collective bargaining purposes if he or she becomes a member of the bargaining unit for the police.

(Added by Ord. No. 2-1983, 4/21/83, Sec. 1-a)

§109. Classifications of Officers. Classifications shall be as established by Resolution of White Haven Borough Council and may include Police Chief, Patrolman First Class and Patrolman, or as otherwise designated in Policies and Procedures.

§110. Powers of Borough Police.

(a) Among other powers given the Borough police by law and ordinance, Borough police, who shall be ex-officio constables or controlled by the Borough, whether such property is within or outside the limits of the borough, without warrant and upon view, or after the issue of warrant, or upon probable cause, arrest and commit for hearing any and all personas believed to be guilty of a violation of which a fine or penalty is imposed, and notwithstanding any statute pertaining to the same or similar offenses.
(b) Police shall have authority to serve and execute all process for the violation of the Code of Ordinances of the Borough and shall charge the same fees and costs as constables of the Borough, but such fees and costs shall be collected by the mayor and by him paid into the borough treasury.

§111. Directives and Reporting Manual. Council has adopted directives and a reporting manual for the Borough Police to be enforced in accordance with its terms. It shall be the duty of every police officer within the Borough to conduct themselves at all times in accordance with those policies and directives. At the time of adoption of this Part, the Borough has adopted 37 Directives and Reporting Manual, as supplemented and amended, for police officers to follow. These directives and policies may be changed from time to time by Council with the comment from the police department.

Editorial Note: This section has been changed to reflect the adoption by the Borough of a Directives and Reporting Manual consisting of two volumes for the White Haven Police Department.

§112. Police authorized to use Electronic Speed Timing Devices.

(a) Borough policemen are hereby authorized to enforce the established speed restrictions and limits on the borough streets and highways as well as to prosecute persons for the violation of said restrictions and limits. For these purposes, the mayor shall have the power to direct the borough policemen to use, or not to use, electronic speed timing and other speed monitoring devices which are now authorized or as may be hereafter authorized by the Pennsylvania Department of Transportation.

(b) Electronic speed timing devices currently authorized for use by the Police Department, as the Mayor so directs.

(c) Borough police shall be trained in the use and operation of said device and certified to use and operate said device in accordance with the regulations of the Pennsylvania Department of Transportation.

(d) Council may, by resolution, cause to have erected signs giving the public notice of the use of electronic speed timing devices within the Borough. The aforementioned erection of signs shall be discretionary with Council and the erection of signs shall not be a prerequisite to the use of electronic speed timing and other speed monitoring devices within the Borough by the Borough Police Department.

(As added by Ord. No. 3-1983, 9/15/83, Sec. 1-a)

Editorial Note: Section 1-a of Ord. directed that this section be incorporated into the Code of Ordinances. The introductory paragraph of that ordinance stated that the provisions of the ordinance were to become and be made a part of this Code of Ordinances and that the sections of the ordinance might be renumbered to accomplish that intention.
Part 2

Intergovernmental Cooperation Agreement

§201. Intergovernmental Cooperation Agreement with Dennison Township.

(a) White Haven Borough hereby enters into an Intergovernmental Cooperation Agreement with Dennison Township to authorize the White Haven Borough Police to have jurisdiction throughout Dennison Township, Luzerne County, Pennsylvania.

(b) All charges for such services will be billed to and paid for by Dennison Township in accordance with the Fee schedule.

(c) White Haven Borough will provide police services in the manner set forth in the Agreement.

(d) The terms and provisions of the Intergovernmental Cooperation Agreement are adopted herein in their entirety as if more fully set forth in this Ordinance.

(e) All ordinances or parts of ordinances, which are inconsistent with this ordinance, are hereby repealed.

(f) If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough of White Haven that this ordinance would have been adopted has such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein

§202. Intergovernmental Cooperation Agreement with Penn Lake Park Borough.

(a) White Haven Borough hereby enters into an Intergovernmental Cooperation Agreement with Penn Lake Park Borough to authorize the White Haven Borough Police to have jurisdiction throughout Penn Lake Park Borough, Luzerne County, Pennsylvania, for the purposes contained in the Agreement.

(b) All charges for such services will be billed to and paid for by Penn Lake Park Borough in accordance with the Fee schedule contained in the Agreement.

(c) White Haven Borough will provide police services in the manner set forth in the Agreement.

(d) The terms and provisions of the Intergovernmental Cooperation Agreement are adopted herein in their entirety as if more fully set forth in this Ordinance.
(e) All ordinances or parts of ordinances, which are inconsistent with this ordinance, are hereby repealed.

(f) If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough of White Haven that this ordinance would have been adopted has such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein

(Ord. No. 1-2010, 5/10/2010)
Part 3
Drug Task Force

§301. Authority to enter into Municipal Police Cooperative Agreement. The Council for the Borough of White Haven, Luzerne County, Pennsylvania, is hereby empowered and authorized to enter into an Agreement for intergovernmental cooperation known as the “Municipal Police Cooperative Agreement”, hereinafter referred to as the “Agreement”. (Ord. No. 1-1991, 4/30/1991, Sec. 1)

Editorial Note: Section 6 of Ordinance No. 1-1991 provided that the ordinance become effective immediately upon its enactment.

§302. Legal Authority for Agreement. This Agreement shall be entered into pursuant to the provisions of 53 P.S. Sections 483 and 484 relating to Joint Municipal Activities. (Ord. No. 1-1991, 4/30/1991, Sec. 2)

§303. Purposes and Objectives. The purposes and objectives of the Agreement are as follows:

(a) to enhance the coordination of drug investigations in the Luzerne County area; and

(b) to provide for mutual police aid across jurisdictional lines to enable police to more effectively enforce the provisions of narcotics and illegal drug laws and thereby to preserve the safety and welfare of the entire area; and

(c) to have available for use throughout the territorial limits of all municipalities signing the mutual Agreement, the services of police employed by any and all of the said municipalities, under the conditions set forth and in compliance with the Municipal Police Jurisdiction Act, 42 Pa. C.S.A. Section 8953.

(Ord. No. 1-1991, 4/30/1991, Sec. 3)

§304. Conditions and Terms as set out in Agreement. The Agreement shall be subject to all the conditions and terms specified and set forth in the “Municipal Police Cooperative Agreement” which is attached hereto and incorporated by reference herein, which include the manner and extent of financing the Agreement, the organizational structure necessary to implement the Agreement, the powers to scope of authority delegated in the Agreement, and the manner in which property, real or personal, shall be acquired, managed or disposed of. (Ord. No. 1-1991, 4/30/1991, Sec. 4)

§305. Duration of Agreement; Termination by any Municipality. The duration of the Agreement shall be indefinite, subject to termination by any municipality as provided in the Agreement. (Ord. No. 1-1991, 4/30/1991, Sec. 5)

Editorial Note: Section 11 of Ord. No. 2-1991 provided that the ordinance become effective immediately upon enactment.

§402. Intention to participate in Municipal Drug Task Force. The Borough of White Haven has evidenced its intent to participate in the Municipal Drug Task Force activities in cooperation with the Commonwealth’s Office of Attorney General designed to interdict the illegal use and trafficking of narcotics and other illegal drugs within its municipal boundaries, as well as within the boundaries of nearby communities. (Ord. No. 2-1991, 4/30/1991, 4/30/1991, Sec. 1)

§403. Intergovernmental Cooperative Activities Authorized. This Agreement may include intergovernmental cooperative activities with adjacent and nearby municipal governments as part of a regional effort to interdict illegal drug activities. (Ord. No. 2-1991, 4/30/1991, Sec. 2)

§404. Utilization of Services of Borough Police Force. The Borough of White Haven shall utilize the services of its police force, both full time as well as part time, under the conditions set forth in the Agreement and in compliance with the Municipal Police Jurisdiction Act, 42 Pa. C.S.A. Section 8953. (Ord. No. 2-1991, 4/30/1991, Sec. 3)

§405. Establishment of Procedures. The Borough of White Haven shall establish, pursuant to the terms of the Agreement which is attached hereto and incorporated as a part of Ordinance No. 2-1991, appropriate procedures to comply with all relevant provisions of the Agreement and relevant regulations, direction and guidance from the Office of the Attorney General. (Ord. No. 2-1991, 4/30/1991, Sec. 4)

§406. Term and Duration of Agreement. The term of the agreement shall commence upon its execution, and may be terminated at any time upon 30 days’ written notice. (Ord. No. 2-1991, 4/30/1991, Sec. 5)

§407. Region wide Coordination of Police Activities Authorized. The purpose and objectives of the Agreement include region wide coordination of municipal police activities in an effort to combat illegal narcotics and drug trafficking. (Ord. No. 2-1991, Sec. 6)
§408. Revenue Sources. The Agreement shall be finances with the assistance of funds supplied by the Office of Attorney General of the Commonwealth of Pennsylvania. (Ord. No. 2-1991, 4/30/1991, Sec. 7)

§409. Organizational Structure. The organizational structure necessary to implement the terms of this Agreement shall be covered by directives, procedures and guidance from the office of the Attorney General and other area police departments. (Ord. No. 2-1991, 4/30/1991, Sec. 8)

§410. Management of Real Personal Property. All property, real or personal, acquired, managed or disposed of pursuant to this Agreement shall be in accordance with both the terms of the Agreement, as well as the directives, procedures and guidance of the Office of the Attorney General. (Ord. No. 2-1991, 4.30/1991, Sec. 9)

§411. Responsibility for Borough Employees. The municipality shall retain responsibility for the management, control and direction of its employees with assistance, financial or otherwise, from the Office of the Attorney General. (Ord. No. 2-1991, 4/301991, Sec. 10)
CHAPTER 22

SEWER AND WATER

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CHAPTER 22

SEWER AND WATER

Part 1

Holding Tanks

§101. Purpose. The purpose of this Part is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage whether from residential or commercial uses and it is declared that the enactment of this Part is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Borough. (Ord. No. 1976-2, 3/10/76, Sec. 1)

Editorial Note: Section 11 or Ord. No. 1976-2 repealed all inconsistent ordinances or resolutions or parts of ordinances or resolutions; Section 12 contained severability provisions similar to those in Section 1-1005; Section 13 provided that the ordinance become effective five days after its adoption.

§102. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Part shall be as follows:

(a) Holding tank – means a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. Holding tanks include but are not limited to the following:

   (1) Chemical toilet – means a toilet using chemicals that discharge to a holding tank.

   (2) Retention tank – means a holding tank where sewage is conveyed to it by a water-carrying system.

   (3) Vault pit privy – means a holding tank designed to receive sewage where water under pressure is not available.

(b) Improved property – means any property within the Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

(c) Sewage – means any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

(Ord. No. 1976-2, 3/10/76, Sec. 2)
§103. Rights and Privileges Granted. Council is authorized and empowered to undertake within the Borough the control and methods of holding tank sewage disposal and the collection and transportation of it. (Ord. No. 1976-2, 3/10/76, Sec. 3)

§104. Rules and Regulations. Council is authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes set out in Section 101. (Ord. No. 1976-2, 3/10/76, Sec. 4)

§105. Rules and Regulations to be in Conformity with Applicable Laws, Ordinances, Rules and Regulations. All such rules and regulations adopted by the Council shall be in conformity with the provisions of this Part, all other ordinances of the borough, and all applicable laws, and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania. (Ord. No. 1976-2, 3/10/76 Sec. 5)

§106. Rates and Charges. Council shall have the right and power to fix, alter, charge and collect rates, assessments and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law. (Ord. No. 1976-2, 3/10/76, Sec. 6)

§107. Exclusiveness of Rights and Privileges. The collection and transportations of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Council, and the disposal of that sewage shall be made only at a site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania. (Ord. No. 1976-2, 3/10/76, Sec. 7)

§108. Duties of Owners of Improved Property. The owner of an improved property that utilizes a holding tank shall:

(a) Maintain the holding tank in conformance with this Part and any applicable ordinance of this Borough, the provisions of any applicable law, and the rules and regulations of Council and any administrative agency of the Commonwealth of Pennsylvania.

(b) Permit only Council or its agent to collect, transport and dispose of the contents of the holding tank.

(Ord. No. 1976-2, 3/10/76, Sec. 8)

§109. Abatement of Nuisances. In addition to any other remedies provided in this article, any violation of Section 108 shall constitute a nuisance and shall be abated by the Borough by either seeking appropriate equitable or legal relief from a court of competent jurisdiction. (Ord. No. 1976-2, 3/10/76, Sec. 10)

§110. Penalty for Violation. Any person who violates any provision of Section 108 shall, upon conviction, be sentenced to pay a fine of not less than One Hundred ($100) Dollars and not more than Three Hundred ($300) Dollars and costs, and in default of payment of fine and costs to undergo imprisonment for a period not in excess of 30 days. Each day that a violation continues shall be deemed a separate offense. (Ord. No. 1976-2, 3/10/76, Sec. 9)
Part 2
Dissolution of Sewer and Water

§201. Preamble.

WHEREAS, the White Haven Municipal Authority, White Haven Borough and Dennison Township entered into a Sewage Agreement dated February 9, 1994; and

WHEREAS, the White Haven Municipal Authority has since sold the White Haven Sewage Collection System and Sewage Treatment Plant to Little Washington Wastewater Company d/b/a Suburban Wastewater Company, hereinafter “SWC”; and

WHEREAS, the White Haven Municipal Authority has been terminated and no longer is in existence; and

WHEREAS, the White Haven Borough has no interest in either the White Haven Borough Sewage Collection System or the White Haven Sewage Treatment Plant.

(Res. No. 6-2005, 6/27/05)

§202. No Legal Interest Established. The White Haven Borough Acknowledges that it has no legal interest in either the sewage collection system of the sewage treatment plant located in the Borough of White Haven; that it has no interest in the original Sewage Agreement dated February 9, 1994 between White Haven Municipal Authority, White Haven Borough and Dennison Township, which Agreement was subsequently assigned to SWC; that it has no interest in or objection to the Sewage Pass-through Agreement between Dennison Township and SWC, a copy of which is attached hereto and made a part hereof. (Res. No. 6-2005, 6/27/05)
Part 3
Water Shortage

§301. Existence of Shortage. When it is determined by Borough Council that a shortage of water does exist, a prohibition on water usage shall be imposed and all residents shall be informed by appropriate means which are calculated to reach the users of the water system.

§302. Prohibited Uses of Water. In all future water shortages, the following uses of water shall be prohibited:

(a) No person shall use water for the purpose of watering lawns.

(b) No person shall use water for the purpose of washing motor vehicles.

(c) No person shall use water for the purpose of filling swimming pools.

(d) No person shall use water to the extent that it is determined by the Borough of White Haven to be an appropriation of more than seventy-five (75%) percent of the base.

The restrictions shall not apply to industrial and commercial users and persons who use their own well water for the above purposes.

§303. Enforcement. Borough Council and their employees and other public officials designated by Council, shall have the responsibility for enforcing the provisions of this Part.

§304. Penalty. The provisions of this Part are declared appropriate for the health, safety and welfare of the citizens of the Borough, and any person or persons, firm, corporation, or combination of individuals violating any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding Six Hundred ($600.00) Dollars and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.
CHAPTER 23

SOLID WASTE

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Solid Waste Storage, Collection and Disposal

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Licensing of Solid Waste Collectors

§301. Short Title
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CHAPTER 23

SOLID WASTE

Part 1
Solid Waste Storage, Collection and Disposal

§101. Definitions. The following words and terms, as used in this Ordinance, shall have the meaning hereby ascribed thereto, unless the context clearly indicates a different meaning.

(a) Ashes – the residue from burning of wood, coal, coke, or other combustible materials.

(b) Commercial Unit – any business or industrial establishment which is not included under the definition of residential unit.

(c) Contractor – means a person permitted by the Borough to collect, transport and dispose of refuse and/or recyclables.

(d) Garbage – means all putrescible fish, fruit, animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

(e) Refuse – is a general term and shall mean all matter and materials which are discarded or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort and safety of the community; it shall include ashes, garbage, rubbish, riffraff and other refuse materials, but exclude human body waste and recyclables.

(f) Residential Unit – a single structure, or part thereof, used for or as a dwelling for humans and containing cooking facilities and includes, but is not limited to, single family detached dwellings, single family attached dwellings, apartments, townhouses and mobile homes, but does not include hotels, motels, and apartment buildings containing more than 15 apartments.

(g) Riffraff – all material not included in the definition of garbage, refuse, rubbish and ashes which shall include waste material from construction, manufacturing or maintenance work, new or used furniture, tires, household machinery and appliances.

(h) Rubbish – shall mean leaves, branches, trees, sawdust, chips, shavings, wood, woodenware, leather, rags, grass, straw, manure and all solid combustible matter not included in this section under the term “garbage.” (Ord. No. 1-1993, 5/13/1993, Sec. 1)

Editorial Note: The enacting clause of the Ordinance No. 1-1993 stated that the ordinance was enacted under authority granted by the Borough Code, Act No. 581 of February 1,
1966, Section 1201(11), as amended and supplemented. Section 11 of the Ordinance repealed all inconsistent ordinances and parts of ordinances and specifically repealed Ordinance No. 1978-1 which had been set out in Chapter 5 of Part 5 of this Code of Ordinances. (Actually, Ordinance No. 1978-1 had been repealed by Ordinance No. 4-1991.) Section 12 of Ordinance No. 1-1993 provided that the ordinance become effective five days from the date of enactment, and was followed by a statement that the ordinance was to become a part of this Code of Ordinances, and that the sections of the Ordinance might be renumbered to accomplish that intention.

§102. Scope of Ordinance.

(a) The provisions in this Ordinance for a contract for collection and disposal of refuse, pertain to collection from all residential units (as defined) and electing commercial units (as limited below) within the Borough. All commercial units desiring said service shall be limited to four (4) containers of not more than 35 gallon capacity each. For any requirements beyond this limit, the commercial unit shall have the authority to employ any refuse contractor to collect their excess (or all of their refuse, if the commercial unit elects not to use the municipal service) refuse provided the contractor to collect their excess (or all of their refuse, if the commercial unit elects not to use the municipal service) refuse complies with all sections and provisions of this Ordinance, as well as all other laws, rules and regulations of the Commonwealth of Pennsylvania, Luzerne County, DEP and the Borough of White Haven (Ord. No. 5-2012, 11/26/12, changed the capacity from 30 gallons to 35 gallons to be consistent with the current Waste Hauling Collection Contract).

(b) Any commercial unit can elect to employ any refuse contractor to collect and dispose of their total refuse at their sole expense and be exempt from billing by the Borough, provided the contract complies with all sections of this Ordinance and all other applicable laws, rules and regulations of the Commonwealth of Pennsylvania, Luzerne County, DEP and the Borough of White Haven. In particular, but not limited to, any private refuse contractor must:

(1) obtain the required permit from the Borough of White Haven;

(2) use the appropriate Luzerne County designated landfill; and

(3) provide for the weekly collection and disposal of its refuse.

(Ord. No. 1-1993, 5/13/1993, Sec. 2)

§103. Designated Collector only to make Collections from Certain Units; Exception.

(a) No person, except the contractor designated as herein provided in Section 104, shall collect refuse from the residential units and commercial units electing to receive municipal refuse collection services located within the Borough, nor shall any person except the aforementioned contractor haul any refuse from residential units and
said electing commercial units for any other person within the Borough of White Haven or from any point within such Borough to any place or location outside the Borough limits.

(b) Provided, however: The prohibitions contained in this section shall not apply to any person who shall haul his own riffraff from construction or demolition work, having first provided himself with the proper conveyance in which such riffraff can be conveyed in such a manner as not be a source of annoyance or unpleasant odors and so as not to leak, drip, or to be scattered upon any of the streets or alleys of the Borough. (Ord. No. 1-1993, 5/13/1993, Sec.3)

§104. Award of Contract; Content of Contract; Contractor’s Bond. The contract for the exclusive right to collect refuse from residential units and election commercial units in the Borough of White Haven, and for the conveyance and disposal thereof, shall be awarded from time to time, for such period of time as shall be determined by the White Haven Borough Council, to the lowest responsible bidder, following the procedure prescribed by the Pennsylvania Borough Code for the award of contracts in excess of $18,500 or as per Borough Code. Such contracts shall fix and regulate, in a manner not inconsistent with the terms of this Ordinance, as White Haven Borough Council shall direct, the total price to be charged by such contractors, and the manner, method and time of collecting and conveying refuse. Unless the advertisement for bids provides otherwise, the person to whom such contracts shall be awarded shall, before executing said contract and undertaking any of the duties thereunder, give bond to the White Haven Borough Council in the sum and with such security as the Borough shall require, conditioned for the faithful compliance with the terms of contract. (Ord. No. 1-1993, 5/13/1993, Sec. 4)(Changed Bid Limit from $10,000 to $18,500 per Borough Code)

§105. Preparation of Refuse for Collection; Placement for Collection. Every person for whom the contractor shall collect refuse shall prepare such refuse in the following manner: All garbage shall be drained of liquid, insofar as practicable, and shall be placed in sanitary, covered cans, or other covered containers or in customary plastic garbage bags not to exceed 35 gallons capacity, made of non-absorbent material, provided with handles and closely fitted covers and no can when filled shall exceed 50 pounds in weight. Such cans shall be furnished by the customer, shall be cleaned by him following each collection, and shall be replaced by such customer when no longer in good condition. All ashes, rubbish and riffraff shall be assembled, boxed or bundled separately in such a way that it can be handled conveniently and will not be disseminated by wind or otherwise while awaiting collection. All refuse receptacles shall be placed for collection at ground level on the property of the residence from which it is to be collected, and accessible to and not more than ten (10) feet from the side of the State or Borough road that abuts the property, or, if the property of the residential and/or commercial unit does not abut a State or Borough road, refuse receptacles shall be placed on that portion of the road right of way that abuts or is closest to the entranceway or lane to said property. No refuse shall be placed for collection earlier than 8:00 o’clock of the evening prior to a schedule collection date. (Ord. No. 1-1993, 5/13/1993, Sec. 5; amended by Ord. No. 5-
2012, 11/26/12, changing the capacity from 30 gallons to 35 gallons and from 60 pounds to 50 pounds to be consistent with the current Waste Hauling Collection Contract).

§106. Payment for Cost of Collection and Disposal; Fees.

(a) Borough Council may provide for the payment of the cost and expense of collection and disposal of said refuse, as hereinabove set forth, either in whole or in part, out of the funds of the Borough, or by the imposition and collection of reasonable fees and charges based on the assessment of residential units and electing commercial units, or by any combination thereof.

(b) The fees for collection and disposal of refuse from residential and commercial units shall be fixed, by resolution, by Council, and shall be subject to change. The fees provided for in this subsection shall be paid quarterly by the owner of the residential and electing commercial units. The fee for refuse disposal shall be the responsibility of the residential and electing commercial unit owner and in the event of a transfer of ownership, all unsettled charges shall become the responsibility of the new owner and lienable against the property. (Ord. No. 1-1993, 5/13/1993, 5/13/1993, Sec. 6)

(c) The fees for collection and disposal of refuse for each residential unit and all electing commercial units shall be fixed at $65.00 per quarter effective January 1, 2013 and shall be due on or before the last day of the month of each quarter. If any bill is not paid by the due date, an additional sum of 20% penalty shall be added to such net bill, which net bill, plus such additional sum shall constitute the gross bill. In addition to the net bill and the penalty, an interest rate of 1% per month shall be charged on any gross bill not paid by the due date. Any payment received on delinquent accounts shall be applied first to any penalty and interest and then to the oldest outstanding gross bill. (Ord. No. 5-2012, 11/26/12)

§107. Prohibited Acts. Except as hereinabove provided, no person shall throw, place or deposit refuse on any road, street, highway or other public place, or on or in any public or private property and no persons shall overturn or empty the contents of a container other than the authorized collector. (Ord. No. 1-1993, 5/13/1993, Sec. 7)

§108. Copies of Private Refuse Collection Contracts Furnished to Borough. At the request of Borough Council, each commercial unit NOT electing to use the municipal refuse collection services shall, within (10) days, supply Borough Council with a copy of its private refuse contract with an approved and permitted collector. (Ord. No. 1-1993, 5/13/1993, Sec. 8)

§109. Exoneration. Borough Council may consider requests for exoneration of fees for waste collection services provided that the unit is vacant and unoccupied and the owner has first filed written notice of such condition with the Borough and the Borough has been given the opportunity to inspect the unit to make certain that it is vacant and unoccupied. The owner of a unit shall reinstate waste collection services at the time the unit again becomes occupied. Waste Collection service fees shall be prorated for the
period in which the waste collection services were not used and the unit was unoccupied. (Ord. No. 5-2012, 11/26/12)

§110. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§111. Penalty for Violation. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. After notice, each day’s neglect to comply with the Ordinance shall be deemed a separate offense and shall be subject in all respects to the same penalty as the first offense, and separate proceedings may be instituted and separate penalties imposed for each such day’s offense after the first conviction. (Ord. No. 1-1993, 5/13/1993, Sec. 8)
§201. Definitions.

(a) Ashes – the residue from burning of wood, coal, coke, or other combustible materials.

(b) Commercial Unit – any business or industrial establishment which is not included under the definition of residential unit.

(c) Contractor – means a person permitted by the Borough to collect, transport and dispose of refuse and/or recyclables.

(d) Disposal – means the incineration, deposition, injection, dumping, spilling, leaking or placing of refuse into or on the land or water in a manner that the refuse or a constituent of refuse enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

(e) Disposal Area – means any site, location, area, building, structure, transfer station or premises to be used for refuse disposal.

(f) Garbage – means all putrescible fish, fruit, animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

(g) Glass Containers – refers to all products made from silica or sand, soda ash and limestone, the product being transparent or translucent, and being used for packaging or bottling of various matter and all other material commonly known as glass excluding, however, blue and flat glass and glass commonly known as window glass.

(h) Newspaper – as used herein shall be deemed to include paper of the type commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest. Magazines and periodicals, as well as all other paper products of any nature, are not considered newspaper.

(i) Recyclables – means materials having an economic value in the secondary material market. The following materials have such economic value: aluminum cans and articles, bi-metal cans, glass containers, steel cans, newspaper, plastic and cardboard.

(j) Refuse – is a general term and shall mean all matter and materials which are discarded or rejected or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort and safety of the community; it shall include ashes, garbage, rubbish, riffraff and other refuse materials, but exclude human body waste and recyclables.
(k) Residential Unit – a single structure, or part thereof, used for or as a dwelling for humans and containing cooking facilities and includes, but is not limited to, single family detached dwellings, single family attached dwellings, apartments, townhouses and mobile homes, but does not include hotels, motels, and apartment buildings containing more than 15 apartments.

(l) Riffraff – all material not included in the definition of garbage, refuse, rubbish and ashes which shall include waste material from construction, manufacturing or maintenance work, new or used furniture, tires, household machinery and appliances.

(m) Rubbish – shall mean leaves, branches, trees, sawdust, chips, shavings, wood, woodenware, leather, rags, grass, straw, manure and all solid combustible matter not included in this section under the term “garbage.”

(Ord. No. 2-1993, 5/13/1993, Sec 1)

Editorial Note: The preamble to Ordinance No. 2-1993 stated that reduction of the amount of solid waste and conservation of recyclable materials is an important public concern by reason of the growing problem of solid waste disposal and its impact on our environment; and that recycling conserves valuable material resources and energy, and will reduce the overall amount of solid waste presently generated, and this reduces storage, collection, transportation and disposal cost.

Section 6 of the Ordinance repealed all inconsistent ordinances and parts of Ordinances. Section 7 contained severability provisions similar to those in Section 1-1005 of this Code of Ordinances; Section 8 provided that the ordinances become effective five days from the date of enactment. Following Section 8 was a statement that the provisions of the ordinance were to become and be made a part of this Code of Ordinances, and that the sections of the ordinance might be renumbered to accomplish that intention.


(a) The Borough hereby establishes and implements a source of separation and collection program for recyclable materials in accordance with Section 1501 of the Municipal Waste Planning, Recycling and Waste Reduction Act. The source separation and collection program shall include the following regulations.

(1) All tenants, occupiers and owners of real property which receive municipal refuse collection services are hereby required to separate the following materials from other refuse generated at their homes, apartments and other residential and commercial units, and to store such material until collection. The materials to be separated are: glass containers, aluminum, steel and bimetallic cans, newspapers and plastics.
(2) From the time of placement of recyclables at the curbside, items shall become the property of the Borough, or its authorized agent. The Borough shall have the option to decide whether the Borough or the Contractor owns the recyclable placed at the curbside when preparing bid specifications for the next garbage contract. It shall be a violation of this Ordinance for any person unauthorized by the Borough to collect or pick up, or cause to be collected or picked up, any such items. Nothing in this Ordinance shall be deemed to impair the ownership of separating materials by person who generated them unless and until such materials are placed at the curbside.

(b) It shall be unlawful for a person to collect, remove or dispose of solid waste which contains glass containers, newspaper, plastic or aluminum, steel, and bimetallic cans combined with other forms of solid waste.

(c) The Borough Council, or its agent, is empowered to designate the days of the month on which recyclables shall be collected, removed and disposed of from a particular area.

(Ord. No. 2-1993, 5/13/1991, Sec. 2)

§203. Public Notices. The Borough shall establish a comprehensive and sustained public information and education program concerning recycling program features and requirements. As a part of this program, the municipal secretary shall, at least, 30 days prior to the initiation of the recycling program and, at least, once every six (6) months thereafter, notify all person occupying residential, commercial, institutional and municipal premises within its boundaries of the requirements of this Ordinance. The municipal secretary shall, as deemed necessary and appropriate, place an advertisement in a newspaper circulation in the Borough of White Haven, post a notice in public places where public notices are customarily posted, including a notice with other official notifications periodically mailed to residential and/or commercial taxpayer or utilize any combination of the foregoing. (Ord. No. 2-1993, 5/13/1993, Sec.2)

§204. Fees.

(a) The fees for collection and disposal of recyclables pursuant to the terms of this Ordinance, shall be fixed by resolution of Council, and shall be subject to change.

(b) The fees provided for in this section shall be paid quarterly by the owner of the residential or commercial unit. The fee for collection and disposal or recyclables shall be the responsibility of the new owner.

(Ord. No. 2-1993, 5/12/1993, Sec. 4)

§205. Penalties for Violation. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine, of not more than six hundred ($600.00) dollars, together with costs of prosecution, and in default of the payment of
such fine and costs to undergo imprisonment for not more than 30 days. After notice, each day’s neglect to comply with the provisions of this Ordinance shall be deemed a separate offense and shall be subject in all respects to the same penalty as the first offense, and separate proceedings may be instituted and separate penalties imposed for each such day’s offense after the first conviction. (Ord. No. 2-1993, 5/13/1993, Sec. 5)

§206. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. (Ord. No. 2-1993, 5/13/1993, Sec. 6)

§207. Severability. If any sentence, clause, section or part of this Ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of White Haven that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. No. 2-1993, 5/13/1993, Sec. 7)
Part 3

Licensing of Solid Waste Collectors

§301. Short Title. This article shall be known as the “Solid Waste Collectors’ Licensing Ordinance.” (Ord. No. 9-1990, 11/8/1990, Sec. 1)

Editorial Note: Section 6 of Ord. No. 9-1990 provided that the ordinance take effect on November 14, 1990.

§302. Definitions.

(a) The term “municipal waste” shall mean, except as modified by the current contract between the designated disposal facility and Luzerne County: Any garbage, refuse, industrial lunchroom or office waste and other material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

§303. Licensing of Collectors.

(a) General Requirements:

(1) No person shall act as a municipal solid waste collector in this municipality without first obtaining a license from the Borough pursuant to this Ordinance.

(2) Each collector’s license hereunder shall be effective for a maximum of one (1) calendar year, terminating on December 31st of the year for which issued and subject to renewal upon application.

(3) Application for a collector’s license shall be made on a form prescribed by the Borough and made to the agency or person designated by the Borough. Each application must be accompanied by proof of adequate insurance coverage and by a fee in accordance with Subsection (b) of this section. Proof of said insurance coverage must also be submitted to the County’s designated facility prior to the delivery of waste.

(4) Any collector who possesses a valid license by another municipality in the county shall be entitled to a license conditioned only upon continuing compliance with this Ordinance and any other solid waste Ordinance of this Borough.

(5) A licensee of another municipality, as provided in paragraph four (4) of this subsection above, may be issued a license if proof of a valid license in
another municipality is supplemented to the Borough, sufficient information to fill out the application for a license, and payment of a fee in accordance with subsection (b) of this section below.

(6) No license is transferable from one collector to another or one vehicle to another.

(7) Upon receipt of said application and fee, the agency or person designated by the Borough shall either issue or refuse to issue a license to the applicant within 30 days.

(b) Licensing Fees – the fee for such license shall be one hundred ($100.00) dollars per collector, with an additional charge of two dollars ($2.00) per vehicle per calendar year.

(c) Management and Collection Requirements:

(1) All vehicles used for the collection and transportation of municipal waste must satisfactorily comply with the regulations of the Commonwealth of Pennsylvania and any other solid waste Ordinance of the Borough.

(2) All collectors shall place a copy of the license in each vehicle operated in the municipality. Each vehicle shall bear the number of the license plus a sequential number referring to the vehicle in a conspicuous location on the exterior of the vehicle.

(3) All vehicles shall be inspected and reinspected annually by an agent designated by the Borough.

(4) No licensed collector shall dispose of any municipal waste collected in the Borough, except at the disposal facility designated by an executed contract with Luzerne County.

(5) The penalty for violation of this Ordinance or for operating without a license in accordance with this Ordinance shall be five hundred ($500.00) dollars plus all court costs and revocation of the license. Each day that a violation continues shall constitute a separate violation.

(6) It is the responsibility of the Borough to ensure that all terms and conditions of this Ordinance, the Luzerne County Municipal Waste Management Plan and the Luzerne County designated disposal facility contract are complied with by the collectors. (Ord. No. 9-1990, 11/8/1990, Sec. 4)
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CHAPTER 24

STREETS AND SIDEWALKS

Part 1

Snow and Ice Removal from Sidewalks

§101. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Business Day – any day not a Sunday or a national holiday.

(b) Business Hours – hours between 9:00 A.M and 5:00 P.M. on any business day.

(c) Corporation – natural person, partnership, corporation, association, or any other legal entity.

(d) Person – natural person, partnership, corporation, association, or any other legal entity.

(e) Sidewalk – portion of a street between the curb lines, or the lateral lines of a cartway, and the adjacent property lines, intended for use by pedestrians.

§102. Responsibility for Removal of Snow and Ice; Time Limit. Every person in charge or control of any building or lot of land fronting or abutting on a paved cement or concrete sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear way or cause to be removed or cleared away, snow and/or ice from a path of at least thirty inches (30") in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.

(a) Except as provided in subsection (b) below, snow and ice shall be removed from sidewalks within twelve (12) hours after the cessation of any fall of snow, sleet or freezing rain.

(b) In the event snow or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in subsection (a) above, cause enough sand or other abrasive to be put on the sidewalk to make travel reasonably safe: and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least thirty inches (30") in width.

§103. Responsibility for Removal from Roofs. Every person in charge or control of any building or other structure, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away, or cause to be removed and cleared away, any accumulation of snow and ice on said building or other structure which is liable to fall on any sidewalk,
roadway, or other public way. Such work shall be completed within a reasonable time, but not later than twelve (12) hours after the cessation of any fall of snow, sleet, or freezing rain.

§104. Depositing of Snow and Ice Restricted. No person shall deposit or cause to be deposited any snow or ice on or immediately next to a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be mounded by the Borough on public cartways incident to the clearing of sidewalks in business districts.

§105. Authority for Borough to Remove at Expense of Defaulting Owner, Occupant or Tenant of Property. In any case where an owner, occupant or tenant fails, neglects or refuses to comply with any provision of Section 102 or 103 within the time limit prescribed in those sections, Borough authorities may proceed immediately to clear all snow or ice from the sidewalk of that delinquent, and to collect the expenses of the work, with any additional amount allowed by law, from that owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under Section 108 below. (Ord. No. 1979-1, 2/13/1979, Sec. 2)

§106. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§107. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§108. Penalty for Violation. Any owner, occupant or tenant who fails to remove any snow or ice from any sidewalk, as required by Section 102, or from any roof as required by Section 103 or from any fire hydrant as required by Section 104, shall, upon conviction, be sentenced to pay a fine of not less than Fifty ($50) Dollars and nor more than Three Hundred ($300.00) Dollars and costs of prosecution, and, in default of payment of fine and costs, to imprisonment for not more than ten (10) days. (Ord. No. 1979-1, 2/13/1979, Sec. 3, as amended by Ord. No. 4-1994, Sec. 1)
Part 2
Regulation of Original Construction and Repair of Sidewalks

§201. Construction and Repair Required. The Borough may require owners of property abutting on any street, including state highways, to construct, pave, repave, pour, and repair the sidewalk, curb and gutter along such property, at such grades and under such regulations as may be prescribed by the Borough, indicated by Section 203 below.

§202. Supports under Sidewalks and Curbs. Where sidewalks or curbs are to be constructed, paved, repaved, poured, or repaired over coal cellars or other excavations, such sidewalks shall be supported by iron and steel beams, girders, stone or concrete arches. Any support of wood or perishable material shall be prohibited.

§203. Conformity to Line and Grade Specifications. All sidewalks, curbs and gutters shall be constructed, paved, repaved, poured, or repaired, upon the line and grade obtained by the property owner from the Borough, and shall be constructed in accordance with the following requirements:

§204. Notice to Do Work. Notice to construct, pave, repave and repair sidewalks, curbs or gutters shall be given registered or certified mail to abutting property owners, and such owners shall have sixty (60) days to comply with said notice in conformity with any construction specification prescribed by the Borough, including Section 203 above.

§205. Inspection. At any time during the performance of the required work, the Borough or the Code Enforcement Officer may inspect the work to determine whether construction specifications such as those in Section 203 above are being observed.

§206. Municipality May Do Work and Collect Costs. Upon the failure of any property owner to construct, pave, repave, pour, or maintain any sidewalk, curb or gutter in compliance with notice to do so, the Borough may do the same or cause the same to be done, and may levy the cost of its work on such owner as a property lien to be collected in the manner provided by law.

§207. Emergency Repairs. Where in the opinion of the Code Enforcement Officer a dangerous condition exits that can be repaired, the Borough shall send such property owner notice by registered or certified mail stating emergency repairs are required. Upon failure of such owner to comply with the notice within forty-eight (48) hours after receiving it, the Borough may make emergency repairs, and levy cost of its work on such owner as a property lien to be collected in the manner provided by law.

§208. Construction and Repair Done on Owner’s Initiative without Notice. Any property owner not required by notice to construct, pave, repave, pour, or keep in repair sidewalks, curbs or gutters, may construct, pave, repave or repair the sidewalk, curb and gutter abutting his or her property; provided, such owner shall make application to the
Code Enforcement Officer before commencing work, shall conform to the provisions of this ordinance and other regulations as to specifications for construction and repair work and shall notify the Code Enforcement Officer within two (2) days after completion of work.

§209. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§210. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§211. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) days. Each day a violation continues shall constitute a separate offense.
Part 3
Regulation of Construction and Improvement of Streets and Highways

§301. Regulations on Construction and Width of Streets. From and after the passage and approval of this Ordinance, the following regulations shall govern the width and construction of all street and highways in the Borough whether the same be built and constructed by the Borough, or constructed by private persons, firms or corporations within the limits of the Borough.

(a) Grades. The street grades shall be submitted to the Borough Engineer or Code Enforcement Officer for approval.

(b) Preparation of Streets for Paving.

   (1) Where slopes, fills, embankments, walls or culverts are necessary and required, the same shall be presented to the Borough Engineer or Code Enforcement Officer for approval.

   (2) Sanitary sewers shall not be constructed or laid until a permit shall be secured from the Commonwealth of Pennsylvania and plans approved by the Borough Engineer or Code Enforcement Officer.

   (3) Storm sewers shall be constructed under the supervision of the Borough Engineer or Code Enforcement Officer only after the plans, size of pipe, pipe material, etc., have been approved by the Borough.

   (4) All water, gas, steam pipes or conduits shall be laid prior to street construction, and the laterals, branches or extensions of same shall be extended to the inside lot line of the curb under the supervision of the Borough Engineer or Code Enforcement Officer.

(c) Street Width. The paved surface of streets between curbs shall not be less than thirty (30) feet.

(d) Street Construction.

   (1) Where bituminous concrete shall be permitted for use as street surfacing, it shall be in combination with reinforced cement concrete; an eighteen (18) inch reinforced cement concrete gutter shall be laid on each side of said street adjoining and inside the reinforced cement concrete bow-type curb.

   (2) All newly constructed curbs shall be the box-type and constructed of reinforced concrete or shall be the extruded-type constructed of precast concrete and securely fastened to the ground.
All streets shall be constructed with the materials, and in accordance with the methods and requirements as set forth under current specification of the Commonwealth of Pennsylvania Department of Transportation.

Bonds. A labor and material, and a maintenance bond for a period of two (2) years, shall be furnished by every contractor in favor of the Borough prior to all street construction.

§302. Manner of Assessment of Work Costs. Every public highway, street, avenue, land or alley or part thereof and the sidewalks thereof when included as part of the improvement, the setting of curbstones and the providing for the drainage thereof, may be graded, paved and otherwise improved; and notice of payment of the cost and expense of the same shall be given to the owners of the real estate bounding and abutting along the line of said improvement. Said cost and expense, upon the abutting real estate, shall be assessed in accordance with the foot-front or benefit rule as is provided by law.

§303. Time Limit for Payment of Assessments. Any assessment authorized under this ordinance shall be paid either in full, within sixty (60) days after notice of such assessment shall have been given to the party assessed, or in four (4) equal semiannual installments, the first of which shall be due and payable within sixty (60) days after such notice. All assessments, whether paid in full or in installments, shall be payable to the Borough Treasurer.

§304. Collection of Delinquent Assessments of Installments. If any assessment authorized under this ordinance shall not have been paid in full, or if any installment payment of one-fourth (1/4) the total amount of such assessment shall not have been made within sixty (60) days after notice shall have been given to the party assessed, the entire assessment shall be due and it shall be the duty of the Solicitor to collect the same, with interest from the date of the completion of the improvement, in any manner provided by law.

§305. Installment Payment Procedure. In case the party against whom an assessment shall have been made under this ordinance shall have paid an installment of one-fourth (1/4) of the total amount thereof within thirty (30) days after notice of such assessment, such party shall pay the remaining three-fourths (3/4) of such assessment in three (3) subsequent annual installments, the first of which shall be due within six (6) months after the first installment became due and the remaining installments shall become due at six (6) month intervals thereafter. All such installments shall bear interest at the rate of six percent (6%), per annum, commencing thirty (30) days after the notice of total assessment referred to in section 302.

§306. Property Owners to Lay Branch Pipes and Connect with Sewer, Water and Gas Lines Before Street Improvement. Whenever the Borough is ready to pave or improve any street, or part thereof, the owners of all properties, improved or unimproved, abutting upon such street or part thereof, upon ten (10) days’ notice, are hereby required,
at their own expense, before the paving or improvement thereof, to connect their respective properties with all sewer, water and gas lines laid along said street, by laying branch pipes from said main lines to the curb.

§307. Authority for Borough to do Work and Collect Cost, Plus 10%, from Defaulting Property Owner. Whenever any property owner shall fail, neglect or refuse to construct, reconstruct or repair any sidewalk or curb, following notice as referred to in Section 301 or 302, within the time limit prescribed, the Borough shall have authority to cause that work of construction, reconstruction or repair, as the case may be, to be done, and shall collect the cost and expenses of the work, with an additional amount of 10%, from the property owner in default. Similarly, when a sidewalk or curb shall be constructed, reconstructed or repaired otherwise than in strict conformity to the requirements of this Ordinance and/or any notice or permit issued under the provisions of this Ordinance, and the property owner fails, neglects, or refuses to remedy, complete or rectify the defective or incomplete work, following 10 days notice from Borough to do so, the Borough shall have authority to have any work done that shall be necessary for completion, remedy or rectification, and shall collect the costs and expenses of the work, with an additional amount of 10% from the property owner in default.

§308. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§309. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.
Part 4

Regulation of Curb Cuts and Construction of Driveways.

§401. Width of Driveways. All private driveways hereafter constructed across any pavement shall be of a width not less than eight (8) feet and the curb shall be curved back to the street edge of the foot walk on a radius of one and one-half (1 ½) feet.

§402. Permit Required. Before any private driveway may be constructed across a sidewalk and before any curb cut may be made, a permit shall be obtained from the Borough Code Enforcement Officer. All driveways shall be laid according to specifications furnished by the Borough at the time the permit is granted.

§403. Fee. The fee for a driveway or curb cut permit shall be fixed pursuant to a Resolution of the Borough.

§404. Sidewalk not to be Disturbed. All paved portions of the sidewalk must not be disturbed, and the height and grade of the sidewalk must remain the same as before the driveway was constructed. The balance of the pavement shall remain at the same height and grade as before the construction of the driveway.

§405. Rectification of Improper Work. In case any person shall construct a driveway or a curb cut and shall not conform to the requirements of this Ordinance, the Borough Code Enforcement Officer may order such person, firm or corporation to remove the improper work and replace the same in compliance with this Ordinance. Notice to remove and replace improper work shall be given by registered or certified mail, and shall state that the person, firm, or corporation shall have sixty (60) days from receipt of the notice to comply therewith. Upon non-compliance, the Borough may do or cause the requested repairs to be done and may levy the cost of its work on such owner as a property lien to be collected in any manner provided by law.

§406. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§407. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining previsions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§408. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.
Part 5
Restriction for Driving Vehicles over Curbs and Sidewalks

§501. Procedure for Driving on Curbs or Sidewalks. It shall be unlawful for any person, persons, firm or corporation, to drive or cause to be driven any vehicle on, over and across any curb or sidewalk before first obtaining permission of the abutting property owner, and the placing of a proper platform, covering or other device for the protection of the sidewalk.

§502. Report Required of Damage to Curbs or Sidewalks. Any depression, break or damage caused to any curb or sidewalk by any vehicle or by any other agency shall be reported to the Borough within twenty-four (24) hours after the damage has occurred, and emergency repairs must be made by the property owner, tenant or agent within forty-eight (48) hours after such report.

§503. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed:

§504. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§505. Penalty. Whosoever violates any of the provisions of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 6
Prohibition on Befouling Streets

§601. Proper Operation of Vehicles. Any vehicle transporting or carrying soil, sand, stone, dirt, debris, refuse, litter or other substance of any kind, including liquids and chemicals over streets and alleys and thoroughfares shall be so operated as to prevent said material from being scattered, spilled, dropped or blown from the vehicle or from the wheels, tires, or undercarriage thereof.

§602. Befouling of Streets Unlawful. It shall be unlawful to scatter, spill, dump or drop, or permit to be scattered, spilled, dumped or dropped, any soil, sand, stone, dirt, debris, refuse, litter or other substance of any kind, including liquids and chemicals, from any vehicle or from the wheels, tires, or undercarriage thereof, upon streets, alleys and thoroughfares within the Borough.

§603. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§604. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§605. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 7
Prohibition of Obstruction of Sidewalk by Vendors

§701. Applicability. The provisions of this ordinance shall not apply to the sale, storage or display of newspapers or periodicals.

§702. Restrictions on Sidewalk Sales. It shall be unlawful for any vendor of groceries, fruits and produce, or any kind of foodstuff or merchandise, except peddlers duly licensed or authorized and farmers, to store, display, exhibit or sell their wares on public highways, including the sidewalk or cartway, or any portion thereof, or to make use of the sidewalk or cartway or any portion thereof, as a place for salespersons, clerks or customers to stand while transacting business, or in any way to obstruct the sidewalk or cartway, or any portion thereof, and prevent the free use of the same by the general public.

§703. Illegal to Obstruct Sidewalks. It shall be unlawful to put or place any box, boxes, barrels, merchandise or other articles that obstruct the free use of any sidewalk upon any of the sidewalks, except articles temporarily placed thereon for the purpose of loading or unloading, removing or storing away.

§704. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§705. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§706. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) days. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 8
Restriction on Placement of Structures on or over Sidewalks and Streets

§801. Restrictions on Construction around Sidewalks and Streets. It shall be unlawful for any person, persons, firm or corporation to place, erect, or build any porch, portico, door, steps, railing, bulk, bay or window, areaway, cellar door and cellar window, sign and sign post, board, pole or frame, awning, awning post or other device or thing, projecting over, under, into, or otherwise occupying the sidewalk or other portion of any street or alley, including the surface of the sidewalk, except any traffic or other sign placed, erected or maintained by the proper state or municipal authorities and any sign attached to a building erected and maintained under permit and meeting the requirements of the Ordinance of the Borough.

§802. Authority to remove Illegal Construction and Collect Cost. In addition to the penalties imposed by this ordinance for the violation of any provision thereof, the person, firm or corporation, upon notice of the violation, shall immediately remove the offending structure or obstruction, and on failure to so remove the offending obstruction, the Borough may remove the same at the cost of the property owner, and collect the costs therefor in any manner provided by law.

§803. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§804. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining previsions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§805. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
§901. Definitions. As used in this Ordinance, the word person, shall mean and include any natural person, partnership, association, firm or corporation. The singular shall include the plural and the masculine shall include the feminine and the neuter.

§902. Permit Requirements for Storage of Building Materials. Under special circumstances, where there shall be no other practicable means for temporary storage, a permit may be granted by the Code Enforcement Officer for the storage of building materials upon a limited portion of the street and/or sidewalk abutting the property upon which such building materials are to be used. Such permit shall be issued for a fee fixed pursuant to Resolution. Such permit shall be issued upon the following conditions, which shall be strictly adhered to by the holder thereof:

(a) Such permit shall be valid for a limited time, not in the excess of ninety (90) days which shall be determined by the Borough Code Enforcement Officer, on the basis of the scope of the work being undertaken, and the inconvenience to the public involved, and such time limit shall be stated on the permit. Under special circumstances, a permit may be extended beyond the original time limit with approval of the Code Enforcement Officer, for a fee fixed pursuant to Resolution.

(b) The building material shall occupy only such portion of the street and/or sidewalk specified in the permit.

(c) Such building material shall be placed so as not to interfere with drainage of any street or sidewalk or with access to any fire hydrant.

(d) Such building material shall be arranged in a regular, neat, compact, form so as to occupy a minimum of space and present the least risk, of falling, sliding, or scattering.

(e) The holder of such permit shall be liable for all damages, losses, costs or expenses that are or may be considered by reason of the placing or storage of such material upon the street or sidewalk.

(f) The holder of such permit shall be responsible for placing barriers, guards and warning lights in the vicinity of or around such material so as to prevent injury to person and property.

(g) On or before the date of expiration of such permit, all such material shall be removed from the street and/or sidewalk and the street and/or sidewalk shall be restored to the condition in which it was immediately prior to such storage, in default of which the Code Enforcement Officer may cause such material to be removed and placed upon the property where such material is to be used, with the expense of such removal payable by the holder of such permit, and collected in any manner provided by law.
§903. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§904. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§905. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 10

Requirement of Safety Measures during Sidewalk Construction

§1001. Safety Precautions to be used during Sidewalk Construction. When any person, firm, or corporation shall erect, construct, alter, repair, roof, unroof or remove any building or perform any other work on any building fronting on any street in the Borough, whereby a risk may be incurred by persons passing the same, it shall be the duty of the owner, lessee, contractor, person or persons performing any work on such building or erect a good and substantial covering over the pavement, sidewalk or footway in front of such building, of such elevation so as not to interfere with the free use of such pavement, sidewalk or footway.

§1002. Temporary Bridges during Excavation. Whenever, in excavating for walls, cellars, foundations or vaults, or the making of other improvements, on the streets and within the limits mentioned in section 1001 above, it becomes necessary to excavate the pavement, sidewalk, or footway, the owner, lessee, contractor or other person in charge of the work shall, before commencing any such excavation, cause to be erected a good and substantial bridge not less than four (4) feet in width nor more than four (4) feet in height, with steps at each end, a banister on the side next to the street, and a tight board fence or wall on the side next to the cellar or excavation, at least seven (7) feet high, so as to facilitate the free and safe use of such sidewalk or bridge by pedestrians. Such owner, lessee, contractor or builder shall also keep the said sidewalk or bridge sufficiently lit at night.

§1003. Approval. All work done under the provisions of this ordinance shall be approved by the Borough Code Enforcement Officer or Engineer.

§1004. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§1005. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§1006. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 11
Prohibiting Vehicle Repair on Streets

§1101. Definitions. The following words shall have the meaning set forth herein, unless the context clearly indicates a different meaning.

(a) Maintenance – those activities which are required to keep a motor vehicle in a clean cosmetic appearance including: washing and waxing; the replacement of minor exterior parts including wiper blades, lighting fixtures and changing tires; and, the replacement of points, plugs, and other minor exterior components except engine fluids.

(b) Repairs – any mechanical work on a motor vehicle which is not herein defined as “maintenance.”

§1102. Motor Vehicle Repairs Prohibited. It shall be unlawful for any person to make repairs to any motor vehicle in the public street of the Borough.

§1103. Maintenance of Motor Vehicles Prohibited. Unless it poses a nuisance or safety hazard to the public, the maintenance of motor vehicles in the public streets is permitted.

§1104. Storage of Motor Vehicle Parts Prohibited. It shall be unlawful for any person to store new or used motor vehicle parts on the public streets.

§1105. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§1106. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§1107. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
Part 12
Prohibiting Street Obstructions

§1201. Finding and Purpose. The Borough Council finds that:

(a) Cartway areas of the streets, alleys and ways of the Borough are subjected to constant obstruction by objects other than motor vehicles, including, but not limited, to snowplows, sailboats, trailers, equipment, cement mixers, and a myriad of other like objects.

(b) That the prohibition of placing of objects other than motor vehicles on the cartways of the Borough streets, alleys and ways will permit the proper utilization of those streets, alleys and ways and advance the public safety of the citizens of the Borough.

§1202. Definitions.

(a) Motor Vehicle – a vehicle which is self-propelled on land, except one which is propelled solely by human power or wind.

§1203. Obstructing of Cartways Prohibited. It shall be unlawful for any persons to park, place, or in the case of a person who is the owner, lessee or otherwise has an interest in the object, allow to remain, any object other than a motor vehicle in the cartway of any street, alley or way of the Borough.

§1204. Authority to Remove and Impound. The Borough shall have the authority to remove and impound, or to order the removal and impounding, of any non-motorized object or vehicle found in the cartway of the streets or alleys of the Borough.

§1205. Designation of Approved Storage Areas; Bonding; Storage. Removal and impounding of objects under this Ordinance shall be done by the Borough. The Borough shall have an approved storage area that has an established schedule of charges for removal and storage of objects under this Ordinance. Those charges shall be adhered to by the approved storage agent’s area shall be collected from any person whose object is removed or impounded under this Ordinance. The Borough shall delete from its list of approved storage agents and areas any such agent that makes any unapproved charge in connection with any objects removed or impounded under this Ordinance.

§1206. Payment of Removal and Storage Charges. The payment for removal and storage charges shall not relieve the owner, lessee or other person having any interest in such an object from liability for any fine or penalty for the violation of the provisions of this Ordinance for which the object was removed or impounded.

§1207. Reclamation Costs. In order to reclaim an object removed pursuant to the provisions hereof, the owner, lessee or other person having an interest therein, shall pay removal and storage costs according to the established storage schedule.
§1208. Records of Objects removed and impounded. The Borough shall cause a record to be kept of all objects impounded under this Ordinance and shall be able at all reasonable times to furnish the owners, lessees or other person having an interest in said object with information as to the place of storage of the object and cost of storage.

§1209. Restrictions upon Removal of Objects. No object shall be removed under the authority of this Ordinance if, at the time of the intended removal, the owner or the person in charge of such object is present and expresses a willingness and intention to remove the object immediately.

§1210. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§1211. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

§1212. Penalty. Whosoever violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment to be imprisoned for a period not to exceed thirty (30) day. Each day that a violation of this ordinance continues shall constitute a separate offense.
§1301. Acceptance and dedication of streets in the Woodhaven Development. There is hereby declared an acceptance of the conveyance of the subject streets from Investrac, Inc., as well as a dedication of those streets described in Appendix XII (25). Ord. No. 9-1981, 11/9/81)

Editorial Note: As enacted in Ord. No. 9-1981, this section was designated 503, and other parts of the ordinance either not of permanent effect or being the preamble, were designated 501, 502, and 504 through 506. The section designated 502 stated the intention of council and directions that the provisions of the ordinance and the borough’s resolution of 9/26/75 become a part of this code of ordinances, and that the sections of the ordinance might be renumbered to accomplish that intention. The resolution is Appendix IX (1), and the various sections of Ord. No. 9-1981 not set out in full are summarized as follows:

The preamble, originally designated “401” stated that Investrac, Inc. had tendered a deed of dedication to the borough for streets in the Woodhaven Development as set forth in an attached Appendix XII, Exhibit “A”, cited the legal authority in Section 1734 of the Borough Code to accept certain streets; referred to the attached Appendix IX (Exhibits “A and “B” approving the final plan and entering into a development agreement; stating that acceptance and dedication of the streets would be in the public interest because that would provide for public thoroughfare and also qualify the borough for additional liquid fuels tax refund participation; and stating that, as required by law, the streets connect with at least one other previously opened street or State Highway.

The originally designated Section 504 set out the provisions on the effective date as in Section 1731 of the Borough Code, allowing a waiting period for notice to property owners, possible public hearing and other procedures. Section 12-4005 required that the solicitor have the ordinance recorded in the office of the recorder of deeds upon its becoming effective; Section 506 repealed all inconsistent ordinances and parts of ordinances.

§1302. Dedication of Abandoned Portions of Legislative Route 40118. Abandoned portions of L.R. 40118 described in the preamble to ordinance 17-1982 are accepted by the Borough of White Haven from the Pennsylvania Department of Transportation and dedicated to the public use as public streets of the Borough of White Haven. The borough agrees to assume expense of maintenance and improvement of the same. (Ord. No. 17-1982, 12/2/82)

Editorial Note: As enacted in Ord. No. 17-1982, this section was designated 508. The preamble was designated 507 and cited the application status; stated that the abandoned sections as from Station 211+48 to 241+54 and 245+67 to 251+40; stated that by a resolution of 12/14/81 council had approved the abandonment by PennDot and had agreed to assume the expense of maintenance and improvement; and stated that the borough wished to ratify the resolution by ordinance and to record the ordinance in the office of the recorder of deeds so that it would become a part of the public record. The
section numbered 509 provided that the ordinance become effective immediately and ratified the resolution of 12/14/81; the section numbered 509 provided that the ordinance become effective immediately and ratified the resolution of 12/14/81; the section numbered 509 provided for recording of the ordinance and that numbered 510 repealed all inconsistent ordinances and parts of ordinances.
Part 14
Street Occupancy

§1401. Short Title. This ordinance shall be cited as the “White Haven Borough Street Occupancy Permit Ordinance”.

§1402. Definitions. The following definitions shall apply for the administration of the provisions of this ordinance:

(a) Access - any driveway, street or other means of passage of vehicles between the road and abutting property.

(b) Borough Engineer - a person appointed by the Borough of White Haven, who shall be authorized by Borough Council to administer and enforce the provisions of this ordinance.

(c) Development - an area of land to be developed as a single entity for a number of residential or non residential uses.

(d) Permit - a White Haven Borough road occupancy permit for access onto a White Haven Borough road.

(e) Plan - drawings which show the location, character and dimensions of a proposed driveway and its related access to an abutting road including contours (existing and proposed), profiles, cross sections, drainage features and other pertinent details.

(f) Shoulder - that portion of the roadway contiguous to the traffic lanes for the accommodation of stopped vehicles or emergency use.

(g) Street - that portion of a road improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

(h) Street Supervisor or Commissioner - a person authorized by White Haven Borough Council to administer and enforce the provisions of this ordinance.

(i) Structure - any man-made object which requires a stationary location on land, regardless whether or not affixed to the land.

§1403. Permit Required. No driveway, street, drainage facility, or structure shall be constructed or altered within a Borough right-of-way or proposed Borough right-of-way without first obtaining a permit from the Code Enforcement Officer or Zoning Officer. Permit applications shall be submitted in the name of and executed by the owner of the property.

§1404. General Requirements. A driveway shall be located, designed, constructed and maintained in a manner consistent with the design, maintenance and drainage of a
§1405. Design Requirements. The following standards shall apply for the construction of a driveway having access onto a Borough street, proposed Borough street, or a street intended to be dedicated to the Borough:

(a) Driveways being constructed may not:

   (1) Impair drainage within a Borough right-of-way.

   (2) Alter the stability of the Borough right-of-way, roadway or shoulder.

   (3) Divert drainage onto adjoining properties.

(b) Except when the Code Enforcement or Zoning Officer determines otherwise, driveways may be constructed with a ditch or swale adequate enough to ensure compliance with Section 1405(a) above.

(c) If the Code Enforcement Officer or Zoning Officer determines that a drainage ditch or swale may not be adequate, then a pipe of not less than 12 inches in diameter shall be installed by the property owner(s) under the driveway. Whenever necessary the inlet and outlet ends of the pipe shall be properly stabilized with rip rap.

(d) A driveway installation may require the submission of a plan by the property owner(s). The plan shall be submitted to the Zoning Officer of Code Enforcement Officer, who shall then distribute it whenever necessary to the Borough Engineer, Street Supervisor and Borough Council for review and comment prior to issuance of a permit.

(e) Lots within a development shall be subject to approved driveway pipes and specifications, as shown on approved plans, or as required by this Ordinance.

§1406. Special Requirements. The following standards shall apply for residential driveways having an access onto a Borough street, proposed Borough street or a street designated or to be designated for dedication to the Borough:

(a) Width of Driveways. Within 10 feet of a right-of-way line, residential driveways may not exceed 20 feet in width.

(b) Surface. Any driveway installed shall be covered with a dust free surface such as concrete, bituminous material or modified stone.
(c) Side Yard Setback. Residential driveways shall not be installed closer than 5 feet from a property line. The requirement does not apply to those property lines abutting a Borough street.

§1407. Issuance of Building and Zoning Permits. No building or zoning permit shall be issued for any type of construction until a property owner proposing to install a driveway or access drive has obtained the required Borough, County or State highway/road occupancy permit.

§1408. Fees. White Haven Borough Council shall establish an application fee by resolution. The Borough shall also charge the applicant the actual costs incurred to have the driveway inspected by one or more officials of the Borough to determine the standards by which the driveway is to be connected to a street and to ensure compliance with the permit and this ordinance.

§1409. Enforcement. The Code Enforcement Officer, Zoning Officer, or Borough Council with the assistance of the Borough Solicitor shall have the power to enforce the provisions of this ordinance.

§1410. Violations and Penalties. Any person who violates the provisions of this part shall upon conviction thereof pay a fine not to exceed Six Hundred ($600.00) Dollars plus costs. Each day the violation continues shall constitute a separate violation.

§1411. Applicability. This Ordinance shall apply to any driveway, road, drainage facility or structure constructed or altered after the effective date of this ordinance for which a permit has not already been obtained.

§1412. Effective Date. This ordinance shall take effect immediately following its adoption.

§1413. Repealer. All ordinances or parts thereof, which are inconsistent herewith, are hereby repealed.
CHAPTER 25

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CHAPTER 25

STORMWATER ORDINANCE

Part 1

General Provisions

§. Section 101. Short Title

This Ordinance shall be known and may be cited as the “White Haven Borough Stormwater Management Ordinance”.

§. Section 102. Statement of Findings

The Council of White Haven Borough find that:

A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases non-point source pollution of water resources.

B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety, and welfare and the protection of people of the Commonwealth, their resources, and the environment.

C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.

D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
§. Section 103. Purpose

The purpose of this Ordinance is to promote health, safety, and welfare within White Haven Borough and its watershed by minimizing the harms and maximizing the benefits described in Section 102 of this Ordinance, through provisions designed to:

A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code 93 to protect, maintain, reclaim, and restore the existing and designated uses of the waters of this Commonwealth.

B. Preserve the natural drainage systems as much as possible.

C. Manage stormwater runoff close to the source.

D. Provide procedures and performance standards for stormwater planning and management.

E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.

F. Prevent scour and erosion of stream banks and streambeds.

G. Provide proper operation and maintenance of all permanent SWM BMPs that are implemented within White Haven Borough.

H. Provide standards to meet NPDES permit requirements.

I. Prevent flooding and erosion on properties adjacent to earth disturbance activities.

§. Section 104. Statutory Authority

A. Primary Authority:

White Haven Borough is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. Section 680.1, et seq., as amended, the “Storm Water Management Act” and, Act of May 1, 1933 (P.L. 103, No. 69) reenacted and amended November 9, 1995 (P.L. 350, No. 60, as amended) the “Pennsylvania Second Class Borough Code”.

B. Secondary Authority:

White Haven Borough also is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, The Pennsylvania Municipalities Planning Code, as amended.
§. Section 105. Applicability

A. All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this Ordinance. Regulated activities include but are not limited to: the clearing and grubbing of wooded areas, grading and excavating, placement of pavement (driveways, parking areas, roads), construction of buildings, construction of new stormwater management facilities, diversion or piping of any natural or man-made stream channel, the construction of other structures (homes, sheds, garages, commercial and industrial buildings), and other activities which alter the way stormwater runs off of the landscape. Depending on the amount of impervious area placed and the amount of earth disturbance to the project site, this Ordinance requires different levels of stormwater management, and correspondingly different levels of design and review.

B. Pennsylvania Department of Transportation (PennDOT) roadway projects will perform stormwater management consistent with Publication 13M (Design Manual-2) Chapter 13.6 Antidegradation and Post Construction Stormwater Management Policy.

§. Section 106. Repealer

Any other ordinance provision or regulation of the Borough inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

§. Section 107. Severability

In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

§. Section 108. Compatibility with Other Requirements

A. Approvals issued and actions taken under this Ordinance do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation, or ordinance.

B. The standards and criteria in this Ordinance supersedes the standards and criteria in the previously enacted White Haven Borough Stormwater Management Ordinance.

C. White Haven Borough shall be responsible for administering this Ordinance.
Part 2  
Definitions

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.

B. The word “includes” or “including” shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.

C. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive.

Agricultural Activity - Activities associated with agriculture such as agricultural cultivation, agricultural operation, and animal heavy use areas. This includes the work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

Applicant - A landowner, developer, or other person who has filed an application to White Haven Borough for approval to engage in any regulated activity at a project site in White Haven Borough.

Best Management Practice (BMP) - Activities, facilities, designs, measures, or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this Ordinance. Stormwater BMPs are commonly grouped into one of two broad categories or measures: “structural” or “nonstructural.” In this Ordinance, nonstructural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

Capture - The process of collecting runoff to be managed by a stormwater BMP.

Conservation District - A conservation district, as defined in Section 3(c) of the Conservation District Law (3 P. S. § 851(c)) that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the
regulations promulgated under 25 Pa. Code 102; refers to the Luzerne Conservation District unless otherwise noted.

**Design Storm** - The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a 5-year storm) and duration (e.g., 24 hours) used in the design and evaluation of stormwater management systems. Also see Return Period.

**Detention Volume** - The volume of runoff that is captured and released into the waters of this Commonwealth at a controlled rate.

**DEP** - The Pennsylvania Department of Environmental Protection.

**Development, Land** - See “Land Development”.

**Development, Site** - Any human-induced change to improved or unimproved real estate, whether public or private, including, but not limited to, land development, construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as embankments, dredging, grubbing, grading, paving, parking or storage facilities, excavation, filling, stockpiling, or clearing.

**Disconnected Impervious Area (DIA)** - An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and increased time of concentration as specified in Appendix B, Disconnected Impervious Area.

**Disturbed Area** - An unstabilized land area where an earth disturbance activity is occurring or has occurred.

**Earth Disturbance Activity** - A construction or other human activity which disturbs the surface of the land, including, but not limited to: grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. The clearing of vegetation without disturbance of the land shall not be considered an earth disturbance activity.

**Erosion** - The natural process by which the surface of the land is worn away by water, wind, or chemical action.

**Existing Condition** - The dominant land cover during the 5-year period immediately preceding a proposed regulated activity.


**Floodplain** - Any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area. Also includes areas that comprise Group 13 Soils, as listed in Appendix
A of the Pennsylvania DEP Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by DEP).

**Floodway** - The channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

**Forest Management/Timber Operations** - Planning and activities necessary for the management of forestland. These include conducting a timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation, and reforestation.

**Geotextile** - A porous fabric manufactured from synthetic fiber that is used to provide separation between different types of media (i.e., between soil and stone).

**Gravel (Crushed Stone)** - Considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

**Hotspot** - Areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants that are higher than those that are typically found in stormwater (e.g., vehicle salvage yards and recycling facilities, vehicle fueling stations, fleet storage areas, vehicle equipment and cleaning facilities, and vehicle service and maintenance facilities).

**Hydrologic Soil Group (HSG)** - Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C, and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The NRCS defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D (NRCS 3,4).

**Impervious Surface (Impervious Area)** - A permanent surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, parking lots, driveways, roofs, stone patios. See definition of “Gravel (Crushed Stone)” for when gravel classifies as impervious area.
**Infiltration** - Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

**Karst** - A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage, and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.  

**Land Development (Development)** – (1) A subdivision of land; (2) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

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

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

The definition of land development **shall** also include the expansion or addition to a nonresidential building which involves any of the following as measured cumulatively from the effective date of this provision:

A. The addition of twenty-five (25) percent or more of floor area to the structure; or,

B. The increase by twenty-five (25) percent or more of impervious area (including building area) on the parcel; or,

C. Any increase in impervious area which will result in the generation of storm water in such volume as will not be controlled by existing storm water facilities pursuant to the requirements of this Ordinance.

The definition of land development **shall not** include the following:

A. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than two (2) residential units, unless such units are intended to be a condominium.

B. The addition of an accessory residential building, including farm buildings and sheds, on a lot or lots subordinate to an existing principal residential building.

**Low Impact Development** - A land development and construction approach that uses various land planning, design practices, and technologies to simultaneously
conserve and protect natural resource systems, while allowing for necessary infrastructure improvements associated with land development.

**Municipality** – White Haven Borough, Luzerne County, Pennsylvania.

**NRCS** - USDA Natural Resources Conservation Service (previously SCS).

**Peak Discharge** - The maximum rate of stormwater runoff from a specific storm event.

**Permanent** – Existing or intended to exist for an indefinite period of time. For purposes of this Ordinance any structure is considered a permanent structure if the structure is intended to exist for a time period of 180 days or longer.

**Pervious Area** - Any area not defined as impervious.

**Project Site** - The specific area of land where any regulated activities in White Haven Borough are planned, conducted, or maintained.

**Qualified Professional** - Any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by the Ordinance.

**Redevelopment** - Any development that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding and re-paving are not considered to be redevelopment unless the resurfacing results in a discernable change in the existing stormwater runoff discharge point. Interior remodeling projects and tenant improvements are also not considered to be redevelopment.

**Regulated Activities** - Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff. The installation of a new stormwater management facility shall be considered a regulated activity of this Ordinance regardless of the amount of earth disturbance associated with the installation of the facility. See Section 105 of this Ordinance for additional detail on Regulated Activities.


**Retention Volume/Removed Runoff** - The volume of runoff that is captured and not released directly into the surface waters of this Commonwealth during or after a storm event.

**Return Period** - The average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the 25-year return period rainfall would be expected to occur on average once every 25 years; or stated
in another way, the probability of a 25-year storm occurring in any one year is 0.04 (i.e., a 4% chance).

**Runoff** - Any part of precipitation that flows over the land.

**Sediment** - Soils or other materials transported by surface water as a product of erosion.

**State Water Quality Requirements** - The regulatory requirements to protect, maintain, reclaim, and restore water quality under Title 25 of the Pennsylvania Code and the Clean Streams Law.

**Stormwater** - Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**Stormwater Management Facility** - Any permanent structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to: detention and retention basins; open channels; storm sewers; pipes; French drains; underground on-lot seepage pits (dry wells); roof drains; sump pump discharge piping; foundation drains; and infiltration facilities.


**Stormwater Management Best Management Practices** - Is abbreviated as **BMPs** or SWM BMPs throughout this Ordinance.

**Stormwater Management Site Plan** - The plan prepared by the developer or his representative indicating how stormwater runoff will be managed at the development site in accordance with this Ordinance. **Stormwater Management Site Plan** will be designated as **SWM Site Plan** throughout this Ordinance.

**Structure** – Any man made object constructed or erected and having an ascertainable stationary location on or in land or water, whether or not affixed to the land.


**USDA** - United States Department of Agriculture.

**Void Ratio** - The ratio of the volume of void space to the total volume of the BMP material (void space plus solid material / media providing structural support to create the storage area).
**Waters of this Commonwealth** - Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

**Watershed** - Region or area drained by a river, watercourse, or other surface water of this Commonwealth.

**Wetland** - Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.
Part 3
Stormwater Management Standards

§. Section 301. General Requirements (Level 1 – Level 4)

A. For all regulated activities (Level 1 – Level 4), submission of the Stormwater Management Permit Application provided in Ordinance Appendix B is required. No regulated activity associated with a Level 1 – Level 3 application shall commence unless a Stormwater Management Permit Application is approved by White Haven Borough.

B. For all regulated activities, unless preparation of a SWM Site Plan is specifically exempted in Section 302:

1. Preparation and implementation of an approved SWM Site Plan is required. A SWM Site Plan is required for a Level 4 application only.

2. No regulated activities shall commence until White Haven Borough issues written approval of a SWM Site Plan, which demonstrates compliance with the requirements of this Ordinance.

C. SWM Site Plans approved by White Haven Borough, in accordance with Section 406, shall be on site throughout the duration of the regulated activity.

D. White Haven Borough may approve measures for meeting the state water quality requirements other than those in this Ordinance, provided that they meet the minimum requirements of, and do not conflict with, state law including, but not limited to, the Clean Streams Law.

E. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (E&S Manual)², No. 363-2134-008 (April 15, 2000), as amended and updated.

F. For Level 3 and Level 4 applications, implementation of the volume controls in Section 303 is required. For Level 2 applications implementation of the volume controls of Appendix E is required unless the Disconnected Impervious Area (DIA) requirements of Appendix C.1 are implemented or the subject lot is associated with an existing approval as described in Section 105.C.

G. Impervious areas:
1. The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in stages.

2. For development taking place in stages, the entire development plan must be used in determining conformance with this Ordinance.

3. For projects that add impervious area to a parcel, only the proposed impervious area on the parcel must be considered and summed to determine the plan preparation and approval requirements of this Ordinance.

4. For redevelopment projects in which the existing site is disturbed, the entire proposed site is subject to the plan preparation and approval requirements of this Ordinance. Existing conditions are considered to be the existing site immediately prior to disturbance, and 20% of the existing impervious area must be considered as meadow in good condition for all stormwater calculations. For redevelopment projects in which the existing site is already controlled by a stormwater management facility, the requirement to consider 20% of existing impervious area as meadow is waived, provided the existing facility meets the water quality, volume, and peak rate standards and criteria of this Ordinance.

H. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated, or otherwise altered without written permission of the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Ordinance. If written permission cannot be obtained from the adjacent property owner (proof must be submitted that the applicant attempted to obtain written permission) the applicant must successfully demonstrate that the proposed discharge:

1. Qualifies for a “Common Law Flowage Easement” as defined by Pennsylvania courts. Pennsylvania courts have upheld a common law right to discharge stormwater to adjoining properties downstream “because water is descendible by nature, the owner of the dominant or superior heritage has an easement in the servient or inferior tenement for the discharge of all waters which by nature rise in or flow or fall upon the superior”. To qualify for a “Common Law Flowage Easement”, as defined by this Ordinance, the applicant must demonstrate that the discharge will not result in a significant increase in volume of stormwater on the downstream property, will not create a channel for the water to flow where it does not flow naturally, and also provide evidence that all attempts to obtain written permission of the downstream property owner have failed.
2. Will not cause accelerated erosion or damage to the proposed flow area and/or adjoining properties. The applicant must utilize methods recommended by PA DEP to demonstrate that erosion and damage will not occur on adjoining properties.

3. Shall be located at least 20 feet from the downstream property line of the subject property.

I. All regulated activities shall include measures to:

1. Protect health, safety, and property;

2. Meet the water quality goals of this Ordinance by implementing measures outlined in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual) to:

   a. Minimize disturbance to floodplains, wetlands, and wooded areas.

   b. Maintain or extend riparian buffers.

   c. Avoid erosive flow conditions in natural flow pathways.

   d. Minimize thermal impacts to waters of this Commonwealth.

   e. Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible.

3. To the maximum extent practicable, incorporate the techniques for Low Impact Development Practices described in the BMP Manual.

J. The design of all facilities over karst and mined areas shall include an evaluation of measures to minimize adverse effects.

K. Infiltration BMPs should be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this Ordinance.

L. Storage facilities, to the greatest extent possible and at the discretion of the White Haven Borough Engineer, shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm.

M. Storage facilities shall incorporate features to maximize the length of the flow path and increase the travel time through the facility.

O. For all regulated activities, SWM BMPs shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this Ordinance and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.

P. Various BMPs and their design standards are listed in the BMP Manual.

Q. Sump Pump Drains, Roof Drains and Foundation Drains

1. All drains shall connect to an existing infiltration or vegetative BMP if a BMP exists within the subject property outbound. If a drain is to be connected to a proposed underground infiltration BMP evidence must be submitted to the Borough that the existing soil in the area of the proposed BMP is suitable for infiltration.

2. If an infiltration or vegetative BMP does not exist within the subject property outbound all drains should be directed to a Borough roadside swale if a swale exists adjacent to a roadway and positive drainage can be achieved. If a swale does not existing adjacent to a Borough roadway and no other acceptable discharge can be achieved on the property the discharge point of the drain shall be a minimum of 15 feet (20 feet may be required to comply with DIA requirements) from the shoulder of the Borough roadway and shall be on a pervious ground surface to minimize the possibility of the freezing of water on the roadway in the winter months.

3. Discharges to wetland areas are encouraged however the discharge shall be a minimum of 5 feet from the wetland boundary to avoid the requirement of state or federal permitting and to avoid the inundation of the drain outfall.

4. Sump pump discharges shall be a minimum of 10 feet from the foundation of the building from where the water is being pumped out to prevent the recycling of water back into the foundation drains of the building.

5. All drain outlets shall be a minimum of 20 feet from any property line with the exception of the front property line.

6. The isolation distances of Section 301.Q may be slightly modified at the discretion of the Borough Engineer if the applicant can demonstrate that no adverse downstream stormwater impact is being created or worsened.
§. Section 302. Exemptions

A. Regulated activities that create impervious areas or earth disturbance shall adhere to Table III.1 to meet the requirements of this Ordinance. The larger of the two areas determines the applicable requirements of this Ordinance (i.e. if only 500 sq. ft. of impervious area is proposed, but 15,000 sq. ft. of earth disturbance, the requirements follow row 3 of Table III.1).
### Table III.1. Stormwater Management Requirements and Exemptions.

<table>
<thead>
<tr>
<th>Proposed Impervious Area (sq. ft.)</th>
<th>Proposed Total Earth Disturbance (sq. ft.)</th>
<th>Ordinance Exemptions</th>
<th>Stormwater Management Requirements</th>
<th>What is required to submit to municipality?*</th>
</tr>
</thead>
<tbody>
<tr>
<td>250 to 1,000</td>
<td>500 to 5,000</td>
<td>Section 303, Section 304, and Article IV of this Ordinance</td>
<td><strong>LEVEL #1:</strong> Ensure Section 301. General Requirements are met</td>
<td>Sketch</td>
</tr>
<tr>
<td>1,000 to 5,000</td>
<td>5,000 to 10,000</td>
<td>Section 303, Section 304, and Article IV of this Ordinance</td>
<td><strong>LEVEL #2:</strong> Disconnected Impervious Area (DIA) as in Ordinance Appendix C.1</td>
<td>Ordinance Appendix C.1 Worksheet and Sketch</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>OR</strong> OR <strong>LEVEL #2:</strong> Capture and control first 1 inch of runoff over proposed impervious areas as in Ordinance Appendix E</td>
<td><strong>OR</strong> OR <strong>LEVEL #2:</strong> Capture and control first 1 inch of runoff over proposed impervious areas as in Ordinance Appendix E</td>
<td>Ordinance Appendix E Worksheet and Sketch</td>
</tr>
<tr>
<td>5,000 to 10,000**</td>
<td>10,000 to 20,000**</td>
<td>Section 304 and Article IV of this Ordinance</td>
<td><strong>LEVEL #3:</strong> Capture and permanently remove the first 2 inches of runoff over proposed impervious areas as in Section 303 B. of this Ordinance</td>
<td>Ordinance Appendix D Worksheet and Sketch</td>
</tr>
<tr>
<td>&gt; 10,000</td>
<td>&gt; 20,000</td>
<td>None</td>
<td><strong>LEVEL #4:</strong> All requirements of this Ordinance</td>
<td>SWM Site Plan</td>
</tr>
</tbody>
</table>

*In addition to the Stormwater Management Permit Application provided in Ordinance Appendix B

** Regardless of the proposed amount of impervious area and earth disturbance all Land Developments shall require a Level #4 application

*** For Level #2 applications for existing lots governed by previous approvals see Section 105.C

B. Agricultural activity is exempt from the rate control and SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code 102.

C. Forest management and timber operations are exempt from the rate control and SWM Site Plan preparation requirements of this Ordinance provided the activities are performed according to the requirements of 25 Pa. Code 102.

D. Exemptions from any provisions of this Ordinance shall not relieve the applicant from the requirements in Sections 301.A. through Q. (i.e., If an applicant proposes an impervious area less than 250 sq. ft. or an earth disturbance of less than 500 sq. feet although there is no formal submittal required by the Borough it is the applicants responsibility to comply with Section 301 of this Ordinance.)

§. Section 303. Volume Controls (Level 3 – Level 4)

The low impact development practices provided in the BMP Manual\(^1\) shall be utilized for all regulated activities to the maximum extent practicable. Water volume controls shall be implemented using the Design Storm Method in Subsection A or the Simplified Method in Subsection B below. For all regulated activities that require
submission of a formal SWM Site Plan, both the *Design Storm Method* and the *Simplified Method* shall be calculated; the larger control volume based on the two calculations shall be controlled. Subsection C below provides requirements for mined, karst, or other geologically limiting areas where infiltration shall not occur.

A. The *Design Storm Method* (CG-1 in the BMP Manual\(^1\)) is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.

1. Do not increase the post-development total runoff volume for all storms equal to or less than the 2-year 24-hour duration precipitation.

2. For modeling purposes:
   
   a. Existing (predevelopment) non-forested pervious areas must be considered meadow or its equivalent.
   
   b. 20% of existing impervious area, when present, shall be considered meadow in the model for existing conditions.

B. When *Design Storm Method* CG-1 guidelines are not used, the *Simplified Method* (CG-2 in the BMP Manual\(^1\)) has been modified to accommodate 2” of permanently removed runoff volume. This method (provided below) is independent of site conditions and should be used if the *Design Storm Method* is not followed. For new impervious surfaces:

1. The first 2 inches of runoff from new impervious surfaces shall be permanently removed from the runoff flow (i.e., it shall not be released into the surface waters of this Commonwealth). Removal options include reuse, evaporation, transpiration, and infiltration.

2. Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 0.5 inch of the permanently removed runoff should be infiltrated.

3. Facilities, to the greatest extent possible and subject to the Borough Engineer’s discretion, shall be designed to drain the permanently removed runoff volume in a period no less than 24 hours and no greater than 72 hours.

4. Runoff volume in excess of 2 inches shall be safely conveyed to existing stormwater collection systems or streams, in the direction of the existing drainage course.

5. This method is exempt from the requirements of Section 304, Rate Controls.
C. Before infiltration is proposed on a site, site conditions shall be evaluated by a qualified design professional through subsurface investigation and testing to determine if site conditions are suitable to support proposed infiltration facilities to manage runoff. If it is determined that infiltration is not feasible due to physical constraints of the site, or will adversely impact the environment as demonstrated by the presence of acid mine drainage, sinkhole formation, or other serious environmental issues, then the above volume controls must be achieved through surface BMP mitigation. Reference the BMP Manual\textsuperscript{1} for alternative mitigation measures that do not require infiltration.

§. Section 304. Rate Controls (Level 4)

A. Areas not covered by a Stormwater Management District Map contained in Appendix F.1 of the Ordinance:

Post-development discharge rates shall not exceed the predevelopment discharge rates for the 1- through 100-year, 24-hour storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for 1- through 100-year, 24-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.

B. Areas covered by a Stormwater Management District Map contained in Appendix F.1 of the Ordinance:

For the 1- through 100-year storms, the post-development peak discharge rates will follow the Lehigh River Watershed Stormwater Management District Map. For any areas not shown on the Lehigh River Watershed Stormwater Management District Map, the post-development discharge rates shall not exceed the predevelopment discharge rates.

§. Section 305. Additional Design Criteria of Stormwater Management Facilities associated with a SWM Site Plan (Level 4)

A. Any stormwater management facility located with a state highway rights-of-way shall be subject to approval by the Pennsylvania Department of Transportation.

B. Any facilities that constitute water obstructions (e.g., culverts, bridges, outfalls, or stream enclosures), and any work involving wetlands as directed in PA DEP Chapter 105 Regulations, as amended, shall be designed in accordance with Chapter 105 and will require a permit from PA DEP. Any facility that constitutes a dam as defined in PA DEP Chapter 105 Regulations may require a permit under dam safety regulations.
C. Any stormwater conveyance facility that does not fall under Chapter 105 Regulations must be able to convey, without damage to the drainage structure or roadway, runoff from the 25-year design storm. Stormwater conveyance facilities outleting from stormwater management detention/infiltration facility shall be designed to convey the 100-year design flow from that structure. Roadway crossings located within designated floodplain areas must be able to convey runoff from a 100-year design storm.

D. Storm sewers must be able to convey post-development runoff from a 25-year design storm without surcharging inlets, where appropriate. No storm sewer shall be smaller than 15 inches in diameter within a public right of way. Twin 12 inch culverts are permitted to convey stormwater underneath a single family residential driveway within a White Haven Borough right of way. All culverts and inlet structures shall be sized so that the calculated headwater for the design storm does not flood the adjacent roadway. All such structures shall maintain a 0.5 foot freeboard between the headwater and the edge of shoulder.

E. Detention and infiltration facilities shall be designed to conform to the release rate requirements of Section 304.

F. An emergency spillway capable of passing the peak 100-year, 24-hour, post-development inflow to the basin shall be provided assuming the primary outfall of the basin is blocked. A minimum of 1 foot freeboard shall be provided to the top of the basin berm to the water surface at the emergency spillway. Also, the invert of the emergency spillway must be specified at least 0.1 feet above the 100-year water surface in the basin. In lieu of the 1 foot freeboard requirement, the emergency spillway shall pass two times the peak one hundred year inflow with no freeboard requirement. All emergency spillways shall be suitably stabilized to prevent erosion. Alternate designs for emergency spillways may be considered by the Borough at the discretion of the Borough Engineer for underground detention/infiltration structures or above ground infiltration basins without a primary outlet.

G. The top of the basin berm shall be a minimum of eight feet wide. Where the basin depth from top of berm to invert of outfall structure exceeds ten feet, the top of berm shall be a minimum of ten feet wide.

H. The exterior and interior slopes of all detention basin cuts and fills shall be a minimum of 3 horizontal to 1 vertical. A 2.5 horizontal to 1 vertical slope may be allowed at the discretion of the Borough Engineer if specific site constraints warrant a steeper slope.

I. A concrete outlet structure with metal grate trash rack bolted to the top shall be used as principal basin outlet. The outlet structure should be of dimension to allow interior access for cleaning and maintenance.
J. In no case shall an outlet structure orifice be smaller than 3.0 inches in dimension.

K. All earth fill shall be free of wood, stumps, brush, roots, and other organic material subject to decomposition. Also, no fill shall be permitted that contains any stones larger than 3 inches measured in any direction.

L. Areas where the fill is to be placed shall be scarified prior to placement. Fill material for the embankment should be placed in maximum 12-inch lifts and each lift should be compacted with a roller to at least 95% of the maximum density obtained from compaction tests performed by the appropriate method in ASTM D698. Furthermore, the center of the embankment shall contain a clay core of relatively impervious material.

M. An easement to allow maintenance crews access to the basin and outlet areas shall be established around all basins to be maintained. The limits of such easement shall be 15 feet from the outside toe of all dams and embankments and top of all pond side slopes and shall be connected to a public right-of-way. The access way from the basin to a public street shall be a 12 inch thick 2A material road or equivalent surface of a minimum width of 10 feet.

N. The basin shall be sodded or topsoiled (at a 6 inch minimum depth) and seeded, including the bottom, side slopes, berms and embankments.

O. Adequate erosion protection shall be provided along all open channels, embankments and at all points of discharge.

P. Drainage pipes shall have a minimum slope of one-half percent (0.5%).

Q. All open ended pipes with a diameter of 12 inches or greater shall be fitted with concrete end walls or prefabricated end sections. All end walls, end sections or inlets shall be constructed and installed in accordance with PA DOT standards.

R. Manholes, cleanouts or inlets shall be used at all changes in horizontal alignment, at changes in vertical alignment and at all pipe junctions. No run of pipe shall exceed 400 feet in length, without appropriate measures to provide cleanout. Inlets shall be spaced at intervals to achieve desired capacity based on the methods outlined in PennDOT Design Manual 2.

S. All wet pond or retention basin designs shall incorporate biological controls to control mosquitoes.

T. Anti-seep collars and an inner core of relatively impervious material (clay) shall be provided under all stormwater detention/infiltration basin berms. Watertight anti-seep collars shall be installed around discharge pipes at intervals not to exceed 24 feet and shall extend a minimum of 2 feet beyond the outside of the pipe.
U. All inlets shall have a sump of a minimum of 1 foot and shall have weep holes covered with geotextile fabric to provide complete drainage of the inlet. All inlets shall be constructed on a base of a minimum of 12 inches of 2A material.

V. Inlets over 4 feet in depth shall have ladder rungs.

W. The design of all stormwater management facilities shall incorporate sound engineering principles and practices. White Haven Borough shall reserve the right to disapprove any design that would result in the occupancy or continuation of an adverse hydrologic or hydraulic condition.

§. Section 306. Calculation Methodology for Stormwater Management Facilities associated with a SWM Site Plan (Level 4)

A. Any stormwater runoff calculations involving drainage areas greater than 200 acres, including on- and off-site areas, shall use generally accepted calculation technique that is based on the NRCS soil cover complex method. It is assumed that all methods will be selected by the design professional based on the individual limitations and suitability of each method for a particular site. White Haven Borough may approve the use of the Modified Rational Method to estimate peak discharges from drainage areas that contain less than 200 acres.


C. For the purposes of predevelopment flow rate determination, undeveloped land shall be considered as "meadow" good condition, unless the natural ground cover generates a lower curve number or Rational 'C' value (i.e. forest).

D. All calculations using the Modified Rational Method shall use rainfall intensities consistent with appropriate times of concentration for overland flow and return periods from the Design Storm Curves from PA Department of Transportation Design Rainfall Curves. Times of concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55, as amended. Times of concentration for channel and pipe flow shall be computed using Manning's equation.
E. Runoff Curve Numbers (CN) for both existing and proposed conditions to be used in the soil cover complex method shall be obtained from Urban Hydrology for Small Watersheds, NRCS, TR-55, as amended.

F. Runoff coefficients (c) for both existing and proposed conditions for use in the Rational method shall be obtained from the PA DEP Erosion and Sediment Pollution Control Manual, Latest Edition.

G. Where uniform flow is anticipated, the Manning equation shall be used for hydraulic computations, and to determine the capacity of open channels, pipes, and storm sewers. Values for Manning's roughness coefficient (n) shall be obtained from the PA DEP Erosion and Sediment Pollution Control Manual, Latest Edition. Outlet structures for stormwater management detention/infiltration facilities shall be designed to meet the performance standards of this Ordinance using any generally accepted hydraulic analysis technique or method.

H. The design of any stormwater detention facilities intended to meet the performance standards of this Ordinance shall be verified by routing the design storm hydrograph through these facilities using the Storage-Indication Method. For drainage areas greater than 20 acres in size, the design storm hydrograph shall be computed using a calculation method that produces a full hydrograph. White Haven Borough may approve the use of any generally accepted full hydrograph approximation technique which shall use a total runoff volume that is consistent with the volume from a method that produces a full hydrograph.

I. White Haven Borough has the authority to require that computed existing runoff rates be reconciled with field observations and conditions. If the designer can substantiate through actual physical calibration that more appropriate runoff and time-of-concentration values should be utilized at a particular site, then appropriate variations may be made upon review and recommendations of the Municipal Engineer. Calibration shall require detailed gauge and rainfall data for the particular site in question.
Part 4
Stormwater Management (SWM) Site Plan Requirements (Level 4)

§. Section 401. Plan Requirements

The following items shall be included in the SWM Site Plan:

A. Appropriate sections from the White Haven Borough Subdivision and Land Development Ordinance (SALDO), and other applicable local ordinances, shall be followed in preparing the SWM Site Plans. In cases where the requirements of the SALDO and this Ordinance conflict the more stringent requirement shall apply.

B. White Haven Borough shall not approve any SWM Site Plan that is deficient in meeting the requirements of this Ordinance. At its sole discretion and in accordance with this Article, when a SWM Site Plan is found to be deficient, White Haven Borough may either disapprove the submission and require a resubmission, or in the case of minor deficiencies, White Haven Borough may accept submission of modifications.

C. Provisions for permanent access or maintenance easements for all physical SWM BMPs, such as ponds and infiltration structures, as necessary to implement the Operation and Maintenance (O&M) Plan discussed in Item E.9 below.

D. The following signature block for White Haven Borough Engineer:

“(White Haven Borough Engineer), on this date (date of signature), has reviewed and hereby certifies that the SWM Site Plan is in substantial compliance with the White Haven Borough Stormwater Management Ordinance”

E. The SWM Site Plan shall provide the following information:

1. The overall stormwater management concept for the project.

2. A determination of site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, mined areas, and other environmentally sensitive areas, such as brownfields; depending on site conditions, more stringent standards than those in this Ordinance may be imposed at the discretion of the Borough Engineer.

3. Stormwater runoff design computations and documentation as specified in this Ordinance, or as otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the
requirements of this Ordinance, including the recommendations and general requirements in Section 301; computations are required for all proposed stormwater management facilities.

4. Expected project time schedule.

5. A soil erosion and sediment control plan, where applicable, as prepared for and submitted to the approval authority, and in conformance with 25 Pa. Code 102.

6. The effect of the project (in terms of runoff volumes, water quality, and peak flows) on surrounding properties and aquatic features and on any existing stormwater conveyance system that may be affected by the project.

7. Plan and profile drawings of all SWM BMPs, including drainage structures, pipes, open channels, and swales. Roof drain, sump pump and foundation drain piping shall be shown in plan view for all non-residential Land Developments.

8. SWM Site Plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.

9. The SWM Site Plan shall include an O&M Plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for O&M as well as schedules and costs for O&M activities.

10. The SWM Site Plan shall include the following additional elements:
   a. Shall be on 24 inch by 36 inch plan sheets.
   b. Construction details of all proposed stormwater management facilities.
   c. A stormwater facility design narrative.
   d. A signature block containing the name, address, and phone number of the individual responsible for the operation and maintenance plan.
   e. A drainage area map with drainage area boundaries, land cover and time of concentration paths shown.
   f. Existing contour intervals of two feet.
   g. All existing features and utilities on the property and within 50 feet of property.
h. 100 year floodplain and 100 year floodway lines along with the source of the information.

i. Proposed structures, roads, buildings and grades.

j. Soil boundary lines, soil descriptions, soil limitations and proposed resolutions to the soil limitations.

k. Date of submission, north arrow, graphic scale, call before you dig note and reference number, location map with scale and orientation of north, name of development, name and address of property owner, and the name and address of individual preparing the SWM Site Plan.

l. Existing and proposed easements along with legal descriptions for the easements.

m. Statement signed by landowner stating that they cannot alter any stormwater management facility without prior permission of White Haven Borough.

n. Soil infiltration test locations, surface elevation, infiltration test elevation, limiting zone elevation.

o. Location and existing use classification of receiving waterway.

p. During construction and post construction inspection schedule along with the name and address of the person performing the inspections.

q. Wetland boundaries.

r. Wetland delineation report completed within 5 years of the initial application.

s. All modifications granted to the provisions of this Ordinance.

t. A plan legend detailing all existing and proposed features shown in plan view.

u. A Sensitive Resource Map which shows all sensitive resources located on the site to be preserved (woodlands, meadows, floodplains, rock outcrops, wetlands, natural drainage ways, riparian areas, steep slopes and other natural features).

v. A signature block for the White Haven Borough Council.

w. Property lines and the names of all adjoining property owners.
x. Any other item that is deemed necessary by the Borough Engineer to
satisfy the general intent of this Ordinance.

§. Section 402. Plan Submission

A. Five (5) copies of the SWM Site Plan shall be submitted as follows if the
SWM Site Plan is not associated with a Land Development Plan:

1. Three (3) copies to White Haven Borough Council.

2. One (1) copy to the White Haven Borough Code Enforcement Officer.

3. One (1) copy to the White Haven Borough Engineer.

B. Additional copies shall be submitted as requested by White Haven Borough
or PA DEP.

C. If the SWM Site Plan involves a Land Development Plan the number of
copies of the SWM Site Plan shall coincide with the number of copies
required for the Land Development application. Please note all Land
Developments require a Level 4 application and a SWM Site Plan; however it
is possible that a project can require a Level 4 application and SWM Site Plan
but not be classified as a Land Development.

§. Section 403. Plan Review

A. The SWM Site Plan shall be reviewed by the White Haven Borough Engineer
for consistency with the provisions of this Ordinance. After review, the
Borough Engineer shall provide a written recommendation for the White
Haven Borough Council to approve or disapprove the SWM Site Plan. If it is
recommended to disapprove the SWM Site Plan, the Borough Engineer shall
state the reasons for the disapproval in writing referencing sections of the
Ordinance in which the plan is deficient. The Borough Engineer also may
recommend approval of the SWM Site Plan with conditions and, if so, shall
provide the acceptable conditions for approval in writing. The SWM Site
Plan review and recommendations shall be completed within the time
allowed by the Municipalities Planning Code for reviewing subdivision plans.

B. The White Haven Borough Council shall notify the applicant in writing
within 45 days whether the SWM Site Plan is approved or disapproved. If the
SWM Site Plan involves a Land Development Plan, the notification period is
90 days. If a longer notification period is provided by other statute,
regulation, or ordinance, the applicant will be so notified by White Haven
Borough. If White Haven Borough disapproves the SWM Site Plan, White
Haven Borough shall cite the reasons for disapproval in writing.
C. If the SWM Site Plan involves a Land Development Plan, the approval / disapproval of the plan shall coincide with the approval / disapproval of the Land Development.

§. Section 404. Modification of Plans (Submission of Revised Plans)

A modification (revision) to a previously submitted SWM Site Plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM Site Plan as determined by White Haven Borough shall require a resubmission of the modified (revised) SWM Site Plan in accordance with this Article.

§. Section 405. Resubmission of Disapproved SWM Site Plans

A disapproved SWM Site Plan may be resubmitted, with the revisions addressing White Haven Borough’s concerns, to White Haven Borough in accordance with this Article. The applicable review fee must accompany a resubmission of a disapproved SWM Site Plan.

§. Section 406. Authorization to Construct and Term of Validity

White Haven Borough’s approval of an SWM Site Plan authorizes the regulated activities contained in the SWM Site Plan for a maximum term of validity of 5 years following the date of approval. White Haven Borough may specify a term of validity shorter than 5 years in the approval for any specific SWM Site Plan. Terms of validity shall commence on the date White Haven Borough signs the approval for an SWM Site Plan. If an approved SWM Site Plan is not completed according to Section 407 within the term of validity, then White Haven Borough may consider the SWM Site Plan disapproved and may revoke any and all permits. SWM Site Plans that are considered disapproved by White Haven Borough shall be resubmitted in accordance with Section 405 of this Ordinance.

§. Section 407. As-Built Plans, Completion Certificate, and Final Inspection

A. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM Site Plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to White Haven Borough.

B. The as-built submission shall include a certification of compliance signed by a qualified professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. If any licensed qualified professionals contributed to the construction plans, then a licensed qualified professional must sign the completion certificate.
C. After receipt of the completion certification by White Haven Borough, White Haven Borough or official designee may conduct a final inspection.

D. If a SWM Site Plan is associated with a residential Land Development, building permits shall not be issued by White Haven Borough unless a certification of compliance or financial security for all required site improvements is provided to the Borough. Also the construction of residential dwellings shall require the submission and approval of a Level 2 application prior to the building permit being issued. If a SWM Site Plan is associated with a non-residential Land Development an occupancy permit shall not be issued by White Haven Borough unless a certification of compliance is provided to the Borough.

§. Section 408. Modification of Ordinance Standards (Waiver)

A. The provisions of this Ordinance are intended as a minimum standard for the protection of the public health, safety, and welfare. If the literal compliance with any mandatory provision of these regulations is shown by the applicant, to the satisfaction of the Council, to be unreasonable or to cause undue hardship as it applies to a particular property; or, if the applicant shows that an alternative proposal will allow for equal or better results, the Council may grant a modification from such mandatory provision so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a modification shall not have the effect of making null and void the intent and purpose of this Ordinance.

B. In granting modifications, the Council may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

C. All requests for modifications shall be in writing, shall accompany and be made a part of the development application, and shall include:
   1. The specific sections of this Ordinance in question.
   2. Provisions for the minimum modification necessary as an alternate to the requirements.
   3. Justification for the modification, including the full grounds and facts of unreasonableness or hardship.

D. If the Council deny the request, the applicant shall be notified, in writing, of the reasons for denial. If the Council grant the request, the final record plan shall include a note which identifies the modification as granted. In any case, the Council shall keep a written record of all actions on all requests for modifications.
E. Modifications can not be granted by the Council to any section of this Ordinance that is a mandatory provision required by the Luzerne County Act 167 Phase II Stormwater Management Plan.

F. All modification requests shall be acted upon by the Council within forty-five (45) days of a written request for such modification. In the event the Council, or Borough Engineer, need additional information to evaluate the modification request, the request for additional information shall be in writing. The 45 day time limit for required action by the Council shall begin anew upon the receipt of the updated information provided by the applicant. A failure by the Council to act upon the request within the specified time period shall be considered a deemed approval of the modification request.
Part 5
Operations and Maintenance

§. Section 501. Responsibilities of Developers and Landowners

A. White Haven Borough shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan. White Haven Borough may require a dedication of such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that White Haven Borough will accept the facilities. White Haven Borough reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls. If the facility is rejected by White Haven Borough, provisions shall be made to identify the legal owner.

B. Three options exist for perpetual ownership and responsibility of stormwater management facilities associated with a SWM Site Plan:

1. The developer retains ownership;

2. A Homeowners Association assumes ownership and responsibility;

3. The facility is dedicated to, and accepted by, White Haven Borough.

C. Facilities, areas, or structures used as Stormwater Management BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land.

D. The O&M Plan shall be recorded as a restrictive deed covenant that runs with the land.

E. White Haven Borough may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

F. It is the responsibility of the land owner to maintain all Stormwater Management BMPs that are not associated with a SWM Site Plan (Level 1 – Level 3).

§. Section 502. O&M Agreements

The owner is responsible for O&M of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, White Haven Borough may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.
Part 6  
Fees and Expenses

§. Section 601. General

White Haven Borough shall include all costs incurred in the fees charged to an applicant.
The fees may include, but not be limited to, costs for the following:

A. Administrative/clerical processing.

B. Review of the SWM Site Plan, applications, worksheets, sketches, calculations and the O & M Agreement.

C. Attendance at meetings.

D. Inspections.

E. Any additional work required to enforce any permit provision regulated by this Ordinance, correct violations, and assure proper completion of stipulated remedial actions.

§. Section 602. White Haven Borough Post Construction Stormwater Management Facility Inspection Fund

A. If a SWM Site Plan is associated with a Land Development the landowner is required to pay a specified amount to the White Haven Borough Stormwater Management Facility Inspection Fund to help defray the costs of future post construction inspections.

B. If required, the fee should be estimated by the White Haven Borough Engineer and shall cover the costs to inspect the post construction stormwater management facilities associated with the SWM Site Plan for a period of ten (10) years.

C. If required, the fee shall be paid by the landowner to White Haven Borough prior to final approval of the SWM Site Plan.

§. Section 603. Financial Guarantee

A. If a SWM Site Plan is associated with a Land Development the landowner is required to provide a financial guarantee for the timely installation and proper construction of all stormwater management facilities as shown on the approved SWM Site Plan.

B. The type of the financial guarantee shall conform to the types allowed by the PA Municipal Planning Code.
C. The financial guarantee shall be provided by the landowner to White Haven Borough prior to final approval of the SWM Site Plan.
Part 7
Prohibitions

§. Section 701. Prohibited Discharges and Connections

A. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge including sewage, process wastewater, and wash water to enter the waters of this Commonwealth is prohibited.

B. No person shall allow, or cause to allow, discharges into surface waters of this Commonwealth which are not composed entirely of stormwater, except (1) as provided in Subsection C below and (2) discharges allowed under a state or federal permit.

C. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of this Commonwealth:

| - Discharges from firefighting activities | - Flows from riparian habitats and wetlands |
| - Potable water sources including water line flushing | - Uncontaminated water from foundations or from footing drains |
| - Irrigation drainage | - Lawn watering |
| - Air conditioning condensate | - Dechlorinated swimming pool discharges |
| - Springs | - Uncontaminated groundwater |
| - Water from crawl space pumps | - Water from individual residential car washing |
| - Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used | - Routine external building wash down (which does not use detergents or other compounds) |

D. In the event that White Haven Borough or DEP determines that any of the discharges identified in Subsection C significantly contribute to pollution of the waters of this Commonwealth, White Haven Borough or DEP will notify the responsible person(s) to cease the discharge.

§. Section 702. Roof Drains, Sump Pumps and Foundation Drains

Roof drains, sump pumps and foundation drains shall discharge to infiltration or vegetative BMPs and to the maximum extent practicable satisfy the criteria for DIAs consistent with Appendix C.1. of this Ordinance. For additional requirements of Roof drains, sump pumps and foundation drains see Section 301.Q.
§. Section 703. Alteration of SWM BMPs

No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures without the written approval of White Haven Borough.
Part 8

Enforcement and Penalties

§. Section 801. Right-of-Entry

Upon presentation of proper credentials, White Haven Borough, its agents and hired consultants may enter at reasonable times upon any property within White Haven Borough to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Ordinance.

§. Section 802. Inspection

A. If a SWM Site Plan is not associated with a Land Development or if a SWM Site Plan is not required the SWM BMPs must be inspected by the landowner or landowner’s designee according to the following list of minimum frequencies:

1. Annually for the first 10 years following construction.

2. Immediately after every 10-year, 24-hour or greater storm event.

3. Critical times of construction of the SWM BMPs.

B. White Haven Borough shall also inspect SWM BMPs not associated with a Land Development to verify compliance with the Ordinance, at critical times of construction of the SWM BMPs, or upon a complaint by a third party.

C. If a SWM Site Plan is associated with a Land Development White Haven Borough may inspect the SWM BMPs annually for the first 10 years following construction. A copy of the inspection report shall be furnished by the Borough to the landowner within thirty (30) days after completing such inspection. The report shall note all deficiencies and provide a time frame and possible remedies for the landowner to correct all deficiencies. Furthermore, White Haven Borough may inspect the SWM BMPs during the site construction, most notably when a failure to inspect the BMP during its construction would result in a physical impossibility to verify compliance at the time of the final inspection (e.g., the construction of underground stormwater detention facilities, the compaction of berms and the backfilling of stormdrain pipe trenches, etc…).

§. Section 803. Enforcement

A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM Site Plan or an approved Level 1 – Level 3 application.

B. It shall be unlawful to violate Section 703 of this Ordinance.
C. Inspections regarding compliance with the SWM Site Plan are a responsibility of White Haven Borough.

§. Section 804. Suspension and Revocation

A. Any approval or permit issued by White Haven Borough pursuant to this Ordinance may be suspended or revoked for:

1. Non-compliance with or failure to implement any provision of the approved SWM Site Plan, sketch, worksheet, application or O&M Agreement.

2. A violation of any provision of this Ordinance or any other applicable law, ordinance, rule, or regulation relating to the regulated activity.

3. The creation of any condition or the commission of any act during the regulated activity which constitutes or creates a hazard, nuisance, pollution, or endangers the life or property of others.

B. A suspended approval may be reinstated by White Haven Borough when:

1. White Haven Borough has inspected and approved the corrections to the violations that caused the suspension.

2. White Haven Borough is satisfied that the violation has been corrected.

C. An approval that has been revoked by White Haven Borough cannot be reinstated. The applicant may apply for a new approval under the provisions of this Ordinance.

D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, White Haven Borough may provide a time period of no more than thirty (30) days for the owner to correct the violation. In these cases, White Haven Borough will provide the owner, or the owner’s designee, with a written notice of the violation and the time period allowed for the owner to correct the violation. If the owner does not correct the violation within the allowed time period, White Haven Borough may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this Ordinance.

§. Section 805. Penalties

A. Anyone violating the provisions of this Ordinance shall be guilty of a summary offense, and upon conviction, shall be subject to a fine of not more than $600.00 for each violation, recoverable with costs. Each day that the
violation continues shall be a separate offense and penalties shall be cumulative.

B. In addition, White Haven Borough may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

§. Section 806. Appeals

A. Any person aggrieved by any action of White Haven Borough or its designee, relevant to the provisions of this Ordinance, may appeal to the White Haven Borough Zoning Hearing Board within 30 days of that action.

B. Any person aggrieved by any decision of White Haven Borough Zoning Hearing Board, relevant to the provisions of this Ordinance, may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of White Haven Borough Zoning Hearing Board’s decision.
Part 9

References


Part 10
Adoption

Section 1000. Severability

In the event that a court of competent jurisdiction declares any section or provision of this Ordinance invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

Section 1001. Repealer

Any other ordinance provision(s) or regulation of White Haven Borough inconsistent with any of the provisions of this Ordinance is hereby repealed to the extent of the inconsistency only.

Section 1002. Effective Date

This Ordinance is to be enacted, ordained, adopted and approved by the White Haven Borough Council, on this 11th day of April, 2011.

This Ordinance shall take effect immediately upon its adoption.

(Ord. Adopted 4/11/11)
APPENDIX A

STANDARD OPERATION AND MAINTENANCE (O&M) AGREEMENT
STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES
(SWM BMPs) NOTE: THIS AGREEMENT IS TO BE USED AS AN EXAMPLE ONLY!

THIS AGREEMENT, made and entered into this _______ day of
______________, 20___, by and between ____________________________________,
(hereinafter the “Landowner”), and
the Municipality of White Haven Borough,
Luzerne County, Pennsylvania, (hereinafter “White Haven Borough”);

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded
by deed in the land records of Luzerne County, Pennsylvania, Deed Book
___________ at page ________, (hereinafter “Property”).

WHEREAS, the Landowner is proceeding to build and develop the Property;
and

WHEREAS, the SWM BMP O&M Plan approved by White Haven Borough
(hereinafter referred to as the “Plan”) for the property identified herein, which is
attached hereto as Appendix A and made part hereof, as approved by White Haven
Borough, provides for management of stormwater within the confines of the
Property through the use of BMPs; and

WHEREAS, White Haven Borough, and the Landowner, his successors and
assigns, agree that the health, safety, and welfare of the residents of White Haven
Borough and the protection and maintenance of water quality require that on-site
SWM BMPs be constructed and maintained on the Property; and

WHEREAS, White Haven Borough requires, through the implementation of
the approved SWM Site Plan entitled______________________________,
completed by______________________________, last revised ____________,
including all applicable construction detail sheets, that SWM BMPs as required by
said Plan and the White Haven Borough Stormwater Management Ordinance be
constructed and adequately operated and maintained by the Landowner, successors,
and assigns.

NOW, THEREFORE, in consideration of the foregoing promises, the
mutual covenants contained herein, and the following terms and conditions, the
parties hereto agree as follows:
1. The Landowner shall construct the BMPs in accordance with the plans and specifications identified in the approved SWM Site Plan.

2. The Landowner shall operate and maintain the BMPs as shown on the Plan in good working order in accordance with the specific maintenance requirements noted on the approved SWM Site Plan at the Landowners sole expense.

3. The Landowner hereby grants permission to White Haven Borough, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper credentials, to inspect the BMPs whenever necessary. The Landowner shall reimburse White Haven Borough for all reasonable costs for inspections that are not covered by the White Haven Borough Post Construction Stormwater Inspection Fund Fee paid to White Haven Borough by the Landowner prior to SWM Site Plan approval.

4. In the event the Landowner, his successor and assigns, fails to maintain the BMPs in good working condition acceptable to White Haven Borough, White Haven Borough may enter upon the property and take such necessary and prudent action to maintain said BMPs and to charge the costs of the maintenance and/or repairs to the Landowner, his successors and assigns. It is expressly understood and agreed that White Haven Borough is under no obligation to maintain or repair said facilities and in no event shall this agreement be misconstrued to impose any such obligation on White Haven Borough. In the event White Haven Borough, pursuant to this agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials and the like on account of the Landowner’s or his successor’s and assign’s failure to perform such work, the Landowner, his successors and assigns, shall reimburse White Haven Borough upon demand, within thirty (30) days of receipt of invoice thereof, for all costs incurred by White Haven Borough hereunder. If not paid within said thirty (30) day period, White Haven Borough may enter a lien against the property for costs, or may proceed to recover its costs through proceedings in equity or at law as authorized under the provisions of the Second Class Borough Code or any other law of the Commonwealth of Pennsylvania.

5. The Landowner, his successors and assigns, shall and do hereby agree to exonerate, indemnify and save harmless White Haven Borough, White Haven Borough officers, elected officials, engineers and attorneys and White Haven Borough appointees and any other agent, from any and all claims, actions, awards, verdicts, judgments, damages, casualties and/or occurrences that do arise out of White Haven Borough’s approval and the construction, presence, existence and/or maintenance of the BMPs by the Landowner and the Landowner’s heirs, successors and/or assigns.
6. In the event a claim is asserted against White Haven Borough, its agents or employees, White Haven Borough shall promptly notify the Landowner, his successors and assigns, and the Landowner shall defend, at their own expense, any suit based on such claim. If any judgment or claims against White Haven Borough, its agents or employees shall be allowed, the Landowner, his successors and assigns shall pay said judgment and/or claim, as well as all costs and expenses in connection therewith.

7. In the event of an emergency or the occurrence of special or unusual circumstances or situations, White Haven Borough may enter the property, if the Landowner is not immediately available, without notification or identification, to inspect and perform necessary maintenance and repairs, if needed, when the health, safety or welfare of the citizens is at jeopardy. However, White Haven Borough shall notify the Landowner of any inspection, maintenance or repair undertaken within ten (10) days of the activity. The Landowner shall reimburse White Haven Borough for the costs.

8. If any part of this Agreement is held to be invalid or unenforceable, all other remaining provisions of the Agreement shall remain in full force and effect.

9. Nothing in this Agreement shall be construed as an offer by the Landowner to dedicate any of the BMPs to White Haven Borough, and nothing herein shall be deemed to be an acceptance of an offer of dedication.

10. This agreement shall be recorded by the Landowner among the land records of Luzerne County, Pennsylvania prior to SWM Site Plan approval being issued by White Haven Borough, and shall constitute a covenant running with the property and/or equitable servitude, and shall be binding on the Landowner, his administrators, executors, assigns, heirs, and any other successors in interests, in perpetuity.
ATTEST:

WITNESS the following signatures and seals:

(SEAL)
For White Haven
Borough:

______________________________

President

For the Landowner:

ATTEST:

______________________________ (City, Borough, Borough)

County of ________________________, Pennsylvania

I, ________________________________, a Notary Public in and for the county and state aforesaid, whose commission expires on the _________ day of ________________, 20_____, do hereby certify that

______________________________, whose name(s) is/are signed to the foregoing Agreement bearing date of the _________ day of ____________________, 20_____, has acknowledged the same before me in my said county and state.

GIVEN UNDER MY HAND THIS ____________ day of ________________, 20_____

______________________________

NOTARY PUBLIC

(SEAL)
APPENDIX B

STORMWATER MANAGEMENT PERMIT APPLICATION GUIDELINES

Anyone performing a regulated activity, unless specifically exempt by Section 302 of the Ordinance, must complete the accompanying Stormwater Management Permit Application and Sketch, and submit to White Haven Borough. A regulated activity is defined by this Ordinance as:

Regulated Activity - Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

This includes but is not limited to: the clearing of wooded areas, grading and excavating, placement of pavement (driveways, parking areas, roads), construction of buildings, construction of stormwater management facilities, the diversion or piping of any natural or man-made stream channel, the construction of other structures (homes, sheds, garages, commercial and industrial buildings), and other activities which alter the way stormwater runs off of the landscape. See Section 105 of Ordinance for additional detail on Regulated Activities. Impervious area is defined by this Ordinance as:

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

Gravel (Crushed Stone) - Considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

Depending on the amount of impervious area placed and the amount of earth disturbance to the project site, this Ordinance requires different levels of stormwater management, and correspondingly different levels of design and review.

**Level 1:** Proposed impervious area is between 250 sq. ft. and 1,000 sq. ft. or total earth disturbance is between 500 sq. ft. and 5,000 sq. ft.

**Stormwater Management Controls:** Ensure that adverse downstream impacts do not occur due to redirecting stormwater flows towards nearby structures. Stormwater Management Controls must comply with Section 301 of this Ordinance.

**Submission:** Submit the Stormwater Management Permit Application and Sketch to White Haven Borough Code Enforcement Officer

**Review:** Shall be completed by White Haven Borough Code Enforcement Officer.
Level 2: Proposed impervious area is between 1,000 sq. ft. and 5,000 sq. ft. or total earth disturbance is between 5,000 sq. ft. and 10,000 sq. ft.

Stormwater Management Controls: Utilize Disconnected Impervious Area (DIA) for stormwater controls as outlined in Ordinance Appendix C.1; if DIA cannot be achieved, utilize stormwater management controls for small projects as outlined in Ordinance Appendix E.

Submission: Submit the Stormwater Management Permit Application and computations for DIA; the worksheet in this Ordinance Appendix C.1 shall be used and submitted. If DIA cannot be achieved, submit computations for Stormwater Management for Small Projects; the worksheet in this Ordinance Appendix E must be used and submitted.

Review: Shall be completed by the White Haven Borough Engineer.

Level 3: Proposed impervious area is between 5,000 sq. ft. and 10,000 sq. ft. or total earth disturbance is between 10,000 sq. ft. and 20,000 sq. ft. but does not qualify as a Land Development. All Land Developments require a Level 4 submission and review.

Stormwater Management Controls: Capture and permanently remove the first 2 inches of runoff over all proposed impervious areas; infiltrate at least the first 0.5 inches.

Submission: Submit the Stormwater Management Permit Application and computations for permanently removing the first 2 inches of runoff over all proposed impervious areas; the worksheet in this Ordinance Appendix D must be used.

Review: Shall be completed by the White Haven Borough Engineer.

Level 4: Proposed impervious area is greater than 10,000 sq. ft. or total earth disturbance is greater than 20,000 sq. ft. or any project that qualifies as a Land Development.

Stormwater Management Controls: All requirements of this Ordinance are applicable, including water quality and volume controls as found in Article III Section 303 and peak rate controls as found in Article III Section 304.

Submission: Submit the Stormwater Management Permit Application and Stormwater Management (SWM) Site Plan as in Article IV of this Ordinance.

Review: Shall be completed by the White Haven Borough Engineer.
STORMWATER MANAGEMENT PERMIT
APPLICATION

**Applicant Name, Address, Phone Number and Email:**

**Nature of Activity (i.e. driveway, single-lot structure, parking lot, road, trail, subdivision, etc.):**

**Total Proposed Impervious Area (I) (sq. ft.):**

**Total Proposed Earth Disturbance (ED) (sq. ft.):**

**Level 1:** (I) is between 250 sq. ft. and 1,000 sq. ft. or (ED) is between 500 sq. ft. and 5,000 sq. ft.

**Level 2:** (I) is between 1,000 sq. ft. and 5,000 sq. ft. or (ED) is between 5,000 sq. ft. and 10,000 sq. ft.

**Level 3:** (I) is between 5,000 sq. ft. and 10,000 sq. ft. or (ED) is between 10,000 sq. ft. and 20,000 sq. ft.

**Level 4:** (I) is greater than 10,000 sq. ft. or (ED) is greater than 20,000 sq. ft. and all Land Developments

Show on the accompanying sketch that adverse downstream stormwater impacts are not created or worsened, and that additional stormwater runoff will not discharge towards adjacent property.

All requirements of the Ordinance have been met. Applicant Signature: _____________________________
Date: __________

**FOR REVIEWER ONLY: STORMWATER MANAGEMENT PERMIT NO. __________**

This stormwater management permit application has been APPROVED DENIED (circle one)

Reviewed by (print): ___________________________ Reason for Denial: ___________________________
WHITE HAVEN BOROUGH INSPECTION LOG

APPLICATION LEVEL NO.: ______________________
STORMWATER MANAGEMENT PERMIT NO.: ______________________

PRE-CONSTRUCTION INSPECTION

INSPECTOR NAME: __________________________________________
DATE: ______________________________________________________
SIGNATURE: ________________________________________________
COMMENTS: ________________________________________________

______________________________

DURING-CONSTRUCTION INSPECTION

INSPECTOR NAME: __________________________________________
DATE: ______________________________________________________
SIGNATURE: ________________________________________________
COMMENTS: ________________________________________________

______________________________

POST-CONSTRUCTION INSPECTION

INSPECTOR NAME: __________________________________________
DATE: ______________________________________________________
SIGNATURE: ________________________________________________
COMPLIES / DOES NOT COMPLY: ________________________________
COMMENTS: ________________________________________________
LEVEL 1 APPLICATION - PROJECT SKETCH

- Show direction of proposed stormwater discharges
- Show all structures within 50 feet of site
- If storm sewers are present, show approximate location of inlets
- **Note:** The applicant must construct all structures and discharge points as depicted on this sketch. Any deviation from this sketch without prior approval from White Haven Borough may be considered a violation of the White Haven Borough Stormwater Management Ordinance and may subject the applicant to the penalties of the Ordinance and/or the revocation of the Stormwater Management Permit.
### Example 1 Stormwater Management Permit Application

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<thead>
<tr>
<th>Applicant Name, Address, Phone Number and Email:</th>
<th>Nature of Activity (i.e. driveway, single-lot structure, parking lot, road, trail, subdivision, etc.):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe Homeowner 123 Site Street Anytown, PA 12345 570-788-1234 – <a href="mailto:joeh@ptd.net">joeh@ptd.net</a></td>
<td>Construction of one car garage</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Proposed Impervious Area (I) (sq. ft.):</th>
<th>Total Proposed Earth Disturbance (ED) (sq. ft.):</th>
</tr>
</thead>
<tbody>
<tr>
<td>300 square feet</td>
<td>400 square feet</td>
</tr>
</tbody>
</table>

**Level 1:** (I) is between 250 sq. ft. and 1,000 sq. ft. or (ED) is between 500 sq. ft. and 5,000 sq. ft.

**Level 2:** (I) is between 1,000 sq. ft. and 5,000 sq. ft. or (ED) is between 5,000 sq. ft. and 10,000 sq. ft.

**Level 3:** (I) is between 5,000 sq. ft. and 10,000 sq. ft. or (ED) is between 10,000 sq. ft. and 20,000 sq. ft.

**Level 4:** (I) is greater than 10,000 sq. ft. or (ED) is greater than 20,000 sq. ft.

**Show on the accompanying sketch that adverse downstream stormwater impacts are not created or worsened, and that additional stormwater runoff will not discharge towards adjacent property.**

---

**All requirements of the Ordinance have been met. Applicant Signature:** Joseph Homeowner  Date: 6/30/2010

**FOR REVIEWER ONLY**

This stormwater management permit application has been **APPROVED**  DENIED  (circle one)

Reviewed by (print): Municipal Official  Reason for Denial: N/A
- Show direction of proposed stormwater discharges
- Show all structures within 50 feet of site
- If storm sewers are present, show approximate location of inlets
# Example 2 Stormwater Management Permit Application

**Applicant Name, Address, Phone Number and Email:**
- Joe Homeowner
- 123 Site Street
- Anytown, PA 12345
- 570-788-1234 – joeh@ptd.net

**Nature of Activity (i.e. driveway, single-lot structure, parking lot, road, trail, subdivision, etc.):**
- Construction of single-family home, driveway, and stone patio

**Total Proposed Impervious Area (I) (sq. ft.):** 3,300 square feet

**Total Proposed Earth Disturbance (ED) (sq. ft.):** 6,000 square feet

| Level 1: (I) is between 250 sq. ft. and 1,000 sq. ft. or (ED) is between 500 sq. ft. and 5,000 sq. ft. | Level 2: (I) is between 1,000 sq. ft. and 5,000 sq. ft. or (ED) is between 5,000 sq. ft. and 10,000 sq. ft. |
| Level 3: (I) is between 5,000 sq. ft. and 10,000 sq. ft. or (ED) is between 10,000 sq. ft. and 20,000 sq. ft. | Level 4: (I) is greater than 10,000 sq. ft. or (ED) is greater than 20,000 sq. ft. |

- Complete and attach worksheet contained in Appendix C.1/
- Is worksheet attached?
  - Yes
  - No

- Complete and attach worksheet contained in Ordinance Appendix D
- Is worksheet attached?
  - Yes
  - No

- Complete and submit SWM Site Plan in accordance with Ordinance Article IV
- Is a SWM Site Plan included?
  - Yes
  - No

Show on the accompanying sketch that adverse downstream stormwater impacts are not created or worsened, and that additional stormwater runoff will not discharge towards adjacent property.

All requirements of the Ordinance have been met. Applicant Signature **Joseph Homeowner** Date: 6/30/2010

---

**For Reviewer Only**

This stormwater management permit application has been **APPROVED** DENIED (circle one)

Reviewed by (print): **Municipal Officials** Reason for Denial: **N/A**
EXAMPLE 2 PROJECT SKETCH – Homeowner opted to utilize the worksheet provided in Appendix C.1 to show stormwater management for DIA.

<table>
<thead>
<tr>
<th>Applicant Address:</th>
<th>Brief Description of Project: Construction of 2,000 sq. ft. (40’ x 50’) single-family home with 500 sq. ft. driveway (10’ x 50’) and 800 sq. ft. stone patio (20’ x 40’). The back half of the house discharges to rainspouts underground.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe Homeowner</td>
<td>No more than 1,250 sq. ft. can discharge to one point on the surface.</td>
</tr>
<tr>
<td>123 Site Street</td>
<td>Number of surface discharge points required: 3</td>
</tr>
<tr>
<td>Anytown, PA 12345</td>
<td></td>
</tr>
<tr>
<td>Nearest waterbody:</td>
<td>Tributary to Mill Creek</td>
</tr>
<tr>
<td>Total Proposed Impervious Area (A):</td>
<td>Discharge Point 1: Front of Home Area: 1,000 sq. ft.</td>
</tr>
<tr>
<td>3,300 sq. ft.</td>
<td>Discharge Point 2: Driveway Area: 500 sq. ft.</td>
</tr>
<tr>
<td>Total Earth Disturbance:</td>
<td>Discharge Point 3: Patio Area: 800 sq. ft.</td>
</tr>
<tr>
<td>6,000 sq. ft.</td>
<td>Discharge Point 4: N/A</td>
</tr>
<tr>
<td>Are rainspouts discharged underground? (Y/N)</td>
<td>Discharge Point 5: N/A</td>
</tr>
<tr>
<td>Yes</td>
<td>Pervious Path Length: 30 ft</td>
</tr>
<tr>
<td>If yes, contributing impervious area (B):</td>
<td>Pervious Path Length: 50 ft</td>
</tr>
<tr>
<td>1,000 sq. ft.</td>
<td>Pervious Path Length: 40 ft</td>
</tr>
<tr>
<td>Total Impervious Area Discharged on Surface (A) – (B):</td>
<td>Pervious Path Slope &lt;10%? (Y/N) 3,300 – 1,000 = 2,300 sq. ft.</td>
</tr>
<tr>
<td>3,300 – 1,000 = 2,300 sq. ft.</td>
<td>Yes</td>
</tr>
<tr>
<td>Pervious Path Slope &lt;10%? (Y/N)</td>
<td>Yes</td>
</tr>
<tr>
<td>Storm Inlet</td>
<td>Discharge Point 2 50 feet; Slope&lt;10%</td>
</tr>
<tr>
<td>Elev. 736’</td>
<td>Discharge Point 1 30 feet; Slope&lt;10%</td>
</tr>
<tr>
<td>Elev. 737’</td>
<td>Discharge Point 3 40 feet; Slope&lt;10%</td>
</tr>
<tr>
<td>Elev. 734’</td>
<td>Elev. 738’</td>
</tr>
<tr>
<td>Elev. 736’</td>
<td>Underground Rainspout Discharge</td>
</tr>
<tr>
<td>Elev. 734’</td>
<td>Neighbors House</td>
</tr>
</tbody>
</table>

Project sketch:
### Applicant Name, Address, Phone Number and Email:
Joe Homeowner  
123 Site Street  
Anytown, PA 12345  
570-788-1234 – joeh@ptd.net

### Nature of Activity (i.e. driveway, single-lot structure, parking lot, road, trail, subdivision, etc.):
Construction of single-family home, driveway, and stone patio

### Total Proposed Impervious Area (I) (sq. ft.):
3,300 square feet

### Total Proposed Earth Disturbance (ED) (sq. ft.):
6,000 square feet

### Level 1: (I) is between 250 sq. ft. and 1,000 sq. ft. or (ED) is between 500 sq. ft. and 5,000 sq. ft.

### Level 2: (I) is between 1,000 sq. ft. and 5,000 sq. ft. or (ED) is between 5,000 sq. ft. and 10,000 sq. ft.

- Complete and attach worksheet contained in Appendix C.1/E
- Is information attached?  
  - No  
  - Yes

### Level 3: (I) is between 5,000 sq. ft. and 10,000 sq. ft. or (ED) is between 10,000 sq. ft. and 20,000 sq. ft.

- Complete and attach worksheet contained in Ordinance Appendix D
- Is worksheet attached?  
  - No  
  - Yes

### Level 4: (I) is greater than 10,000 sq. ft. or (ED) is greater than 20,000 sq. ft.

- Complete and submit SWM Site Plan in accordance with Ordinance Article IV
- Is a SWM Site Plan included?  
  - No  
  - Yes

### Show on the accompanying sketch that adverse downstream stormwater impacts are not created or worsened, and that additional stormwater runoff will not discharge towards adjacent property

### All requirements of the Ordinance have been met. Applicant Signature: Joseph Homeowner  
Date: 6/30/2010

### FOR REVIEWER ONLY

This stormwater management permit application has been **APPROVED** DENIED (circle one)

Reviewed by (print): **Municipal Official**  
Reason for Denial: **Rainspout discharges to driveway, and driveway discharges to street**
EXAMPLE 3 PROJECT SKETCH – Homeowner opted to utilize the worksheet provided in Appendix C.1 to show stormwater management for DIA.

**Applicant Address:**
Joe Homeowner  
123 Site Street  
Anytown, PA 12345

**Brief Description of Project:** Construction of 2,000 sq. ft. (40’x 50’) single-family home with 500 sq. ft. driveway (10’x 50’) and 800 sq. ft. stone patio (20’x 40’). The back half of the house discharges to rainspouts underground.

**Nearest waterbody:**
Tributary to Mill Creek

**Number of surface discharge points required:** 3

<table>
<thead>
<tr>
<th>Total Proposed Impervious Area (A): 3,300 sq. ft.</th>
<th>Discharge Point 1: Front of Home Area: 1,000 sq. ft.</th>
<th>Discharge Point 2: Driveway Area: 500 sq. ft.</th>
<th>Discharge Point 3: Patio Area: 800 sq. ft.</th>
<th>Discharge Point 4: N/A</th>
<th>Discharge Point 5: N/A</th>
</tr>
</thead>
</table>

**Are rainspouts discharged underground? (Y/N)**
Yes

If yes, contributing impervious area (B):
1,000 sq. ft.

**Total Impervious Area Discharged on Surface (A) – (B): 3,300 – 1,000 = 2,300 sq. ft.**

**Pervious Path Length**
- N/A
- N/A
- 40 ft
- N/A

**Pervious Path Slope <10%? (Y/N)**
- N/A
- N/A
- Yes
- N/A

**Project sketch:**

[Diagram of project sketch with discharge points labeled and elevations specified]
APPENDIX C.1 – LEVEL 2 APPLICATION (OPTION #1)

DISCONNECTED IMPERVIOUS AREA (DIA) AND WORKSHEET

When a regulated activity creates impervious areas between 1,000 sq. ft. and 5,000 sq. ft., or total earth disturbance between 5,000 and 10,000 sq. ft., the stormwater management requirements follow Appendix C.1 – Disconnected Impervious Areas (DIAs), of this Ordinance. If site conditions prevent the requirements of Appendix C.1 from being met, then the first 1 inch of runoff shall be captured and controlled in a manner consistent with Appendix E – Stormwater Management for Small Projects, of this Ordinance.

When rooftop or pavement runoff is directed to a pervious area that allows for infiltration, filtration, and increased time of concentration, the contributing rooftop or pavement area may qualify as a Disconnected Impervious Area (DIA). A rooftop or pavement area is considered to be a DIA if it meets the requirements listed below:

- The overland flow path (pervious area serving as BMP) from discharge area has a positive slope of approximately 10% or less;
- The length of overland flow path (pervious area serving as BMP) is greater than 20 feet.
- The 20 foot minimum length of pervious overland flow path for a driveway shall be waived in the area of the driveway connection point to the existing roadway. (I.e. Areas where it is physically impossible to provide a 20 foot pervious overland flow path for the entire driveway cross-section). Note: All areas of the driveway shall be cross-sloped toward pervious areas.

If the discharge is concentrated at one or more discrete points, no more than 1,250 square feet of impervious area may discharge to any one point. In addition, a gravel strip or other spreading device is required for concentrated discharges. For non-concentrated discharges along the edge of the pavement, this requirement is waived; however, there must be a provision for the establishment of vegetation along the pavement edge and temporary stabilization of the area until vegetation becomes stabilized.

If rainspouts are discharged underground to provide infiltration, the portion of the impervious area draining to those rainspouts is waived from the DIA discharge requirements. Rainspouts discharged underground which are directly connected to a storm sewer system are not waived from the DIA requirements. Prior to any rainspout being allowed to be discharged underground to provide infiltration the suitability of the existing soil in the area of the proposed infiltration must be demonstrated by the applicant.

Sump pump, roof drains (rainspouts) and foundation drains must comply with Section 301.Q of the Ordinance.
The technical requirements of this Appendix C.1 can be modified at the discretion of the Borough Engineer if the applicant can clearly demonstrate that no adverse downstream stormwater impact is being created or worsened by the modification that is granted.

Applicant must provide a sketch of the proposed project in the space provided below the Worksheet C.1 or on a separate plan sheet if additional space is required. The following items, at a minimum, must be provided on the Level 2 Sketch:

1. The name and address of the property owner and the person that completed the sketch.
2. All existing structures, existing roadways, existing waterways and existing stormwater management facilities within 50 feet of site.
3. The site property lines and the names of the adjoining property owners.
4. The proposed driveway location, dimensions and surface type.
5. The proposed building location, dimensions, and direction of roof slopes.
6. The direction and approximate percent of the land and roof slopes at all grade breaks.
7. A north arrow, drawing scale and date.
8. The location of all existing and proposed underground utilities including septic and well locations.
9. The location and dimensions of all proposed stormwater management facilities.
10. The discharge point of all stormwater management facilities including roof drains, foundation drains and sump pump drains.

See Level 2 Sketch examples provided for additional information. The above items must be provided, at a minimum, for all existing lots governed by a previous Land Development or NPDES Permit Approval.

**Note:** The applicant must construct all structures, driveways, stormwater management facilities and discharge points as depicted on the sketches provided to the Borough. Any deviation from the sketches without prior approval from White Haven Borough may be considered a violation of the White Haven Borough Stormwater Management Ordinance and may subject the applicant to the penalties of the Ordinance and/or the revocation of the Stormwater Management Permit.
Worksheet C.1 – Disconnected Impervious Area as a BMP - Level #2 (Option 1).

<table>
<thead>
<tr>
<th>Applicant Address:</th>
<th>Brief Description of Project:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Nearest waterbody:</th>
<th>No more than 1,250 sq. ft. can discharge to one point on the surface. Number of discharge points required:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Total Proposed Impervious Area (A):</th>
<th>Discharge Point 1</th>
<th>Discharge Point 2</th>
<th>Discharge Point 3</th>
<th>Discharge Point 4</th>
<th>Discharge Point 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Earth Disturbance:</td>
<td>Area:</td>
<td>Area:</td>
<td>Area:</td>
<td>Area:</td>
<td>Area:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Are rainspouts discharged underground? (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, contributing impervious area (B):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Impervious Area Discharged on Surface (A) – (B):</th>
<th>Pervious Path Slope &lt;10%? (Y/N)</th>
<th>Pervious Path Slope &lt;10%? (Y/N)</th>
<th>Pervious Path Slope &lt;10%? (Y/N)</th>
<th>Pervious Path Slope &lt;10%? (Y/N)</th>
<th>Pervious Path Slope &lt;10%? (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide Level 2 Sketch of project below or on a separate sheet if necessary. See minimum requirements for Level 2 Sketch in Appendix C.1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX C.2

RAINSPOUT DISCONNECTION FROM SANITARY SEWER SYSTEMS
REQUIREMENT

When roofs are being replaced, rainspouts must be disconnected from sanitary sewer systems. The following guidance is provided to enforce this requirement as part of this Ordinance, and is subject to the White Haven Borough Engineer’s discretion. When rainspouts are disconnected from sanitary sewer systems, it must be shown that adverse stormwater impacts are not created downstream.

Source of image: www.munciesanitary.org/stormwater-management
Step 1
Cut off downspout about 9 inches above where it enters the sewer connection.

Step 2
Measure and install plug or cap
- Plug with wing nut
- Cap with hose clamp

Step 3
Insert the downspout INTO the elbow.
- Basement: Downspout extension must be at least 10 feet long
- No basement: Downspout extension must be at least 5 feet long

Step 4
Capped standpipe
- Sheet metal screws
- Splash block

5 feet or 10 feet minimum

Source of image: rainwise.seattle.gov/solution_brochures
APPENDIX D – LEVEL 3 APPLICATION

PROJECTS MEETING REQUIREMENTS IN SECTION 303 SUBSECTION B

When a regulated activity creates impervious areas between 5,000 sq. ft. and 10,000 sq. ft., or total earth disturbance between 10,000 and 20,000 sq. ft., the stormwater management requirements follow Section 303 Subsection B of this Ordinance.

Section 303 Subsection B is duplicated below:

B. When CG-1 guidelines are not used, the Simplified Method (CG-2 in the BMP Manual) has been modified to accommodate 2” of permanently removed runoff volume. This method (provided below) is independent of site conditions and should be used if the Design Storm Method is not followed. For new impervious surfaces:

1. The first 2 inches of runoff from new impervious surfaces shall be permanently removed from the runoff flow (i.e., it shall not be released into the surface waters of this Commonwealth). Removal options include reuse, evaporation, transpiration, and infiltration.

2. Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 0.5 inch of the permanently removed runoff should be infiltrated.

3. Facilities, to the greatest extent possible and subject to the White Haven Borough Engineer’s discretion, shall be designed to drain the permanently removed runoff volume in a period no less than 24 hours and no greater than 72 hours.

4. Runoff volume in excess of 2 inches shall be safely conveyed to existing stormwater collection systems or streams, in the direction of the existing drainage course.

5. This method is exempt from the requirements of Section 304, Rate Controls.
<table>
<thead>
<tr>
<th>Applicant Address:</th>
<th>Brief Description of Project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nearest waterbody:</td>
<td>Permanently Removed Volume = (2 inches / 12) x (Impervious Area) =</td>
</tr>
<tr>
<td>Total Proposed Impervious Area:</td>
<td>A Factor of Safety of 2 is applied to the Tested Infiltration Rate. Design Infiltration Rate = Tested Infiltration Rate / 2 =</td>
</tr>
<tr>
<td>Total Earth Disturbance:</td>
<td>Components of the project may be directed to multiple facilities.</td>
</tr>
<tr>
<td>Soil Testing Method:</td>
<td>Number of facilities used:</td>
</tr>
</tbody>
</table>

### Soil Testing Method

<table>
<thead>
<tr>
<th>Facility #1</th>
<th>Facility #2</th>
<th>Facility #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component of Project:</td>
<td>Component of Project:</td>
<td>Component of Project:</td>
</tr>
<tr>
<td>Volume Collected:</td>
<td>Volume Collected:</td>
<td>Volume Collected:</td>
</tr>
<tr>
<td>Tested Infiltration Rate (in/hr):</td>
<td>Type of Facility:</td>
<td>Type of Facility:</td>
</tr>
<tr>
<td>Volume of Facility*:</td>
<td>Volume of Facility*:</td>
<td>Volume of Facility*:</td>
</tr>
<tr>
<td>Area of Facility:</td>
<td>Area of Facility:</td>
<td>Area of Facility:</td>
</tr>
<tr>
<td>Depth of Facility:</td>
<td>Depth of Facility:</td>
<td>Depth of Facility:</td>
</tr>
</tbody>
</table>

### Additional Calcs/Notes

| Drawdown Time = Depth of Facility / Design Infiltration Rate = | Drawdown Time = Depth of Facility / Design Infiltration Rate = | Drawdown Time = Depth of Facility / Design Infiltration Rate = |
|———|———|———|
| Loading Ratio = Impervious Area Controlled / Area of Facility = | Loading Ratio = Impervious Area Controlled / Area of Facility = | Loading Ratio = Impervious Area Controlled / Area of Facility = |
| Existing Discharge Point (Inlet/Sewer/Stream): | Existing Discharge Point (Inlet/Sewer/Stream): | Existing Discharge Point (Inlet/Sewer/Stream): |

**Infiltration facilities with stone beds: 40% void space, multiply volume in stone portion by 0.4. Calculations:**

**If a grass spillway is used: \[ \text{Capacity (cfs)} = 2.5 \times \text{Length} \times \text{Freeboard}^{1.5} \]

**If an orifice structure is used: \[ \text{Capacity (cfs)} = 0.6 \times \text{Orifice Area} \times (2 \times 32.2 \times \text{Flow Depth Above Orifice})^{0.5} \]**

**Capacity Calculations:**
Example: A doctor’s office is proposed for a site. The building is 5,000 sq. ft. and the parking lot is 3,000 sq. ft.

Applicant Address:
Dr. Office
123 Site Street
Anytown, PA 12345

Brief Description of Project: A proposed doctor’s office consisting of 5,000 sq. ft. building (50’ x 100’) and 3,000 sq. ft. parking lot (30’ x 100’). The building drains to the back of the property to an infiltration facility, and the parking lot drains to an infiltration facility adjacent the parking lot.

Nearest waterbody:
Trib. to Mill Creek

Permanently Removed Volume = (2 inches / 12) x (Impervious Area) = (2 inches / 12) x (8,000 sq. ft.) = 1,333 cu. ft.

Total Proposed Impervious Area:
8,000 sq. ft.

Total Earth Disturbance:
12,000 sq. ft.

Components of the project may be directed to multiple facilities.

Number of facilities used:
2

Soil Testing Method:
Percolation Test

<table>
<thead>
<tr>
<th>Facility #1</th>
<th>Facility #2</th>
<th>Facility #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component of Project: Building</td>
<td>Component of Project: Parking Lot</td>
<td>Component of Project: N/A</td>
</tr>
<tr>
<td>Volume Collected: 5,000 x 2/12 = 833 cu. ft.</td>
<td>Volume Collected: 3,000 x 2/12 = 500 cu. ft.</td>
<td>Volume Collected: N/A</td>
</tr>
</tbody>
</table>

Tested Infiltration Rate (in/hr):
1 in/hr

Type of Facility: Infiltration
Volume of Facility*: 1,133 cu. ft.
Area of Facility: 50’ x 10’ = 500 sq. ft.
Depth of Facility: 1 ft. stone + 1.3 ft. = 2.3 ft.

Type of Facility: Infiltration
Volume of Facility*: 590 cu. ft.
Area of Facility: 30’ x 10’ = 300 sq. ft.
Depth of Facility: ½ ft. stone + 1.3 ft. = 1.8 ft.

Type of Facility: N/A
Volume of Facility*: N/A
Area of Facility: N/A
Depth of Facility: N/A

Additional Calcs/Notes:
Facilities have 2:1 horizontal:vertical side slopes. Therefore, actual volumes are greater which provides some additional storage for larger events.

Both facilities have 1 foot of freeboard. This volume is additional to the volume provided in the calculations.

Drawdown Time = Depth of Facility / Design Infiltration Rate
= 2.3 ft. x 12 in. / 0.5 in/hr
= 55.2 hrs

Drawdown Time = Depth of Facility / Design Infiltration Rate
= 1.8 ft. x 12 in. / 0.5 in/hr
= 43.2 hrs

Drawdown Time = Depth of Facility / Design Infiltration Rate
= N/A

Loading Ratio = Impervious Area Controlled : Area of Facility = 5,000 sq. ft. : 500 sq. ft. = 10:1

Loading Ratio = Impervious Area Controlled : Area of Facility = 3,000 sq. ft. : 300 sq. ft. = 10:1

Loading Ratio = Impervious Area Controlled : Area of Facility = N/A

Existing Discharge Point (Inlet/Sewer/Stream):
Spillway Capacity**: 50 cfs

Existing Discharge Point (Inlet/Sewer/Stream):
Orifice Outlet Capacity**: 77 cfs

Existing Discharge Point (Inlet/Sewer/Stream): N/A

Discharge Method for Runoff in Excess of 2”:
Spillway Capacity**: 50 cfs

Discharge Method for Runoff in Excess of 2”:
Orifice Outlet Capacity**: 77 cfs

Discharge Method for Runoff in Excess of 2”:
N/A

*Infiltration facilities with stone beds: 40% void space, multiply volume in stone portion by 0.4.

Calculations:
Facility #1 has 1 ft. of stone: 500 ft² x 1 ft. stone x 0.4 = 200 ft³ in stone portion; Volume = 500 ft³ stone + (833 – 200) = 1,133 cu. ft.

Depth = 1 ft. stone + (833 – 200) / 500 ft² = 1 ft. + 1.3 ft = 2.3 ft.

Facility #2 has ½ ft. of stone: 300 ft² x ½ ft. stone x 0.4 = 60 ft³ in stone portion; Volume = 150 ft³ stone + (500 – 60) = 590 cu. ft.

Depth = ½ ft. stone + (500 – 60) / 300 sq. ft. = ½ ft. + 1.3 ft. = 1.8 ft.
**If a grass spillway is used:** Capacity (cfs) = 2.5 x Length x Freeboard^{1.5}  

**If an orifice structure is used:** Capacity (cfs) = 0.6 x Orifice Area x (2 x 32.2 x Flow Depth Above Orifice)^{0.5}

**Capacity Calculations:**

Facility #1 spillway: Capacity = 2.5 x (20 ft.) x (1 ft.)^{1.5} = 50 cfs

Facility #2 orifice outlet: Use 1 ft. high by 2 ft. wide orifice; Capacity = 0.6 x (2 ft²) x (2 x 32.2 x 1)^{0.5} = 77 cfs
Project Sketch

**Note:** The applicant must construct all structures and discharge points as depicted on this sketch. Any deviation from this sketch without prior approval from White Haven Borough may be considered a violation of the White Haven Borough Stormwater Management Ordinance and may subject the applicant to the penalties of the Ordinance and/or the revocation of the Stormwater Management Permit.
STORMWATER MANAGEMENT FOR SMALL PROJECTS

Applicability (Level #2 Application): Stormwater management procedures for projects between 1,000 sq. ft. and 5,000 sq. ft. of proposed impervious area or total earth disturbance between 5,000 sq. ft. and 10,000 sq. ft. for which site conditions prevent the use of Ordinance Appendix C.1 - Disconnected Impervious Area (DIA) as a BMP.

Notes:

1. This small projects document is not to be used to plan for multiple lots without obtaining prior written approval from White Haven Borough. Approvals and actions associated with this document do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law or ordinance.

2. Due to the fact that the procedure outlined in Appendix C.1 – Disconnected Impervious Area (DIA) is much less burdensome than the procedure contained here in Appendix E White Haven Borough strongly recommends that an applicant make all possible attempts to comply with Appendix C.1 prior to completing the procedure outlined here in Appendix E.
E.1 Introduction

These methods have been developed to allow homeowners to comply with stormwater management criteria for new projects to meet the requirements of the Act 167 Stormwater Management Ordinance of White Haven Borough including sizing, designing, locating, and installing on-lot measures, referred to herein as “Best Management Practices” (BMPs). Pennsylvania Act 167 was authorized on October 4, 1978 (32 P.S., P.L. 864) and gave Pennsylvania municipalities the power to regulate activities that affect stormwater runoff and surface and groundwater quantity and quality.

Individual home construction projects on single-family lots which result in 1,000 sq. ft. to 5,000 sq. ft. of proposed impervious area (including the building footprint, driveway, sidewalks, and parking areas) are not required to submit formal stormwater management (SWM) site plans to White Haven Borough or County; however, they must address water quality and infiltration goals, and submit the worksheet as outlined in this small projects document. If the guidelines presented in this brochure are followed, the individual homeowner will not require professional services to comply with these water quality and infiltration goals.

Section E.2 presents options of BMPs that can be considered for on-lot stormwater management. Section E.3 describes requirements and outlines the method for designing a suitable BMP, and a description of what needs to be included on the simple sketch plan, and the Small Projects Worksheet in Table E.4. Section E.4 contains an example of how to obtain the size and dimensions of the BMPs, complete the site sketch, and prepare the Small Project Worksheet.

The stormwater management method for small projects requires:

- The first 1” of rainfall runoff from proposed impervious surfaces to be captured (see definition of captured in Article II of the Ordinance).

The purpose of this small projects document is to help reduce stormwater runoff in the community, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality, and to otherwise protect water resources and public safety.

What needs to be sent to White Haven Borough?

Stormwater computations and a sketch plan must be submitted to White Haven Borough. The small projects worksheet found in Table E.4 and a simple sketch plan containing the features described in Step 5 of Section E.3 is provided as an example, or may be used for submission to White Haven Borough, and if applicable, the contractor prior to construction.
E.2 Description of BMPs

The following is a description of several types of BMPs that could be implemented. Refer to Chapter 6 of the PA BMP Manual which can be found on the PA Department of Environmental Protection's website for specifications and steps for construction for the following BMPs. A list of routine maintenance for each of the BMPs described below is also included at the end of this section.

Rain Barrels/Cisterns

- Rain barrels and cisterns are large containers that collect drainage from roof leaders and temporarily store water to be released to lawns, gardens, and other landscaped areas; rain barrels are typically less than 50 gallons in size, and cisterns typically have volumes of up to 1,000 gallons or more, and can be placed on the surface or underground.

Figure E.1. Rain Barrels.

Source (left): http://www.rfcity.org/Eng/Stormwater/YourProperty/YourProperty.htm
Source (right): http://www.floridata.com/tracks/transplantedgardener/Rainbarrels.cfm

Figure E.2. Cisterns.

Rain Garden/Bioretention Area

- A rain garden/bioretention area is an excavated depression area on the surface of the land in which native vegetation is planted to filter and use stormwater runoff; depths of 1.0 foot or less are recommended. Planting species should be native to Pennsylvania.

Figure E.3. Typical Rain Garden/Bioretention Area.

Table E.1. Sample Plant List for Use in a Rain Garden/Bioretention Area.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Plant Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red Maple</td>
<td>Acer rubrum</td>
<td>Tree</td>
</tr>
<tr>
<td>Grey Birch</td>
<td>Betula populifolia</td>
<td>Tree</td>
</tr>
<tr>
<td>Shadbush Serviceberry</td>
<td>Amelanchier canadensis</td>
<td>Tree</td>
</tr>
<tr>
<td>Eastern Cotton-wood</td>
<td>Populus grandidentata</td>
<td>Tree</td>
</tr>
<tr>
<td>Virginia Sweetspire</td>
<td>Itea virginica</td>
<td>Shrub</td>
</tr>
<tr>
<td>Red-Twig Dogwood</td>
<td>Cornus sericea (stolonifera) 'Arctic Fire'</td>
<td>Shrub</td>
</tr>
<tr>
<td>Southern Arrow-wood</td>
<td>Viburnum dentatum</td>
<td>Shrub</td>
</tr>
<tr>
<td>Black Choke Berry</td>
<td>Aronia melanocarpa</td>
<td>Shrub</td>
</tr>
<tr>
<td>Great Blue Lobelia</td>
<td>Lobelia siphilitica</td>
<td>Perennial</td>
</tr>
<tr>
<td>Dwarf Pink false aster</td>
<td>Boltonia asteroides 'Nana'</td>
<td>Perennial</td>
</tr>
<tr>
<td>White false aster</td>
<td>Boltonia asteroides 'Snowbank'</td>
<td>Perennial</td>
</tr>
<tr>
<td>Switchgrass</td>
<td>Panicum virgatum</td>
<td>Grass</td>
</tr>
</tbody>
</table>

Dry Wells

- A dry well, also referred to as a seepage pit, is a subsurface storage facility that temporarily stores and infiltrates runoff from the roofs of buildings or other impervious surfaces; recommended depth of dry well is between 1.0 and 4.0 feet.
- Dry Well #1 – structural prefabricated chamber; no stone fill.
- Dry Well #2 – excavated pit filled with stone fill.

Figure E.4. Dry Well #1 – Structural Prefabricated Chamber.

Source: http://www.copelandconcreteinc.net/1800652.html

Figure E.5. Dry Well #2 – Excavated Pit Filled with Stone Fill.

Source: http://www.seagrant.sunysb.edu/pages/BMPsForMarinas.htm
Infiltration Trench

- An infiltration trench is a long, narrow, rock-filled trench with or without a perforated pipe that receives stormwater runoff and has no outlet.
- Runoff is stored in the void space between the stones and in the pipe and infiltrates through the bottom and into the underlying soil matrix.
- The width is limited to between 3 and 8 feet, and the depth ranges from 2 to 5 feet.

Figure E.6. Infiltration Trench.

Routine Maintenance for BMPs

- Vegetation along the surface of an infiltration trench should be maintained in good condition, and any bare spots should be revegetated as soon as possible.
- Vehicles shouldn’t be parked or driven on an infiltration trench, and care should be taken to avoid excessive compaction by mowers.
- Any debris such as leaves blocking flow from reaching an infiltration trench or bioretention/rain garden should be routinely removed.
- While vegetation is being established, pruning and weeding may be required for a bioretention/rain garden.
- Mulch in a bioretention/rain garden needs to be re-spread when erosion is evident. Once every two to three years or after major storms the entire area may require mulch replacement.
- At least twice a year the landowner needs to inspect the bioretention/rain garden for sediment buildup and vegetative conditions.
- During periods of extended drought, the bioretention/rain garden requires watering.
- Trees and shrubs in a bioretention/rain garden need to be inspected at least twice per year by the landowner to evaluate their health. If they are in poor health, they need to be replaced.
- Dry wells need to be inspected by the landowner at least four times a year and after significant rainfalls, and debris/trash, sediment, and any other waste material need to be removed and disposed of at suitable disposal/recycling sites and in compliance with local, state, and federal waste regulations.
- For dry wells, gutters need to be regularly cleaned out, and proper connections must be maintained to facilitate the effectiveness of the dry well.
- The filter screen for the dry well that intercepts roof runoff must be replaced as necessary.
- Dry wells that are damaged need to be fixed or replaced immediately.
- If an intermediate sump box exists in conjunction with a dry well, it must be cleaned out at least once per year.
- Rain barrels and cisterns need to be cleared of debris routinely at least every three months and after significant storms to allow stormwater from gutters to enter them.
- Gutters that directly convey rain water to dry wells, rain barrels, and cisterns need to be routinely cleared of trash and debris at least every three months and after significant storms.
- Rain barrels and cisterns must be kept covered.
- Rain barrels and cisterns should be routinely emptied so that they are only ¼ of the way full to allow for storage of additional rainwater.
- Overflow outlets from rain barrels and cisterns must be kept free and clear of debris.
- Rain barrels and cisterns that are damaged need to be fixed or replaced immediately.
E.3. Determination of BMPs and Volume Requirements

All proposed impervious areas must be included in the determination of the amount of new impervious areas and the size of proposed BMPs needed to control stormwater.

Proposed impervious areas on an individual residential lot include:

- Roof area
- Pavement
- Sidewalks
- Driveways
- Patios
- Porches
- Permanent pools
- Parking areas

Sidewalks, driveways, or patios that are constructed with gravel or pervious pavers that will not be converted to an impervious surface in the future need not be included in this calculation. Therefore, the amount of proposed impervious area can be reduced for proposed driveways, patios, and sidewalks through the use of gravel, pervious pavement, and turf pavers. All proposed impervious areas must be constructed so that runoff is conveyed to a BMP; no runoff can be directed to storm sewers, inlets, or other impervious areas (i.e., street).

All new construction should incorporate design techniques that include: minimizing the amount of land disturbance, reducing impervious cover, disconnecting gutters and directing runoff to vegetated areas to infiltrate, and redirecting the flow of runoff from impervious driveways to vegetated areas instead of to the street or gutter.
Below are the steps that must be undertaken to meet the Ordinance requirements. The results obtained for each step must be included in the Small Projects Worksheet found in Table E-4:

**STEP 1** – Determine the total area of all proposed impervious surfaces (square feet) that will need to drain to one or more BMPs.

**STEP 2** – Determine locations where BMPs need to be placed, and the contributing impervious area “I” (square feet) to each.

**STEP 3** – Select the BMPs to be used and determine the requirements of each from Section E.3.

**STEP 4** – Obtain the required storage volume “V” (cubic feet) and surface area “A” (square feet) needed for each of the proposed BMPs from the appropriate heading below.

Note: all calculations are based on 1 inch of rainfall.

**For Rain Barrels/Cisterns**

- The typical volume of a rain barrel is less than 50 gallons; if a greater volume is required, more than one rain barrel will be needed or a cistern may be used.
- For calculations, assume the rain barrel is already 25% full.
- Calculate volume in Cubic Feet:
  \[
  V_{cf} = \frac{(1 \text{ inch} \times \frac{1}{12} \times I)}{0.75}
  \]
- Convert to Gallons:
  \[
  V_{gal} = V_{cf} \times 7.48
  \]

**For Rain Gardens/Bioretention or Dry Well #1:**

- Rain gardens and bioretention areas are only used for depths less than or equal to 1.0 feet; a dry well #1 is used for depths between 1.0 and 4.0 feet.
- Select the depth “D” (feet) for the facility.
- For calculations, assume the facility is empty (0% full).
- Calculate volume in Cubic Feet:
  \[
  V_{cf} = (1 \text{ inch} \times \frac{1}{12} \times I)
  \]
- Calculate surface area of the facility in Square Feet:
  \[
  A_{sf} = \frac{V_{cf}}{D}
  \]
For Dry Well #2 or Infiltration Trench:

- A dry well #2 is used for depths between 1.5 feet and 4.0 feet; an infiltration trench is used for depths between 2.0 and 5.0 feet.
- Select the depth “\(D\)” (feet) for the facility.
- For calculations, assume the void ratio of the stone is 40%.
- Calculate volume in Cubic Feet:

\[
V_{cf} = \frac{(1 \text{ inch} \times 1/12 \times I)}{0.4}
\]

- Calculate surface area of the facility in Square Feet:

\[
A_{sf} = \frac{V_{cf}}{D}
\]

- Determine the dimensions of the facility based on “\(A\)” calculated.

**STEP 5 - Sketch a simple site plan that includes:**

- Name and address of the owner of the property, and or name and address of the individual preparing the plan, along with the date of submission.
- Location of proposed structures, driveways, or other paved areas with approximate size in square feet.
- Location, orientation, and dimensions of all proposed BMPs. For all rain gardens/bioretention, infiltration trenches, and dry wells, the length, width, and depth must be included on the plan. For rain barrels or cisterns the volume must be included.
- Location of any existing or proposed on-site septic system and/or potable water wells showing rough proximity to infiltration facilities.
- Location of any existing waterbodies such as; streams, lakes, ponds, wetlands, or other waters of the Commonwealth within 100 feet of the project site, and the distance to the project site and/or BMPs. It is recommended that the project or BMPs be located at least than fifty (50) feet away from a perennial or intermittent stream. If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.), the existing buffer shall be maintained.
- Location of all existing structures including buildings, driveways, and roads within fifty (50) feet of the project site.

Fill in the small projects worksheet found in Table E.4, then submit the worksheet and the simple site sketch (or equivalent) to White Haven Borough.
### Table E.4. Small Projects Worksheet (Level 3 Application).

#### Small Projects Worksheet

<table>
<thead>
<tr>
<th>Component #1 of Project</th>
<th>Impervious Area from Component #1</th>
<th>Component #2 of Project</th>
<th>Impervious Area from Component #2</th>
<th>Component #3 of Project</th>
<th>Impervious Area from Component #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>sq. ft.</td>
<td>sq. ft.</td>
<td>sq. ft.</td>
<td>sq. ft.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Impervious Area =</strong></td>
<td>sq. ft.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### STEP 2

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Captures:</td>
<td>Captures:</td>
<td>Captures:</td>
</tr>
<tr>
<td>Impervious Area $I_1$:</td>
<td>sq. ft.</td>
<td>Impervious Area $I_2$:</td>
</tr>
</tbody>
</table>

#### STEP 3

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type:</td>
<td>Type:</td>
<td>Type:</td>
</tr>
</tbody>
</table>

#### STEP 4

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume:</td>
<td>Volume:</td>
<td>Volume:</td>
</tr>
<tr>
<td>Dimensions:</td>
<td>Dimensions:</td>
<td>Dimensions:</td>
</tr>
</tbody>
</table>

Note: For additional BMPs, use additional sheets
E.4. Example

Joe Homeowner wants to build an 800 sq. ft. two car garage, and a 700 sq. ft. impervious driveway. Site conditions in the urban setting prevent the use of Disconnected Impervious Area (DIA) as a BMP.

STEP 1 – Determine the total area of all proposed impervious surfaces that will need to drain to one or more BMPs.

- Garage roof: 20 ft. x 40 ft. = 800 sq. ft.
- Driveway: 50 ft. x 14 ft. = 700 sq. ft.
- Total proposed impervious surface = 800 + 700 = 1,500 sq. ft.

STEP 2 – Determine locations where BMPs need to be placed, and the contributing impervious area “I” to each.

- Use BMP #1 to capture runoff from the garage ($I_1 = 800$ sq. ft.)
- Use BMP #2 to capture runoff from the driveway ($I_2 = 700$ sq. ft.).

STEP 3 – Select the BMPs to be used and determine the requirements of each from Section E.3.

- BMP #1 – rain barrel/cistern
- BMP #2 – infiltration trench

STEP 4 – Obtain the required storage volume “V” and surface area “A” needed for each of the proposed BMPs from the appropriate heading below.

For Rain Barrel/Cistern (BMP #1)

- Calculate volume in cubic feet:
  \[
  V_{cf} = \frac{(1 \text{ inch} \times \frac{1}{12} \times I_1)}{0.75} \\
  = \frac{(1 \text{ inch} \times \frac{1}{12} \times 800)}{0.75} \\
  = 88.89 \text{ cubic feet}
  \]

- Convert to gallons:
  \[
  V_{gal} = V_{cf} \times 7.48 \\
  = 88.89 \times 7.48 \\
  = 664.8 \text{ gallons} \rightarrow \text{round up to 665 gallons}
  \]
For Infiltration Trench (BMP #2)

- Select depth “D” for the facility of 2 feet (between 2.0 feet and 5.0 feet).
- Calculate volume in cubic feet:

\[
V_{cf} = (1 \text{ inch} \times \frac{1}{12} \times I_2) / 0.4 \\
= (1 \text{ inch} \times \frac{1}{12} \times 700) / 0.4 \\
= 145.8 \text{ cubic feet} \rightarrow \text{round up to 150 cubic feet}
\]

- Calculate surface area of the facility in square feet:

\[
A_{sf} = \frac{V_{cf}}{D} \\
= \frac{150}{2} \\
= 75 \text{ square feet}
\]

- The driveway is 50 feet long, so using the upper 30 feet of the driveway as the length of the infiltration trench, the width of the trench =

\[
75 \text{ square feet} / 30 \text{ feet} = 2.5 \text{ feet}
\]

- Use a 2.5 ft. wide x 30 ft. long x 2 ft. deep infiltration trench.

**STEP 5** – Prepare a simple site sketch (Figure E.7) and complete Small Projects Worksheet (Table E.4) to send to White Haven Borough.
Figure E.7. Simple Site Sketch of Proposed Project and Proposed BMPs.

Existing House

Proposed Garage
800 sq. ft.

BMP #1:
665 gallon
Cistern

BMP #2:
2.5’W x 30’L x 2’D
Infiltration Trench

Proposed Driveway
700 sq. ft.

Neighbor’s House

Site Street

Joe Homeowner
123 Site Street
Anytown, PA
12345
### Table E.4. Small Projects Worksheet.

<table>
<thead>
<tr>
<th>Component #1 of Project</th>
<th>Impervious Area from Component #1</th>
<th>Component #2 of Project</th>
<th>Impervious Area from Component #2</th>
<th>Component #3 of Project</th>
<th>Impervious Area from Component #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garage Roof</td>
<td>800 sq. ft.</td>
<td>Driveway</td>
<td>700 sq. ft.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Total Impervious Area =** 1,500 sq. ft.

#### STEP 2

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Captures:</td>
<td>Garage Roof</td>
<td>Captures:</td>
</tr>
<tr>
<td>Impervious Area I₁:</td>
<td>800 sq. ft.</td>
<td>Impervious Area I₂:</td>
</tr>
</tbody>
</table>

#### STEP 3

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type:</td>
<td>Cistern</td>
<td>Type:</td>
</tr>
</tbody>
</table>

#### STEP 4

<table>
<thead>
<tr>
<th>BMP #1</th>
<th>BMP #2</th>
<th>BMP #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume:</td>
<td>88.89 cu. ft.</td>
<td>Volume:</td>
</tr>
<tr>
<td>Dimensions:</td>
<td>665 gallons</td>
<td>Dimensions:</td>
</tr>
</tbody>
</table>

Note: For additional BMPs, use additional sheets.
APPENDIX F.2

STORMWATER MANAGEMENT PERMIT FEE SCHEDULE

1. **LEVEL 1: ADMINISTRATOR IS CODE ENFORCEMENT OFFICER**

   | TOTAL FEE DUE AT APPLICATION | $  0.00 |

2. **LEVEL 2: ADMINISTRATOR IS BOROUGH ENGINEER**

   a. INITIAL BOROUGH PROCESSING: $  65.00
   b. APPLICATION, COMPUTATIONS, WORKSHEET $100.00 & SKETCH REVIEW (1 REVIEW & REPORT)
   c. PRE-CONSTRUCTION PROPERTY INSPECTION: $88.00
   d. DURING CONSTRUCTION INSPECTION – PRIOR: $88.00 TO PAVING OF DRIVEWAY (1 INSPECTION)
   e. POST-CONSTRUCTION PROPERTY INSPECTION $88.00 (1 INSPECTION)

   | TOTAL FEE DUE AT APPLICATION | $429.00 |

3. **LEVEL 3: ADMINISTRATOR IS BOROUGH ENGINEER**

   a. INITIAL BOROUGH PROCESSING: $  75.00
   b. APPLICATION, COMPUTATIONS, WORKSHEET $160.00 & SKETCH REVIEW (1 REVIEW & REPORT)
   c. PRE-CONSTRUCTION PROPERTY INSPECTION: $  88.00
   d. DURING CONSTRUCTION INSPECTION: $88.00
   e. POST-CONSTRUCTION PROPERTY INSPECTION $88.00 (1 INSPECTION)

   | TOTAL FEE DUE AT APPLICATION | $499.00 |

4. **LEVEL 4: ADMINISTRATOR IS BOROUGH ENGINEER**

   a. BOROUGH PROCESSING: $100.00
   b. O&M AGREEMENT REVIEW:
(TOTAL FOR SOLICITOR & ENGINEER) $500.00

c. SWM SITE PLAN & CALCULATION REVIEW

  i. FEE PER DISTURBED ACRE $ 50.00
  ii. FEE PER EACH WATERSHED (ROUTING) $300.00

MINIMUM TOTAL FEE AT APPLICATION $950.00

LEVEL 2 & 3 APPLICATION NOTES:

- IF ANY MEETINGS, ADDITIONAL INSPECTIONS OR ADDITIONAL REVIEWS ARE REQUIRED TO VERIFY COMPLIANCE WITH THE ORDINANCE OR AT REQUEST OF THE APPLICANT PRIOR TO COMPLETION OF THE PROJECT THE APPLICANT WILL BE BILLED ON A TIME AND MATERIAL BASIS BY WHITE HAVEN BOROUGH AT THE RATE OF $85/HR (COVERS ENGINEER’S TIME AND BOROUGH PROCESSING). NO OCCUPANCY PERMIT SHALL BE ISSUED UNDER ANY CIRCUMSTANCES UNTIL ALL OUTSTANDING WHITE HAVEN BOROUGH INVOICES ARE PAID IN FULL BY THE APPLICANT.

LEVEL 4 APPLICATION NOTES:

- REVIEW FEES FOR REVISED AGREEMENTS, PLANS AND CALCULATIONS WILL BE BILLED TO APPLICANT BY THE BOROUGH ON A TIME AND MATERIAL BASIS AT THE BOROUGH ENGINEERS / SOLICITORS CURRENT BILLING RATE.

- INSPECTION FEES WILL BE BILLED TO THE APPLICANT BY THE BOROUGH ON A TIME AND MATERIAL BASIS AT THE BOROUGH ENGINEERS CURRENT BILLING RATE. CONSTRUCTION INSPECTIONS WILL BE PERFORMED DURING ALL CRITICAL TIMES OF CONSTRUCTION AS DEFINED IN THE ORDINANCE.

- ABOVE FEES DO NOT INCLUDE THE FEE REQUIRED FOR THE POST CONSTRUCTION INSPECTION FUND. THIS FEE WILL BE DETERMINED ON A PROJECT BY PROJECT BASIS AND IS REQUIRED TO BE PAID PRIOR TO FINAL SWM SITE PLAN APPROVAL.

- IN DETERMINING THE FEE REQUIRED PER DISTURBED ACRE APPLICANT MUST ROUND UP. (I.E. FEE FOR A PROJECT WITH 1.1 ACRES OF DISTURBANCE IS $100.00)
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CHAPTER 26

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

Part 1

General Provisions

§101. Title. This Ordinance shall be known and cited as the “Borough of White Haven Subdivision and Land Development Ordinance.”

§102. Authority. The Governing Body is empowered to regulate subdivisions and land developments within its municipal limits as provided for under the Pennsylvania Municipalities Planning Code, Act 247, as amended. The Borough Council of White Haven shall retain and exercise the authority for the approval or disapproval of all subdivisions and land developments as set forth in this Ordinance. The White Haven Planning Commission shall act in an official advisory capacity to the Borough Council for the review and recommendation of the approval or disapproval of all subdivisions and land developments set forth in this Ordinance.

§103. Objectives. Through the adoption, administration and enforcement of this Ordinance, the Borough of White Haven purposes to create conditions favorable to promote the health, safety, and general welfare with regulations aimed at achieving the following objectives:

(a) To guide the future growth and development of the Borough in accordance with the Comprehensive Plan.

(b) To provide a standard set of minimum regulations to guide subdividers, developers, architects, landscapers, architects, land planners, surveyors and engineers in the design and development of subdivisions and land developments.

(c) To provide for adequate light, air and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.

(d) To protect and conserve the value of land throughout the Borough and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

(e) To insure that public facilities are available and will have a sufficient capacity to serve a proposed subdivision of land development.

(f) To establish reasonable standards of design and procedures for subdivisions and land developments in order to further the orderly layout and use of land and to insure proper legal descriptions and monumenting of proposed subdivisions and land developments.
(g) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

(h) To provide the most beneficial relationship between the uses of land and buildings with the circulation of traffic throughout the Borough, with particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movement appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

(i) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance.

(j) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the prudent use and management of natural resources throughout the Borough in order to preserve the integrity and stability of the community and the natural environmental characteristic of the land.

(k) To protect and regulate land in critical areas which may be unsuitable for development.

§104. Application of the Ordinance.

(a) No subdivision or land development of any lot, tract, or parcel of land shall be made, and no street, sanitary sewer, water main, gas, oil, or electric transmission line, or other facilities in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in accordance with the Subdivision and Land Development Ordinance regulations adopted herein.

(b) No lot in a proposed subdivision or land development may be sold, and no zoning permit to erect any building upon land in a subdivision or land development may be issued unless and until the following conditions are met:

(1) The preliminary plans and final plans have been approved by the Governing Body;

(2) The final plan, as approved, is filed with the Luzerne County Recorder of Deeds;

(3) All required improvements as set forth in the grant of approval have been constructed or until the applicant posts a form of financial security, acceptable to the Governing Body, which guarantees that all required improvements shall be subsequently constructed within a defined period of time.
§105. Status of Pending Subdivision and Land Development Applications. From the time an application for approval of a subdivision of land development, whether preliminary or final, is duly filed in accordance with the provisions of this Ordinance and while such application is pending approval or disapproval, no change or amendment to this Ordinance, the Zoning Officer, or any other applicable ordinance, shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of all applicable ordinances as they stood at the time the application was duly filed. When an application is, however, properly and finally denied, any subsequent application shall be subject to any amendments to this ordinance, the Zoning Ordinance and any other applicable ordinance and/or regulations.

§106. Status of Approved Subdivision or Land Applications.

(a) When an application for approval of a subdivision or land development, whether preliminary or final, has been approved, no subsequent amendment to this Ordinance, the Zoning Ordinance, or any other applicable ordinance, shall be applied to adversely affect the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval. If final approval is preceded by preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinance or plans as they stood at the time when the application for such approval was duly filed.

(b) Where the applicant has substantially completed the required improvements as depicted upon the final plat within the aforesaid five (5) year limit, or any extension thereof as may be granted by the Governing Body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

§107. Phased Development Exceeding Five Years. In the case of preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which application for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Governing Body in its discretion. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Governing Body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner’s aforesaid schedule of submission of final plats for the various sections, then the protections afforded by substantially completing the improvements depicted upon the final plat within five years, as contained in Section 106, shall apply and for any section or sections,
beyond the initial section, in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section. Failure of landowner to adhere to the aforesaid schedule of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

§108. Resubdivision of Land. A re-subdivision of plan of record shall be considered as a new subdivision and shall come under the jurisdiction of this Ordinance.

§109. Interpretation. In the interpretation and application, the provisions of the Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. When provisions, standards and specifications of this Ordinance differ from those of any other ordinance, statute or regulation, the more restrictive or higher standards shall apply.

§110. Modification of Required Standards.

(a) If any provision of this Ordinance is shown by the applicant or his engineer or land surveyor to be unreasonable of application due to peculiar conditions pertaining to the land or site and where strict compliance with any requirement of this Ordinance would cause practical difficulty or undue hardship not of his making, or when alternative standard can be demonstrated to provide equal or better results, the Governing Body may grant a modification to the literal requirements of such provision, provided that such modification is the minimum modification required to grant relief. Granting such modification shall not be contrary to be the public interest and the intent of this Ordinance shall be observed.

(b) Any request for a modification shall be submitted in writing and shall accompany and be deemed part of the Plan, Preliminary or Final.

(c) All proposals for modification of provisions or requirements of this Ordinance shall be first reviewed by the Planning Commission which shall provide a record of their action within the minutes of their meeting.

§111. Fees.

(a) Municipal Fees. The Governing Body shall establish by resolution, a fee schedule for subdivision and land development applications.

(b) County Fees. The applicant shall also be required to submit all required fees for review and comment by the Luzerne County Planning Commission.
(c) Filing Date and Payment of Fees. A completed application and plans for any proposed subdivision or land development shall not be considered as filed until all fees are paid and all applications are properly signed.

§112. General Enforcement. The Governing Body may appoint an individual or utilize additional professional services to insure proper enforcement of the provisions of this Ordinance and accompanying design standards and improvement specifications. Any action inconsistent with the provisions of this Ordinance shall be subject to a cease and desist and other appropriate measures deemed applicable by the Governing Body.

§113. Administrative Functions. The Governing Body shall designate an individual as “Administrator” who shall act as the agent for the Borough who shall accept subdivision and land development plans and applications for and on behalf of the Governing Body.

§114. Violations and Penalties. Any person, partnership or corporation who or which has violated the provisions of this Ordinance, shall upon being found liable therefor under civil enforcement proceedings, commenced by the municipality, pay a judgment of not more than $500.00 plus all court costs, including reasonable attorney fees incurred by the municipality as a result of such proceedings. No judgment shall be commenced or be imposed, levied or payable until the date of the determination of a violation to 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 the District Justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation until the fifth day following the date of determination of a violation by the District Justice and thereafter each day that a violation continues, shall constitute a separate violation.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment. Nothing contained within this Section shall be construed or interpreted to grant any person or entity other than the municipality the right to commence action for enforcement pursuant to this Section.

In addition to other remedies, the municipality may institute and maintain appropriate actions by law or equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds to the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

The municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Ordinance. The authority to deny such a permit or approval shall apply to any of the following applicants:

(a) The owner of record at the time of such violation.
(b) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

(c) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether the current owner has actual or constructive knowledge of the violation.

(d) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

§115. Amendment Procedure. The regulations set forth in this Ordinance may, from time to time, be amended by the Borough Council. The following requirements shall be observed prior to enacting any amendments to this Ordinance.

(a) A public hearing on the proposed amendment shall be held by the Borough Council pursuant to public notice.

(b) In the case of an amendment other than that prepared by the Planning Commission, the Governing Body shall submit such amendment to the Planning Commission and to the Luzerne county Planning Commission not less than thirty days prior to the public hearing.

(c) The proposed amendment shall not be enacted unless public notice is given which shall include the time and place of the meeting at which passage will be considered and a reference to a place within the municipality where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost of reproduction.

(d) Public notice of the proposed amendment shall include the full text thereof or the title and a brief summary, prepared by the municipal solicitor, setting forth all the provisions in reasonable detail. If the full text is not provided, a copy shall be supplied to the newspaper in which the public notice is placed and an attested copy shall be placed on file at the Luzerne County Law Library.

(e) Within thirty days following the adoption of an amendment to this Ordinance, the governing Body shall forward a certified copy of the amendment to the Luzerne County Planning Commission.

§116. Appeals to Court. Decisions rendered by the Governing Body may be appealed to a Court of proper jurisdiction in accordance with the procedures, provisions and time limitations as contained in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
§117. Conflict with Other Ordinances. All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed, including the “Subdivisions and Land development Ordinance of October 22, 1973” and any amendments thereto.

§118. Severability. The provisions of this Ordinance are severable. If any part of this Ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Borough Council of White Haven that this Ordinance would have been adopted has such unconstitutional, illegal or invalid part not been included.
§201. General Interpretation.

(a) 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.

(1) Abut – Next to or adjacent to, and includes the words, “directly across from streets, natural features, and rights-of-way.

(2) Acre – 43,560 square feet.

(3) Adjacent – A state of being side by side, next to, adjoining, contiguous, or abutting one to another, and includes the words “directly across from streets, natural features, and rights-of-way.

(4) Administrator – The person designated by the Governing Body who is authorized to accept and receive subdivisions and land development plans and applications for and on behalf of the Governing Body.

(5) Alley – a public or private right-of-way affording secondary means of access to abutting property.

(6) Applicant – A landowner or developer who has filed an application for a subdivision or land development, including his heirs, successors and assigns.

(7) Base Flood Elevation – The highest elevation, expressed in feet above mean sea level, of the flood waters of a 100-year Flood, as projected and delineated upon the most recent official Flood insurance Rate Map, published by the Federal Insurance Administration.

(8) Block – a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

(9) Building Setback Line – The minimum distance as required in the Zoning Ordinance between any building or structure, to the front, rear, or side property.

(10) Catch Basin – An inlet designated to intercept and redirect surface storm water.
(11) Clear Sight Triangle – An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.

(12) Condominium – A building or group of buildings, in which the units are owned individually, while the structure, common areas and facilities are owned by all owners on a proportional and individual basis.

(13) Construction Plans – The maps or drawings accompanying a subdivision or land development plan and showing the specific location and design of improvements to be installed in accordance with the requirements of this Ordinance and in accordance with any terms or conditions as set forth by the governing Body.

(14) Covenant – A restriction on the use of land usually set forth in the deed. A covenant usually runs with the land and the restrictions thereunder are binding upon subsequent owners.

(15) Critical Area – An area with one or more of the following characteristics; (1) slopes in excess of twenty percent; (2) flood plain and/or wetlands; soils classified as having a high water table; (4) soils classified as highly erodible, subject to erosion or highly acidic; (5) land incapable of meeting percolation requirements.

(16) Culvert – A drain, ditch, or conduit not incorporated in a closed system that carries storm drainage water under a driveway, roadway, or railroad.

(17) Developer – Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or caused to be made a subdivision of land or a land development.

(18) Development Plan – The provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase “development plan” shall mean the written and graphic materials referred to in this definition.

(19) Drainage

(A) Surface water runoff;

(B) The removal of surface water or ground water from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development.
(20) Drainage Easement – An easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or water course other drainage facility.

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

(22) Engineer – A registered professional engineer licensed and registered as such by standards established by the Commonwealth of Pennsylvania.

(23) Final Approval – Last official action of the Governing Body granting approval of a subdivision or land development which has been granted preliminary approval, after all conditions and requirements have been met, including as applicable, the installation of all required improvements or the posting of all required improvements or the posting of an improvement bond to guarantee the installation of such.

(24) Flood Hazard Boundary Map – The most recent map, as published by the Federal Insurance Administration, which delineates the boundaries of the Floodway and Flood Fringe of a 100-Year Flood Plain.

(25) Flood Insurance Rate Maps – The most recent map, as published by the Federal Insurance Administration, which delineates areas of special flood hazards, base flood elevations and applicable risk premium zones of a 100-Year Flood Plain.

(26) Highway Occupancy Permit – A permit, issued by the Pennsylvania Department of Transportation, which authorizes access from a parcel of land onto a street or highway which is under the jurisdiction of the Pennsylvania Department of Transportation.

(27) Homeowners Association – A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

(28) Impact Analysis - A study to determine the effect of a proposed development on activities, utilities, circulation, surrounding land uses, community facilities, environment and other factors directly, indirectly or potentially affected.

(29) Improvement Bond – Financial security which may be accepted by the municipality in lieu of a requirement that certain improvements be completed by a developer before a plat is approved; including a letter of irrevocable credit, a cash deposit, an escrow agreement or other similar collateral or surety agreements as approved by the Governing Body upon the advise of their solicitor.
(30) Improvements – Man-made physical additions, alterations and/or changes which become part of, placed upon, or are affixed to real estate.

(31) Land Development – The improvement of one lot or tow or more contiguous lots, tracts or parcels of land for any purpose involving:

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

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

(C) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units, shall be deemed as a land development if the units are intended to be a condominium.

(32) Land Development (Major) – A land development which does not qualify or classify as a minor land development.

(33) Land Development (Minor) – a development of a parcel of land which contains not more than three (3) detached single family residential structures, whether developed initially or cumulatively.

(34) Landowner – The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other persons having a proprietary interest in land, shall be deemed to be a landowner for the purpose of this Ordinance.

(35) Land Surveyor – A person who is licensed and registered by the Commonwealth of Pennsylvania, which qualifies said person to perform accurate field measurements including the description and definition of land boundaries.

(36) Lot – A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.
(37) Lot Area – The total area within the lots lines of a lot, excluding any street rights-of-way.

(38) Lot Corner – a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

(39) Lot Coverage – that portion of the lot that is covered by buildings and structures.

(40) Lot Depth – The distance measured from the front lot line to the rear lot line.

(41) Lot Frontage – The length of the front lot line measured at the street right-of-way line.

(42) Lot Interior – A lot other than a corner lot.

(43) Lot Line – a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

(44) Lot Line (Front) – The lot line separating a lot from a street right-of-way.

(45) Lot Line (Rear) – the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot.

(46) Lot Line (Side) – Any lot line other than a front or rear lot line.

(47) Lot (Minimum Area of) – The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular loading zone.

(48) Lot (Through) – A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

(49) Lot Width – the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

(50) Multiphase Development – A development project that is to be constructed in stages, each stage being capable of existing independently of the others.
(51) Natural Drainage Flow – The pattern of surface and storm water drainage from a particular site before the construction or installation of improvements or prior to any regrading.

(52) Nonconforming Lot – A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

(53) Nonconforming Structure or Building – A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

(54) Nonconforming Use – A use or activity which was lawful prior to the adoption, revision or amendment to the Zoning Ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

(55) Official Soil Map – Soil survey maps of Luzerne County as provided by the Luzerne County Conservation District.

(56) Official Soils Interpretation – The written description of soil types and their characteristics and accompanying maps based upon soil survey maps of Luzerne County as provided by the Luzerne County Conservation District.

(57) Plan or Plat – The map or plan of a subdivision or land development:

   (A) Preliminary Plan. The preliminary drawings and any accompanying data, which accurately shows the proposed layout of lots, streets and other information as required by this Ordinance, with all such material being properly indicated in title as “Preliminary Plan.”

   (B) Final Plan. A complete and exact plan prepared for official recording with the Luzerne County Recorder of Deeds, as required by this Ordinance with said plan being properly indicated in title as “Final Plan.”

(58) Rational Formula (Stormwater Runoff) – The method used in calculating storm water runoff: \( Q = CIA \), in which “Q” is the storm flow in cubic feet per second, “C” is a coefficient indicating the degree of imperviousness of the drainage area, “I” is the intensity of rainfall in inches per hour for the particular frequency of the storm used, and “A” is the drainage area in acres

[See Chapter 25 Stormwater Ordinance]
(59) Resubdivision – A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved therein for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

(60) Retaining Wall – A structure constructed to hold back or support an earthen bank.

(61) Sanitary Sewer – Pipes that carry only domestic or commercial sewage and into which storm, surface and ground waters are not intentionally admitted.

(62) Septic System – An underground system with a septic tank used for the decomposition of domestic wastes, in which bacteria in the wastes decompose the organic matter, and the sludge settles to the bottom. The effluent flows through drains into the ground. Sludge is pumped out at regular intervals.

(63) Sewage Disposal System (On-Lot) – A structure designed to biochemically treat sewage within the boundaries of an individual lot.

(64) Site – A plot or parcel of land or combination of contiguous lots or parcels of land.

(65) Soil Erosion and Sedimentation Control Plan – A plan that indicates necessary land treatment measures, as approved by the Luzerne county Conservation District, designed to effectively minimize soil erosion and sedimentation.

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

(A) Subdivision (Major). Any subdivision which does not qualify or classify as a minor subdivision.

(B) Subdivision (Minor). A subdivision of a parcel of land into not more than ten (10) lots, which has access, direct or indirect, onto an existing public street, not involving the extension thereof, the extension of municipal facilities, the creation of any public improvements and not adversely affecting the remainder of the parcel of adjoining property.
(67) Substantially Completed – The point at which, in the judgment of the municipal engineer, at least 90% of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

(68) Water Table – The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

(69) Wetlands – A transitional area of land between terrestrial and aquatic ecological systems where the water table is usually at or near the surface of land that is normally covered with shallow water.
Part 3
Procedural Requirements

§301. Review and Approval Process. The submission and review process for subdivision and land development applications shall be in accordance with the following:

(a) Major Subdivision shall require the submission and approval of a preliminary plan and a final plan.

(b) Minor Subdivision shall require the submission and approval of only a final plan.

(c) Land Development shall require the submission and approval of a preliminary plan and a final plan.

§302. Submission of Plans and Applications. The applicant shall provide the following information to the Administrator not less than twenty-one (21) days prior to the next regularly scheduled meeting of the Planning Commission:

(a) Twenty (20) copies of the plan (preliminary or final);

(b) Twenty (20) copies of construction plans (if applicable);

(c) A completed subdivision application and two copies of the same;

(d) A completed Planning Module, if applicable, as required by the Pennsylvania Department of Environmental resources and two copies of the same.

§303. Distribution of Plans.

(a) The administrator shall provide the Planning Commission with five (5) copies of the plan (preliminary or final), five (5) copies of construction plans, a copy of the application, and a copy of the Planning Module.

(b) The administrator shall provide the Governing Body with seven (7) copies of the plan (preliminary or final), seven (7) copies of construction drawings, a copy of the application, and a copy of the Planning Module.

(c) The administrator shall provide a copy of the plan (preliminary or final), a copy of the application, and a copy of construction plans and the Planning Module, as applicable, to the following agencies and officials for review and comment as applicable:

(1) The Luzerne County Planning Commission

(2) The Municipal Zoning Officer
§304. County Planning Commission Review. The Borough Council shall not approve any subdivision plans or application until a report is received from the Luzerne County Planning Commission or until the expiration of thirty (30) days from the date said plans were forwarded to the Luzerne County Planning Commission. The applicant shall pay the review fee required by the Luzerne County Planning Commission.

§305. Public Hearing. The Borough Council may hold a public hearing prior to rendering a decision on any plan (preliminary or final).

§306. Installation or Guarantee of Required Improvements. Prior to approving any final plan for recording, the Governing Body shall require the following of the applicant:

(a) the installation of all required improvements in accordance with the design standards and specifications of this Ordinance.

OR

(b) provision of a form of financial security, acceptable by the Governing Body, which assures and guarantees the subsequent installation of all required improvements in accordance with the design standards and specifications of this Ordinance.


(a) The Governing Body shall approve or reject a submitted plan (preliminary or final) within ninety (90) days following the date of the Planning Commission’s regular meeting at which said plan is first reviewed.

Should the regular meeting date occur more than thirty (30) days following the date of submission of said plan, the ninety (90) day period shall be measured from the thirtieth (30th) day following the date on which the plan was properly submitted.

(b) The Borough Council shall communicate its decision to the applicant in writing either by delivery in person or by mail to applicant’s last known address not later than fifteen (15) days following the decision.
When an application and plan (preliminary or final) is not approved as submitted, the Governing Body decision shall specify the defects found in such and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.

As prescribed by the Pennsylvania Municipalities Planning Code, Act 247, as amended, failure of the Borough Council to render a decision and communicate said decision to the applicant as set forth in this section shall be deemed approval of the plan as submitted, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of communication of the decision.

§308. Recording of Final Plan.

(a) The applicant shall record the final plan as approved by the Governing Body in the Office of the Recorder of Deeds of Luzerne County within ninety (90) days of such final approval, unless an extension has been granted in writing by the Borough Council. Failure by the applicant to record the final plan within the ninety (90) days, or approved extension of time period, will result in the Borough Council’s approval becoming null and void. The final plan for recording shall comprise all plans submitted for final approval.

(b) A final plan shall not be submitted for recording within the Recorder of Deeds’ Office unless it bears the signature of the Governing Body’s Chairman and Secretary and bears appropriate signature and/or seal that it has been reviewed by the Luzerne County Planning Commission.

(c) Within fourteen (14) days from the date on which the final plan is recorded, the applicant shall furnish to the Administrator a copy of a certificate of receipt attesting to the recording of the final plan in the Recorder of Deeds’ Office.

§309. Phasing Major Subdivision Plans. Prior to granting final approval of a major subdivision plan, the Governing Body may permit the plan to be divided into two or more sections or phases and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plan. The Governing Body may require that the improvement bond be in such amount as is commensurate with the section or sections of the plan to be filed and may defer the remaining required improvement bond principal amount until the remaining sections of the plan are offered for filing. The developer may also file in writing irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining section until such sections, subject to any conditions imposed by the Governing Body shall be granted concurrently with final approval of the plan.
Part 4
Preliminary Plan

§401. Initial Review. The Planning Commission shall review the Preliminary Plan to determine its completeness with regard to the standards, provisions, and requirements of this Ordinance. Any submission which is found to be incomplete shall be deemed to be invalid. The Planning Commission shall notify the applicant in writing as to the nature and type of additional information which the applicant must submit.

§402. Review by Luzerne County Planning Commission. The Planning Commission may submit their recommendations on a Preliminary Plan to the Governing Body prior to the receipt of reports, comments or recommendations from those agencies and officials as outlined in Section 304 of this Ordinance. The Governing Body shall not approve a Preliminary plan until a report is received from the Luzerne County Planning Commission or until the expiration of thirty (30) days from the date it was forwarded to the Luzerne County Planning Commission.

§403. Planning Commission Review and Recommendation. The Planning Commission shall review the Preliminary Plan and consider all official reports, comments and recommendations as provided in Section 303(c) of this Ordinance. This Planning Commission shall render its recommendations to the Governing Body in conformance with Section 307 of this Ordinance. The following constitutes the types of action the Planning Commission will take:

(a) The Planning Commission may recommend disapproval of the Preliminary Plan, in which case it shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the Ordinance relied upon.

(b) The Planning Commission may recommend conditional approval of the Preliminary Plan, in which case it shall specify all additional information or changes needed, describing the requirements that have not been met, citing, in each case, the provisions of this Ordinance which were relied upon. The additional information or changes shall be required prior to further Preliminary Plan consideration or the submission of the Final Plan.

(c) The Planning Commission may recommend approval of the Preliminary Plan. Such recommendation of approval shall constitute recommended approval of the subdivision or land development as to the character and intensity of development, the arrangement and approximate dimensions of streets, lots, and other planned features. Later approval by the Governing Body binds the applicant to the general design and layout of the subdivision or land development as depicted upon the Preliminary Plan and permits the applicant to proceed with final detailed design of improvements, to arrange for an improvement bond to cover installation of improvements and to prepare the Final Plan. The Governing Body’s approval of the Preliminary Plan does not authorize the sale of lots, property, or the recording of the Preliminary Plan.
§404. Review and Approval/Disapproval of Plan. The Borough Council shall consider all official reports, comments and recommendations as provided in Section 303(c) of this Ordinance. The Borough Council shall render a decision in conformance with Section 307 of this Ordinance. The following constitutes the type of action the Governing Body may take:

(a) The Governing Body may disapprove the Preliminary Plan, in which case it shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the Ordinance relied upon.

(b) The Governing Body may conditionally approve the Preliminary Plan, in which case it shall specify all additional information or changes needed, describing the requirements that have not been met, citing, in each case, the provisions of the Ordinance which were relied upon. The additional information or changes shall be required prior to further Preliminary Plan consideration or the submission of the Final Plan. In granting preliminary approval, the Governing Body shall include in their notification that the applicant, within thirty (30) days from the date of conditional approval, may notify the governing Body of his refusal to accept all of said conditions in writing. In such cases, the Governing Body’s conditional approval shall be deemed rescinded upon receipt of the applicant’s written notification. In the event that the applicant fails to notify the Governing Body of his refusal to accept all said conditions within thirty (30) days from the date of conditional approval, all conditions shall stand granted and deemed accepted by the applicant.

(c) The Governing Body may approve the Preliminary Plan. Such approval shall constitute approval of the subdivision or land development as to the character and intensity of development, the arrangement and approximate dimensions of streets, lots, and other planned features. The approval binds the applicant to proceed with the installation of the required improvements and/or to arrange for a form of financial security to cover installation of improvements and to prepare the Final Plan. Approval of the Preliminary Plan does not authorize the sale of lots, property of the recording of the Preliminary Plan. The Governing Body shall render a decision in conformance with Section 307 of this Ordinance.

§405. Preliminary Plan Drafting Standards.

(a) The Preliminary Plan of a proposed subdivision or land development shall be clearly and legibly drawn to a scale not greater than one (1) inch equals fifty (50) feet.

(b) The original drawing, and all submitted prints thereof shall be made on a sheet size twenty-two (22) inches by thirty-six (36) inches or twenty four (24) inches by thirty-six (36) inches.
(c) All dimensions shall be set in feet and decimal parts thereof, and bearings in degrees, minutes and seconds.

(d) If the Preliminary Plan requires more than one (1) sheet, a key diagram showing relative location of the several sections shall be drawn on each sheet, and appropriately labeled with match lines.

(e) Preliminary Plans shall be so prepared and shall bear an adequate legend to indicate clearly which features are existing and which are proposed.

§406. Preliminary Plan Existing Conditions. The Preliminary plan shall be noted as “Major Subdivision-Preliminary Plan” and contain the following information:

(a) Name and address of record owner, including certification of ownership which carries a Notarial Seal.

(b) Name and address of applicant if different from owner.

(c) Name of proposed subdivision or land development.

(d) Name and address of registered engineer and/or registered land surveyor, responsible for the subdivision plan or accuracy of the plan and its conformance to the provisions of this Ordinance.

(e) North point, graphic scale, and date including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised from each revision.

(f) Total tract boundaries of the property being subdivided, showing bearings and distances, and total size of the property, expressed in acreage and square feet.

(g) The names of all adjoining landowners, including block and lot numbers from the Luzerne county assessor’s Office.

(h) All existing streets, including streets of record (recorded but not constructed) on or abutting the tract, including names, right-of-way widths, cartway (pavement) widths and approximate grades.

(i) All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements, or utility right-of-ways, culverts, storm drains, bridges, railroad, water courses and other significant man-made or natural features within the proposed subdivision or land development and within one hundred (100) feet from the boundaries of the proposed subdivision or land development.

(j) All existing buildings or structures within the boundaries of the proposed subdivision or land development.
(k) The zoning district or districts within which the proposed subdivision or land development is located.

(l) Existing contour lines at vertical intervals of two (2) feet.

(m) The location width and purpose of existing easements and utility right-of-ways within one hundred (100) feet of the proposed subdivision or land development.

(n) A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the municipality.

§407. Preliminary Plans Proposed Development. The Preliminary Plans shall contain and include the following information:

(a) Lot layout and related features which shall indicate and provide:

(1) the total number of lots, with identification numbers, proposed for the site;

(2) the dimensions and area of all lots, expressed in either square feet or acres;

(3) the building setbacks for all lots along each street, or in the case of a land development, the proposed placement of each building along each street, and the proposed use of each building;

(4) proposed open space, parks, playgrounds, or recreational facilities with any governing conditions thereof;

(5) watercourses, lakes, wetlands, forested areas, and 100-year flood plains;

(6) copies of proposed deed restrictions, easements, and protective covenants referenced on the plan;

(7) proposed contour lines at vertical intervals of two (2) feet of the entire site;

(8) location, width and purpose of proposed easements and utility right-of-way;

(9) location of wells, if applicable and/or permitted under Ordinance Number 2. of 1989, titled “AN ORDINANCE REQUIREING PRIOR
APPROVAL FROM THE WHITE HAVEN MUNICIPAL AUTHORITY BEFORE INSTALLATION OF A PRIVATE WELL.”

(b) Street and right-of-way layout which shall indicate and/or provide:

1. the location of all proposed streets and existing streets (public and private) within the site and abutting or adjoining the site;

2. the location, right-of-way, and cartway of all proposed streets, with a statement of any condition governing their use, the right-of-way and cartway of any existing streets (public or private) to which the proposed street will intersect;

3. suggested street names and location of street signs;

4. the beginning and end point of proposed street construction;

5. location, width, and purpose of proposed easement and utility right-of-way;

6. the location of street lighting;

7. the location of sidewalks.

(c) Sewage disposal which shall indicate and/or provide the following:

1. when the subdivision or land development is to be served by a central sewage disposal system:

   A. the layout, size and material of sanitary sewers within the site;

   B. a letter from the local public agency or sanitary authority that states said agency or authority can adequately serve the proposed subdivision or land development, including any conditions required for the provision of service

   OR

if the sewage is to be discharged into a privately owned and operated sewage treatment facility, the preliminary plan will indicate the location of such and all other pertinent features.

   C. location of manholes with invert elevation of flow line and grade at the top of each manhole;

   D. location of laterals.
(2) when the subdivision or land development is to be serviced by individual on-lot sewage disposal system:

(A) proposed location or typical location of dwelling;

(B) proposed location of wells, if applicable;

(C) location or percolation test holes and soil test pits;

(D) proposed location of subsurface disposal field;

(E) location and extent of various soil types within the site with D.E.R. definitions for each.

(d) Subdivisions or land developments to be serviced by a centralized water system shall indicate and/or provide the following:

(1) if to be served by an existing water company or authority, licensed as such by the Public Utility Commission, a letter of commitment from the same indicating said company or authority can adequately serve the proposed subdivision or land development including any conditions required for the provision of service; if to be served by a bona fide home owner’s association, a cooperative agreement, which outlines the proposed provision of service and responsibility for maintenance of the system.

(2) location and size of all waterlines;

(3) location of fire hydrants.

(e) Storm drainage shall indicate and/or provide:

a. the location, size and material of all storm drainage facilities;

(2) watershed areas for each drainage facility or swale.

§408. Additional Material Submitted with Preliminary Plan. The following material and information shall be submitted with the Preliminary Plan:

(a) Proof of ownership;

(b) Preliminary Plan Application form and required fee;

(c) The required fee for Luzerne County Planning Commission review;
(d) Application for a highway occupancy permit, if applicable, as required by the Pennsylvania Department of Transportation;

(e) Construction Plans which include, where applicable, preliminary design, preliminary profiles, typical cross-sections and specifications for the construction and/or installation of streets, sidewalks, sanitary sewers, sewage treatment facilities, storm drainage facilities, water lines, bridges or culverts;

(f) Application to the Luzerne County Conservation District for approval of appropriate Soil Erosion and Sedimentation Control Plan, if applicable.

(g) Five (5) copies of a Planning Module for Land Development as required by the Pennsylvania Department of Environmental Resources;

(h) Sewage Enforcement Officer’s report or findings regarding percolation test data as required by the Pennsylvania Department of environmental Resources;

(i) Estimated costs by item for required improvements.
Part 5
Final Plan


(a) The Planning Commission shall review the Final Plan to determine its completeness including, but not limited to, conformance with the standards and data as set forth in part 4 and any changes or modifications required by the Governing Body as a condition granting approval of the Preliminary Plan.

(b) The applicant shall submit the Final Plan within One (1) year from the date of the approval of the Preliminary Plan by the Governing Body, unless an extension in writing has been approved by the Governing Body. Failure to comply with the one (1) year time requirement shall render the preliminary Plan and any accompanying approval as null and void, thus requiring a new submission for the Preliminary Plan.

§502. Planning Commission Review and Recommendation. The Planning Commission shall review the final Plan and any official reports, comments or recommendations as provided in Section 303(c) of this Ordinance and shall render its recommendation to the Governing Body in writing. The following constitutes the types of action the Planning Commission may take:

(a) The Planning Commission may recommend disapproval of the Final plan, in which case it shall specify the defects found in the application and plan, describing the requirements which have not been met. In each case it shall cite the provisions of the Ordinance Relied upon.

(b) The Planning Commission may recommend conditional approval of the final Plan, in which case it shall specify all additional information or required changes, describing the requirements that have not been met, citing in each case the provisions of this Ordinance which were relied upon. This additional information or changes shall be required prior to further consideration of the Final Plan or filing the Final Plan with the Luzerne County Recorder of Deeds.

(c) The Planning Commission may recommend the approval of the Final Plan as submitted.

§503. Review and Approval/Disapproval of Plan. The Governing Body shall consider the recommendation of the planning Commission and all official reports, comments and recommendations as provided in Section 303(c) of this Ordinance. The Governing Body shall render a decision in conformance with Section 307 of this Ordinance. The following constitutes the types of action the Governing Body may take:

(a) The Governing Body may disapprove the Final Plan, in which case it shall specify the defects found in the application and Plan, describing the requirements which have not been met and in each case citing the provisions of this Ordinance relied upon.
(b) The Governing Body may conditionally approve the Final Plan, in which case it shall specify all additional information or required changes, describing the requirements that have not been met, citing in each case, the provisions of this Ordinance which were relied upon. Such additional information or required changes shall be required prior to further consideration of the Final Plan or filing the Final Plan with the Luzerne County Recorder of Deeds’ Office. In granting conditional approval of the Final Plan, the Governing Body shall include in their notification that the applicant, within thirty (30) days from the date of conditional approval, may notify the Governing Body of his refusal to accept all said conditions in writing. In such cases, the Governing Body’s conditional approval shall be deemed rescinded upon receipt of the applicant’s written notification. In the event that the applicant fails to notify the Governing Body of his refusal to accept all said conditions within thirty (30) days from the date of conditional approval, all conditions shall stand granted and deemed accept by the applicant.

(c) The governing Body may approve the final Plan as submitted. Such approval by the Governing Body shall allow the applicant to file said final Plan with the Luzerne County Recorder of Deeds Office.

§504. Final Plan Drafting Standards. The Final Plan of a proposed subdivision or land development shall be in accordance with the standards as set forth in Section 405 of this Ordinance.

§505. Final Plan Requirements. The Final Plan shall include all additional information and changes required by the Governing Body in granting approval of the Preliminary Plan and all the following:

(a) Drawings and/or plans shall be titled “Final Plan – Major Subdivision or Major Land Development.”

(b) An accurate field boundary survey of the entire site which shall be balanced and close with an error of closure not to exceed one (1) foot in ten thousand (10,000) feet.

(c) The location and material of all permanent monuments and lot markers.

(d) Written certification by the responsible land surveyor, which attests to the accuracy of the survey and compliance with the applicable provisions of this Ordinance.

(e) A three (3) inch by five (5) inch blocked space shall be provided on the final Plan for the signature of the president and/or chairman of the Governing Body and the municipal secretary indicating approval and date of the same.

(f) The latest source of title to the property as shown by deed, page number and book of the Luzerne County Recorder of Deeds Office.
(g) The exact dimensions of all streets, including right-of-way and cartway; lot lines, areas and distances; utility and other easements; and all land to be dedicated to public use.

(h) All lot lines shall be completely dimensioned in feet if straight, and if curved, by designating length of arc and radius (in feet) and central angle (in degrees, minutes and seconds). All internal angles within the lots shall be designated to the closest second.

(i) The proposed building setback line or the proposed placement of each building shall be shown, and where corner lots are involved, the setbacks on both streets shall be shown.

§506. Additional Material Submitted with Final Plan. The following material and information shall be submitted with the Final Plan:

(a) Certification of ownership, acknowledgement of Plan and offer of dedication signed by the owner of the property and notarized.

(b) Final application form and required fee.

(c) If applicable, a copy of the Highway Occupancy permit, as required by the Pennsylvania Department of Transportation or a notation upon the Plan that no development or improvement to the site of parcels thereunder shall be undertaken until a Highway Occupancy Permit is secured.

(d) Copies of final deed restrictions, those existing and those to be included upon recording, if any.

(e) All final covenants running with the land governing the reservation and maintenance of dedicated or undedicated land or open space.

(f) Written certification, as applicable, from the appropriate public utility company, authority or agency that adequate service for the provision of sewage disposal, water and electrical service will be provided to the proposed subdivision and/or land development.

(g) Certification from the Pennsylvania Department of Environmental resources approving the appropriate Planning Module for land Development and accompanying data.

(h) Appropriate Soil Erosion and Sedimentation Control Plan as approved by the Luzerne County Conservation District.

(i) Final construction plans of all sanitary sewer, water distribution and storm drainage systems, showing their exact location, size and invert elevations; the location of
all manholes, inlets and culverts; and final profiles, cross-sections and specifications for proposed streets, sidewalks, sanitary sewers, water distribution systems and storm drainage systems.

(j) If the streets are not offered for dedication for public use, the applicant shall submit and record with the plan a copy of the agreement made and executed on behalf of the applicant, including his heirs or assigns, subject to review and approval by the Municipal Solicitor, establishing the condition under which the streets may be later offered for dedication. Said conditions shall include, although not limited to, that the subject streets shall conform to the Municipality’s design specifications at such time of the offer of dedication is made or that the owners of the lots within the subject subdivision shall include with their offer of dedication sufficient funds, as estimated by the Municipal Engineer, to provide the needed improvements required for conformance to the Municipality’s design specifications at the time of such dedication.

(k) An agreement for any streets not offered for dedication, stating who shall be responsible for the improvements and maintenance of such streets. If a homeowners association is deemed to be responsible, such association must be legally organized prior to approval of the Final Plan.

(l) An improvement bond for the installation of required improvements, unless all such improvements are installed and completed to design specifications prior to Final Plan approval.

(m) A financial security, if required by the Governing Body for the maintenance of improvements.

(n) The cost for all consulting fees, incurred by the Municipality for the review of the application, plan and related information, including but not limited to, on-site inspections to insure compliance with the proposed development and required improvements.
Part 6
Minor Subdivision/Land Development

§601. Only Final Plan Required. The classification of a proposed subdivision as a Minor Subdivision shall only require the submission, review and approval of a Final Plan. A land development classified as a Minor Land Development shall only require the submission, review and approval of a Final Plan.

§602. Submission Procedure. The submission procedure for a Minor Subdivision or Minor Land Development shall be in accordance with section 302 of this Ordinance.

§603. Distribution of Plan. The distribution of a Minor Subdivision Plan or Minor Land Development Plan shall be in accordance with Section 303 of this Ordinance.

§604. Drafting Standards for Minor Plans.

(a) The Final Plan for a proposed Minor Subdivision or Minor Land Development shall be clearly and legibly drawn to a scale of not greater than one (1) inch equals fifty (50) feet.

(b) The original drawing, and all submitted prints thereof shall be made on a sheet size of twenty-two (22) inches by thirty-six (36) inches or twenty-four (24) inches by thirty-six (36) inches.

§605. Requirements for Minor Plans. The Final Plan shall be noted as “Minor Subdivision - Final Plan” or “Minor Land Development – Final Plan” and contain the following information:

(a) Name and address of record owner, including certification of ownership which carries a Notarial Seal.

(b) Name and address of the applicant, if different from the owner.

(d) Name of proposed subdivision or land development.

(e) Name and address of registered engineer and/or registered land surveyor, responsible for the subdivision plan or land development plan, including certification of the accuracy of the plan for an error of closure not to exceed one (1) foot in ten thousand (10,000) feet and its conformance to the applicable provisions of this Ordinance.

(f) North point, graphic scale and date, including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised for each revision.
(g) Total tract boundaries of the property being subdivided and/or developed, showing bearings and distances, and total size of the property, expressed in acreage and square feet.

(h) The total number of proposed lots, within a subdivision, with identification numbers for each for a land development, the location of buildings upon the lot with identification numbers for each.

(i) The dimensions and area of all lots, expressed in either square feet or acres.

(j) The required yard setbacks, as provided in the Zoning Ordinance, for all lots along each street or in the case of a land development, the proposed placement of each building along each street and the proposed use of each building.

(k) The Zoning District or Districts in which the property is located.

(l) The location and dimensions of all existing structures, including accessory structures and off-street parking areas upon the subject property.

(m) The distance of all existing structures to lots lines, front rear and side which will result upon approval of the plan.

(n) The names of all adjoining property owners, including block and lot number from the Luzerne County Assessors Office.

(o) All existing streets, public or private, including streets of record (recorded but not constructed) on or abutting the subject tract, including their names or right-of-way widths.

(p) All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements of right-of-ways, culverts, storm drains, bridges, railroad right-of-ways, water courses and other significant man-made or natural features located within the boundaries of the proposed subdivision or land development.

(q) Existing contours, and if applicable, proposed contours at vertical intervals of five (5) feet.

(r) Location and extent of various soil types within the site D.E.R. definitions for each (this requirement applies only to lots or developments to be serviced by individual on-lot sewage disposal systems).

(s) Appropriate D.E.R. Planning Module, and approval of the same, for lots to be serviced by on-lot sewage disposal systems.
(t) All easements, existing and/or proposed, including their location, dimensions and purpose.

§606. Information to be submitted with Plan. The following information, as applicable, shall be submitted with the Final Plan of Minor Subdivision or Minor Land Development.

(a) Proof of ownership.

(b) Application for Minor Subdivision Plan or Minor Land Development Plan, and the required fee.

(c) Required fee for Luzerne County Planning Commission review.

(d) A Highway Occupancy Permit, as required by the Pennsylvania Department of Transportation or a notation upon the Plan that no development or improvement to the site or parcels thereunder shall be undertaken until a Highway Occupancy.

(e) A letter of commitment from an existing water company or authority, indicating the same can and shall adequately serve the proposed subdivision or land development, including any conditions for the provisions of service.

(f) A letter of commitment from an existing local public agency or authority, responsible for conveyance and/or treatment of sanitary sewage, indicating the same can and shall adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.

(g) The Sewage Enforcement Officer’s report and findings regarding percolation testing of the site for suitability of the site for any proposed on-lot sewage system as required by D.E.R.

(h) Copies of deed restrictions, those existing, and those to be included upon recording of plan.

(i) Copies of description of easements, existing easements of record and any additional ones to be included upon recording of plan.

(j) The cost of all reasonable and necessary consulting fees incurred by the Municipality for the review of the application, plans and related information, including but not limited to, on-site inspections of the property to insure compliance with the proposed development and required improvements.

(k) An appropriate Soil Erosion and Sedimentation Control Plan, approved by the Luzerne County Conservation District.
(I) Five (5) completed copies of the appropriate Planning Module for Land Development, as required by D.E.R.

(m) Any other information as requested by the Borough Council.

§607. Recording of Plan. The applicant shall record the Final Plan in accordance with the requirements as set forth in Section 309 of this Ordinance.
Part 7
Assurances for Completion of Improvements

§701. Installation or Guarantee of Improvements. No plan shall be granted final approval until the applicant either:

(a) Installs all improvements as required by this Ordinance in accordance with the applicable design standards, with written verification from the Municipal Engineer that said improvements are complete and in conformance with the applicable design standards.

(b) Posts a form of financial security, acceptable to the Governing Body, which shall be of a sufficient amount to fully cover the costs of all required improvements in accordance with the applicable design standards.

§702. Types of Financial Guarantee.

(a) A financial guarantee which shall be deemed as acceptable financial security for the purposes of this Ordinance shall include:

(1) An unconditional letter of credit

(2) A restrictive escrow account

(b) Such financial security shall be with a lending institution which is chartered by the Federal Government or the Commonwealth of Pennsylvania or with a bonding company which is legally authorized to conduct such business within the Commonwealth of Pennsylvania.

§703. Review by Municipal Solicitor. The financial guarantee shall be submitted to the Municipal Solicitor for his review fourteen (14) days prior to the meeting at which the plan will be submitted for final approval.

§704. Amount of Financial Security. The amount of financial security to be posted for the completion of required improvements shall be equal to 110 percent of the cost of completion, estimated as of ninety days following the scheduled completion date. The amount of the required improvements, submitted by the developer of applicant, and prepared by a professional engineer, licensed as such by the Commonwealth. Said engineer shall certify in writing that his estimated cost for the completion of the required improvements is a fair and reasonable estimate. The Governing Body, upon the recommendation of the Municipal Engineer, may for good cause shown, refuse to accept the developer’s estimated cost. In cases where the municipality and the developer or applicant are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another licensed professional engineer, mutually selected by the municipality and the developer or applicant. The estimate certified by the third party engineer, being presumed fair and reasonable shall be deemed the final estimate. In the
event that a third party engineer is chosen, the cost of his services shall be paid equally by
the municipality and the developer or applicant.

§705. Required Time Period for Completion.

(a) The financial security shall provide for, and secure to the public the completion of the required improvements within one (1) year of the date fixed on the Final plan for the completion of such improvements.

(b) If the applicant in posting the financial security requires more than one (1) year from date of posting the financial security to complete the required improvements, the amount of financial security may be increased by an additional ten (10%) percent of each one-year period beyond the anniversary date from posting of the financial security or to an amount not exceeding one hundred-ten (110%) percent of the cost of completing the required improvements as reestablished on or before the expiration of the preceding one-year period by using the same procedure as provided for in Section 704 of this Ordinance.

§706. Phasing of Developments. In the case where development is projected over a period of years, the Governing Body may authorize the submission of final plats by sections or phases of development subject to such requirements in future section or phases of development as it finds essential for the protection of any finally approved section of the development.


(a) As the work of installing the required improvements proceeds, the party may request the Governing Body to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work.

(b) Any such request shall be in writing addressed to the Governing Body with the Governing Body having forty-five (45) days from receipt of such request within which to allow the Municipal Engineer to certify in writing to the Governing Body that such portion of the required improvements has been completed in accordance with the approved plan.

(c) Upon such certification the Governing Body shall authorize release by the bonding company or lending institution of an amount as estimated by the Municipal Engineer as fairly representing the value of the completed improvements. Failure of the governing Body to act within the said forty-five day period shall be deemed an approval of the release of the funds requested.

(a) Where the Governing Body accepts dedication of all or some of the required improvements following completion, it may require the posting of financial security to secure the structural integrity of said improvements in accordance with the design and specification as shown on the Final Plan for a term not to exceed eighteen (18) months from the date of acceptance of dedication.

(b) Said financial security shall be of the same type as otherwise required in Section 702 of this Ordinance with regard to installation of such improvements, and the amount of the financial security shall not exceed fifteen (15%) percent of the actual cost of installation of said improvements.


If water mains or sanitary sewer lines or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Ordinance.

§710. Issuance of Permits when Financial Security has been posted.

(a) If financial security has been provided in lieu of the completion of improvements required as a condition for final plan approval as set forth in this Article, the Municipality shall not condition the issuance of zoning, building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as shown on the final plan upon actual completion of the improvements shown on the approved final plan.

(b) If a financial security has been provided, occupancy permits for any building or buildings shall not be withheld following the improvement of the streets providing access to and from existing streets or public roads to such building or buildings to a permanently passable condition, as well as the completion of all other improvements as shown on the approved final plan, either upon the lots or lots beyond the lots or lots in question, if such improvements are deemed necessary for the reasonable use of or occupancy of the building or buildings.

§711. Completion of Required Improvements.

(a) When the applicant has completed all of the necessary and required improvements, the applicant shall notify the Governing Body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Municipal Engineer.
The Governing Body shall, within ten (10) days after receipt of such notice, direct and authorize the Municipal Engineer to inspect all the aforesaid improvements. The Municipal Engineer shall thereupon file a report, in writing, with the Governing Body, and shall promptly mail a copy of the same to the developer. The reports by the Municipal Engineer shall be made and mailed within thirty (30) days from the aforesaid authorization from the Governing Body.

The report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof be rejected, said report shall contain a statement of the reasons for such rejection.

The Governing Body shall notify the developer, in writing, within fifteen (15) days of receipt of the Municipal Engineer’s report, by certified or registered mail of the action of the Governing Body with relation thereto.

If the Governing Body or the Municipal Engineer fails to comply with the time limitation provisions contained therein, all improvements will be deemed to have been approved, and the applicant shall be released from all liability, pursuant to its performance guarantee bond or other security agreement.

§712. Responsibility of Applicant upon Disapproval of Improvements. If any portion of the said improvements shall not be approved or shall be rejected by the Governing Body, the applicant shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined in Section 711, shall be followed.

§713. Applicant’s Right to Contest Action. Nothing herein, however, shall be construed in limitation of the applicant’s right to contest or question by legal proceedings or otherwise any determination of the Governing Body or Municipal Engineer.

§714. Remedies to Effect Completion of Improvements.

(a) In the event that any improvements which may be required have not been installed as provided in this Ordinance or in accord with the approved final plan, the Governing Body can enforce any corporate bond or other security by appropriate legal and equitable remedies.

(b) If the proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Governing Body may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the cost necessary to complete the remainder of the improvements.

(c) All of the proceeds, whether resulting from the security or from any legal or equitable action, or from both, brought against the applicant shall be used solely for
the installation of the improvements covered by such security, and not for any other municipal purpose.

§715. Reimbursement of Consulting Fees. The Governing Body may utilize consulting services to insure that a proposed subdivision or land development shall comply with the provisions of this Ordinance and any conditions included in granting approval of a proposed subdivision or land development, be it preliminary or final. The applicant shall fully reimburse the Municipality for all reasonable and necessary consulting costs incurred by the Municipality for the review of an application and plans of any subdivision or land development and for the inspection of required improvement, as applicable. The reimbursement of consulting fees shall be contained within the Municipality’s fee schedule per Section 111(a) of this Ordinance. Consulting fees shall not exceed the rate or cost charged by the consultant to the Municipality when such fees are not reimbursed or otherwise imposed upon the applicant.

[See also Chapter 8 Fees, Part I Reimbursement of Attorney’s Fees]

§716. Procedure for Disputes over Consulting Fees.

(a) An applicant may contest the amount to be reimbursed to the municipality for consulting fees. The applicant shall notify the Municipality, within then (10) working days of the billing date, as to which consulting expenses are disputed as being unreasonable and/or unnecessary.

(b) In such cases, the governing Body shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to applicant’s written request to contest certain consulting expenses.

(c) If, within twenty (20) days from the date of billing, the Municipality and the applicant cannot agree on the amount of consulting expenses which are reasonable and necessary, then the applicant and Municipality shall jointly, by mutual agreement, appoint another professional engineer, licensed as such in the Commonwealth of Pennsylvania, to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

(d) The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within fifty (50) days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

(e) In the event that the municipality and applicant cannot agree upon a professional engineer to be appointed within twenty (20) days of the billing date, then upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who shall be neither the municipal engineer nor any professional engineer who has been retained by,
or performed services for, the municipality or the applicant within the preceding five (5) years.

(f) The fee of the appointed professional engineer for determining the reasonable and necessary consulting expenses shall be paid by the applicant if the amount of the payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by $1,000.00 or more, the municipality shall pay the fee of the professional engineer. If neither of the aforementioned cases apply, the municipality and the applicant shall each pay one-half of the fee of the appointed professional engineer.
Part 8
Design Standards and Required Improvements

§801. Application.

(a) The design standards and requirements as outlined in this Part shall be utilized by the Planning Commission and the Governing Body in evaluating the plans for all proposed subdivisions and land developments.

(b) Any request to modify the design standards and requirements of this Part shall be in accordance with Section 109 of this Ordinance.

§802. General Standards. All proposed subdivision and land developments shall be in conformance and compliance with the following:

(a) All applicable statutory provisions;

(b) All governing rules and regulations of the Pennsylvania Department of Environmental Resources;

(c) The applicable regulations of the Pennsylvania Department of Transportation when a subdivision or land development abuts a state highway;

(d) Any applicable engineering standards and regulations of the municipality;

§803. Site Suitability for Development.

(a) The land for any proposed subdivision or land development shall be suited for the purpose of its intended use.

(b) Land which is classified as critical area land may be deemed unsuitable for subdivision or development due to flooding, improper drainage, rock formations, adverse topography, steep slopes, utility easements, or other features which may reasonably be harmful to the safety health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas. Approval to subdivide or develop such land may be withheld unless adequate measures and provisions are formulated by the applicant to safely overcome such constraints.

§804. Monuments and Markers. The applicant shall place permanent reference monuments and markers by a Registered Land Surveyor.

(a) Monuments and markers shall be placed so that the center of a scored or marked point shall coincide exactly with the intersection of the lines to be marked.

(b) Monuments shall consist of a minimum size of six (6”) inches by six (6”) inches by thirty-six (36”) inches in length. Concrete monuments shall be marked on top
with a brass dowel, iron rod, or other durable material securely imbedded. Stone or precast monuments shall be marked on the top with a proper inscription and/or drill hole. All monuments shall be set flush with the ground and secured in such a manner so they will not be removed by frost.

(c) Monuments shall only be required for major subdivisions or major land developments and shall be set in accordance to the following:

1. One at each single angle of the perimeter of the property at all major subdivisions and land developments.
2. One at the beginning and end of all curves along street rights-of-way lines along one side or street.
3. A minimum of one at each street intersection along the street right-of-way line.

(d) Markers shall consist of either:

1. Copperweld survey marker.
2. Water pipe fitted with a lightweight noncorrosive plastic monument marker.
3. Reinforcing rods with a lightweight noncorrosive plastic monument marker.

(e) Markers normally shall be flush with the surrounding grade.

(f) Markers shall be set as follows:

1. At all points where lot lines intersect street right-of-way lines, except for monument locations.
2. At all other lot corners.
3. At all points where lot lines intersect curves.
4. At all angles in property line of lots.

§805. Residential Blocks. For blocks, the following standards shall apply:

(a) Maximum length not to exceed 1,200 feet;
(b) Be of sufficient width to permit two (2) tiers of lots.
Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.

§806. Residential Lots.

(a) All subdivisions and land development for residential use shall be in conformance with the applicable minimum lot sizes, lot widths and yard requirements as set forth in the Zoning Ordinance.

(b) Each lot or area platted for residential use shall be accessible from an existing or proposed street.

(c) The lot depth shall not be greater than three (3) times its width.

(d) Side lines of lots shall be at right angles to straight streets and on radial lines on curved streets. Pointed or very irregular shaped lots shall be avoided.

(e) In the case of lots utilizing an on-site sewage disposal system, there shall be sufficient area for the disposal field in accordance with department of Environmental Resources regulations.

(f) Double frontage lots shall be avoided but may be permitted when required to provide a separation of a residential development from arterial streets or to overcome specific disadvantages of topography or other natural features of the site.

(g) Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

§807. Streets – General Requirements.

(a) Any proposed subdivision or land development shall have frontage upon or access to an existing State, County or municipal road.

(b) Streets shall be designed to provide adequate vehicular access to all lots or parcels within any proposed subdivision or land development.

(c) Streets shall be designed and appropriately related to the topographic conditions of the site, with the grade of streets conforming as closely as possible to the original topography.

(d) Streets shall be graded and improved in accordance with the appropriate design standards and specifications of this Ordinance.
(e) All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way.

(g) All streets shall be properly related to specific traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

§808. Street Names. The applicant shall provide names for all streets on or before final plan approval. The applicant shall not utilize the name of any existing street in the municipality except that a street when planned as a continuation of an existing street shall bear the same name.

§809. Street Lighting. The installation of street lights shall be required at all street intersections and at other locations as deemed appropriate by the Governing Body.

§810. Street Signs. Street signs, which provide the legal name of each street, shall be erected at the intersection of each street within a subdivision or land development. The size, color and construction materials of said signs shall be subject to approval by the Governing Body.

§811. Traffic Control Signs. Traffic control signs, designed to regulate the speed of traffic or to convey any other pertinent traffic or physical characteristic of the road to motorists shall be installed at appropriate locations by the applicant as determined by the Governing Body.

§812. Construction of Streets and Dead-End Streets. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provisions of utilities, and when such continuation is in accordance with the municipality’s Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary turnaround shall be provided on all temporary dead-end streets. This may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

§813. Dead-End Streets (Permanent). Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Governing Body for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Governing Body may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with Section 818 of this Ordinance. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length in accordance with the design standards of Section 818 of this Ordinance.
§814. Access to Arterial Streets. Where a subdivision or land development borders on or contains an existing or proposed arterial street, the Governing Body may require that access to such street be limited by one of the following methods:

(a) The subdivision of lots in a manner in which the lots front onto a parallel local street with no access provided to or from the arterial street.

(b) A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.

(c) A marginal access or service road, separated from the arterial street by a planting or grass strip and having access thereto at suitable points.

§815. Intersection.

(a) Streets shall intersect as nearly as possible at right angles. When local streets intersect with collector or arterial streets the angle of intersection at the street centerlines shall in no case be less than seventy-five (75) degrees. No two streets shall intersect with an angle of intersection at the centerlines of less than sixty (60) degrees.

(b) Multiple intersections involving the junction of more than two streets shall be prohibited.

(c) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two (2) percent grade at a distance of sixty (60) feet, measured from the nearest right-of-way of the intersecting street.

(d) Where any street intersection will involve earth banks or existing vegetation inside any corner lot that would create a traffic hazard by limiting visibility, the applicant shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance as contained in section 817 of this Ordinance.

(e) The cross-slopes on all streets, including intersections shall be three (3%) percent or less.

§816. Design Standards for Residential Streets. Street shall be constructed and improved to the grades and dimensions shown upon plans, profiles and cross-sections as submitted by the developer and approved by the Governing Body.

(a) In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and to afford satisfactory access to police, fire protection, snow removal, sanitation and road maintenance equipment and to coordinate
(b) The classification of any street, when not identified within the Comprehensive Plan, shall be determined by the Governing Body by utilizing applicable definitions of this Ordinance.

(c) The minimum pavement structure shall be in accordance with the following:

(1) Local Street. Except where otherwise specified, the base course shall consist of six (6) inches of subbase, constructed in accordance with the specifications as set forth in Section 350, the Pennsylvania Department of Transportation Specification 408, 1987 edition or as amended.

Construction of the two and one-half (2.50) inch surface shall comply with the specifications as set forth in Section 441 Bituminous Wearing Course ID-2, of the Pennsylvania Departments of Transportation Specifications 408, 1987 edition or as amended. Construction shall provide for two courses of pavement structure; the first course being one and one-half (1.5) inches of ID-2 Binder Course.

(2) Collector Street. Except where otherwise specified, the base course shall consist of six (6) inches of subbase, constructed in accordance to the specifications as set forth in Section 350, in the Pennsylvania Department of Transportation Specification 408, 1987 edition or as amended.

Construction of the four (4) inch bituminous course shall comply with the specifications as set forth in Section 420 and Section 421, Bituminous Wearing Course and shall consist of one and one-half (1.5) inches of ID-2 Wearing Course on two and one-half (2.5) of ID-2 Binder course.

(3) Arterial Streets. For design of pavements for arterial streets or highways, the developer shall consult with and be governed by the Pennsylvania Department of Transportation publication No. 343, Roadway Management Manual. The governing Body shall hold sole responsibility for the classification of streets as related to the above referenced paving standards.

§817. Horizontal Visibility.

(a) When street centerlines are deflected more than five (5) degrees within five hundred feet, connection shall be made by horizontal curves.

(b) Streets shall be so laid out that there will be unobstructed sight distances along centerlines thereof measured from a point five (5) feet above the proposed grade line, to permit horizontal visibility as follows:

(1) Arterial Street – six hundred (600) feet.
(2) Collector Street – three hundred (300) feet.

(3) Local Street – two hundred (200) feet.

(c) A minimum tangent of one hundred (100) feet shall be required between curves on all classifications of streets.

(d) The centerline grades shall not exceed the following:

(1) Arterial Street – six (6%) percent.

(2) Collector Street – eight (8%) percent.

(3) Local Street – twelve (12%) percent.

Given the steep terrain and topography within certain areas of the Borough, Local Street having grades in excess of twelve (12%) percent may be considered by the governing Body in accordance with Section 10 of this Ordinance.

(e) Vertical curves shall be used at changes of grade exceeding one (1%) percent. Vertical curves shall be designed to produce the following minimum sight distances:

(1) Arterial Street – five hundred (500) feet.

(2) Collector Street – three hundred (300) feet.

(3) Local Street – one hundred fifty (150) feet.

(f) Clear sight triangles shall be provided at all street intersections. With such triangles no object greater than two and one half (2 ½) feet in height and no other object that would obscure the vision of the motorist shall be permitted. Such triangles shall be established from a distance of:

(1) Fifty (50) feet from the point of intersection of centerlines of two streets where both are local streets.

(2) Seventy-five (75) feet from the point of intersection of the centerlines of two streets where one or both is a collector street.

(3) One hundred (100) feet from the point of intersection of the centerlines of two streets where one or both is a collector street.
§818. Cul-de-sac Streets.

(a) Cul-de-sac streets permanently designed as such, shall not exceed 500 feet in length and shall furnish access to not more than twenty (20) dwelling units.

(b) Cul-de-sac street permanently designed as such, shall terminate in a circular right-of-way with a minimum diameter of 100 feet overall and 80 feet of diameter to the outer edge of pavement or curb line.

§819. Bridges and Stream Crossings. Bridges and other stream crossing structures which are part of the proposed street system shall be designed and constructed in accordance with current Penn DOT Standard and Specifications. Evidence of compliance with and approval of the Division of Dams and Encroachments, Pennsylvania Department of Environmental resources, shall be provided by developer, if applicable.

§820. Sidewalks.

(a) Sidewalks shall be required in all developments of multifamily and/or single family attached. In other subdivision or land developments, sidewalks or pedestrian interior walkways may also be required by the Governing Body. All walkways shall be a minimum of four (4’) feet in width.

(b) Sidewalks, where required or provided, shall be located within the street right-of-way line not closer than three feet from the curb line. A grass planting strip shall be planted between the curb and sidewalk.

(c) Sidewalks in single family residential where required or provided shall have a minimum width of four (4’) feet.

(d) Sidewalks shall be constructed of Portland Cement Concrete at least (4”) inches thick, underlaid by compacted gravel or crushed stone.

§821. Curbs and Gutters. Curbs and gutters may be required by the Governing Body dependent upon the individual characteristics of the site. Minimum construction standards are as follows:

(a) Straight curbs of Portland Cement Concrete shall be twenty-four (24”) inches in depth, six (6”) inches wide at the top, and eight (8”) inches wide at the bottom, and shall have an exposed face between six (6”) inches and eight (8”) inches.

(b) Expansion joints shall be provided at least every thirty (30’) feet. Each expansion joint shall contain one-half (½”) inch premolded bituminous expansion joint material. Contraction joints shall be provided at least every ten (10’) feet.

(c) Gutter requirements shall be in conformance with good engineering practices and subject to the approval of the Governing Body.
Portland cement concrete used in the construction of curbs and gutters shall meet the minimum 3000 PSI 28-day strength test according to ASTM Standards, air entrained.

§822. Driveway Entrances.

(a) Adequate provisions to maintain uninterrupted parallel drainage along a public street at the point of driveway entry shall be made. The minimum diameter of a culvert pipe shall be fifteen (15) inches.

(b) Driveway entrances or aprons within the street right-of-way shall be surfaced their full width of the entrance, with the material compatible to the abutting cartway.

§823. Erosion and Sedimentation Control.

(a) All earth moving activities shall be conducted in such a way as to prevent accelerated erosion and the resulting sedimentation. A Soil Erosion and Sedimentation Control Plan shall be required for any subdivision or land development which includes any of the following:

(1) Changing the contour of the site.

(2) Any portion of the site which has a slope of 9 percent or greater.

(3) The site has a watercourse located upon it and/or there is a watercourse within 100 feet of the site’s boundary.

(b) No changes shall be made in the contour of the land; no grading, excavating, removal, or destruction of the topsoil, trees or other vegetative cover of the land shall be commenced until a plan setting forth erosion and sedimentation control measures for the site has been developed and approved by Luzerne County Soil and Water Conservation District.

(c) The soil erosion and sedimentation control plan and measures used to control erosion and sedimentation shall meet the standards and specifications set forth in the Pennsylvania Department of Environmental Resources Soil Erosion and Sedimentation Control Manual and Chapter 102 of the Rules and Regulations of the Pennsylvania Department of Environmental Resources.

(d) All erosion and sedimentation control plans shall be submitted with the final plan.

(e) Where the earth moving activity affects twenty-five (25) acres or more, the soil erosion and sedimentation control plan must be submitted to the County Conservation District, together with an application for an earth moving permit. An earth
moving permit must be granted by the Pennsylvania Department of Environmental Resources prior to preliminary approval of a subdivision or land development.

§824. Water Supply Facilities. All subdivisions and land development shall be served with an adequate water supply system capable of providing domestic potable water and fire protection.

§825. Centralized Water System.

(a) All subdivisions and land developments shall utilize an approved public distribution system for water supply when such a system is accessible to the site or is within one-eighth (1/8) mile to the site and connection to such is feasible.

(b) The plans for the installation of water lines of a public water supply shall be prepared by the developer with the cooperation of the applicable public water company or authority and submitted with the Preliminary Plan.

(c) When a subdivision or land development is to be serviced by a centralized water supply system, fire hydrants shall be installed. The location and number of fire hydrants shall be determined on a case by case basis. Fire hydrants along any approved street shall not be more than five hundred (500) feet apart and connected to a water main not less than eight (8) inches in diameter.

(d) All suppliers of water to any proposed subdivision or land development shall be organized in such a fashion as to fall within the jurisdiction of the Pennsylvania Public Utility Commission. One copy of all correspondence, supporting documentation, applications for permits, and certificates for operation submitted to the Pennsylvania Department of Environmental Resources and the Pennsylvania Public utility Commission authorizing such services shall be forwarded upon receipt to the Governing Body as a part of the public record.

§826. On-Lot Water System. Where it is not feasible to connect a proposed subdivision or land development to a centralized water system, on-lot systems may be permitted subject to their construction in accordance with applicable criteria as set forth by the Pennsylvania Department of Environmental Resources.

§827. Sewage Disposal Facilities. All subdivisions and land developments shall be served with a sewage system (either centralized or on-lot) which meet or exceed the applicable minimum design standards as set forth by the Pennsylvania Department of Environmental Resources.

§828. Centralized Sewers.

(a) All subdivisions and land developments shall be served by a centralized sewage disposal system, when existing soils conditions and other environmental features are unsatisfactory for on-lot sewage or when an existing centralized sewage system is
within one-eighth (1/8) of a mile from the proposed subdivision or land development and connection to such is feasible.

(b) All centralized sewage disposal systems shall be compatible with any sewage feasibility studies and/or the official municipality sewage plan, and be approved by the appropriate agencies prior to Final Plan approval.

(c) All sanitary sewers shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development plus additional flow as may be projected to be generated by adjacent properties.

(d) All individual lateral connections shall be installed to the curb right-of-way line at the time of initial installation of the system.

(e) All systems classified as Sewage Services, as defined by Chapter 71 of the Pennsylvania Department of Environmental Resources Regulations shall be designed and constructed in accordance with regulations and requirements set forth in the “Sewage Manual” prepared by the Bureau of Water Quality Management of the Department of Environmental Resources.

§829. On-Lot Sewage Disposal System.

(a) On-lot sewage systems, both individual and community sewage systems, shall be designed and constructed in accordance with Pennsylvania Department of Environmental Resources requirements under Title 25, Rules and Regulations Part 1, Sub-part C, Chapter 73, and any amendments thereto.

(b) Prior to approval of Preliminary Plan, the Municipal Sewage Enforcement Officer shall submit a report to the Governing Body regarding the site and soils investigation and analysis.

(c) All systems utilizing subsurface disposal of sewage effluent (Community Sewage Systems as defined by Chapter 73 of the Pennsylvania Department of Environmental Resources Regulations) shall be designed and constructed in accordance with requirements of the aforesaid Chapter 73. A registered professional engineer employed by the applicant shall provide written certification that the existing or proposed facility has adequate capacity to satisfactorily treat the total project sewage flow.

(d) A sewage permit must be approved and issued by the Municipal Sewage Enforcement Officer prior to the start of any construction of development upon any lot within an approved subdivision or land development.

§830. Storm Water Drainage.

(a) The Storm Water Drainage Plan for any major subdivision or major land development shall meet the Department of Environmental resources requirements for an
Erosion and Sedimentation Control Plan. The Plan shall comply with the Stormwater Management Plan adopted by Luzerne County.

(b) A site drainage plan for a proposed subdivision or land development shall illustrate the following information:

1. Mapping of the watershed area or areas in which the proposed subdivision or land development is located.

b. Calculations of runoff for all points of runoff concentration.

c. Complete drainage systems and easements for the subdivision.

4. Pre-development and post-development peak flows.

(c) Storm drainage facilities required by this Ordinance shall be designed to provide protection from storms with a frequency of ten (10) Years and the Rational Formula, as defined in Part 2, shall be utilized in calculating storm runoff. The Municipality reserves the right to require the developer to construct stormwater detention facilities, if discharges from the development would increase peak discharges on receiving drainage courses.

(d) All lots shall be laid out and graded to prevent cross lot drainage away from proposed building areas. Natural drainage courses shall be maintained.

(e) The drainage easements may be incorporated into lots or established separately and apart therefrom. To minimize sheet flow of storm water across lots located on the lower side of roads or streets, and to divert flow away from building areas, the cross section of the street as constructed shall provide for parallel ditches or swales or curbing on the lower side which shall discharge only at drainage easements.

(f) The existing points of natural drainage discharge onto adjacent property shall not be altered nor shall the rate of water runoff be increase because of development without the written approval.

(g) No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions, including water runoff impoundments, if necessary.

(h) Storm drainage facilities shall be designed not only to handle the anticipated peak discharge from the property being developed, but also the runoff that will occur from the property at a higher elevation in the same watershed.
(i) Where a subdivision or land development is traversed by a watercourse, a drainage easement shall be provided conforming substantially to the line of such watercourse of such width as will be adequate to preserve the unimpaired flow of natural drainage. Such drainage easement shall be at least one-hundred (100’) feet from any recognized high water make of any water course of body of water.

(j) Drainage structures that are located on State highway rights-of-way shall be approved by the Pennsylvania Department of Transportation, and a letter from that office indicating such approval shall be directed to the Governing Body.

(k) All streets shall be so designed to provide for the discharge of surface water from their right-of-way. The slope of the crown on proposed streets shall be one-quarter (1/4) inch per foot away from the centerline.

(l) All proposed surface drainage structures shall be indicated on the Preliminary Plan. Drainage plans shall include all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials and elevations.

(m) Whenever storm sewers are required by the Governing Body, such storm sewer systems shall be separate from the sanitary sewer system. Storm sewer facilities shall be provided where the Governing Body determines that surface drainage facilities are inadequate to prevent excessive erosion and lots or road maintenance problems.

(n) Drainage easements shall be provided as follows:

(1) Drainage easements shall be provided adjacent to street rights-of-way, streams, side property lines and rear property lines as required by the Governing Body.

(2) Drainage easements shall be minimum width of:

   (A) ten (10’) feet adjacent to a street right-of-way plus the width of any required pipe or other necessary improvements;

   (B) fifteen (15’) feet when following side and rear lot lines. Such easements shall to the fullest extent possible, either immediately adjoin or be centered on such lot lines; or

   (C) one-hundred (100’) feet from any recognized high-water mark of any water course or body of water.

§831. Utilities. All utilities including but not limited to gas, electric power, telephone, shall be underground and shown on the preliminary plan of any subdivision or land development.
§832. Nonresidential Subdivision and Land Development.

(a) General. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision or land development with respect to such land shall make such provision as the Governing Body requires.

(b) A nonresidential subdivision or land development shall also be subject to all the requirements of site plan approval set forth in the Zoning Ordinance. Site plan approval and nonresidential subdivision plan approval may proceed simultaneously at the discretion of the Governing Body. A nonresidential subdivision shall be subject to all the requirements of these regulations as well as such additional standards required by the Governing Body and shall conform to the proposed land use and standards established in the Comprehensive Plan, Official Map, and Zoning Ordinance.

(c) Standards. In addition to the requirements and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Governing Body that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

1. Proposed industrial parcels shall be suitable in the types of industrial or commercial development anticipated.

2. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon.

3. Special requirements may be imposed by the municipality with respect to street, curb, gutter, and sidewalk design and construction.

4. Special requirements may be imposed by the municipality with respect to the installation of public utilities, including water, sewer, and storm water drainage.

5. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

6. Streets carrying nonresidential traffic, especially truck traffic, shall normally be extended to the boundaries of adjacent existing or potential residential areas.

§833. Table of Design Standards. Table I of this provides the required design standards for streets and sidewalks.
§834. **Table of Required Improvements.** Table II of this Ordinance provides the schedule of required improvements.
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<tr>
<th>DESIGN SPECIFICATIONS</th>
<th>ARTERIAL</th>
<th>COLLECTOR</th>
<th>LOCAL</th>
<th>ALLEY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Width</td>
<td>80</td>
<td>60</td>
<td>50</td>
<td>20</td>
</tr>
<tr>
<td>Cartway Width</td>
<td>28</td>
<td>24</td>
<td>22</td>
<td>12</td>
</tr>
<tr>
<td>Minimum Sight Distance</td>
<td>600</td>
<td>300</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>Minimum Centerline Radii for Horizontal Curves</td>
<td>400</td>
<td>200</td>
<td>150</td>
<td>NA</td>
</tr>
<tr>
<td>Maximum Grade (%)</td>
<td>6%</td>
<td>8%</td>
<td>12%</td>
<td>12%</td>
</tr>
<tr>
<td>Shoulder Width</td>
<td>10</td>
<td>8</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Sidewalk Width</td>
<td>NA</td>
<td>4</td>
<td>4</td>
<td>NA</td>
</tr>
</tbody>
</table>

* All dimensions in feet unless specified otherwise.
## TABLE II

### SCHEDULE OF REQUIRED IMPROVEMENTS

<table>
<thead>
<tr>
<th>IMPROVEMENT</th>
<th>SINGLE-FAMILY</th>
<th>MULTIFAMILY</th>
<th>COMMERCIAL</th>
<th>INDUSTRIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streets</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Curbs</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Gutters</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Sidewalks</td>
<td>A</td>
<td>X</td>
<td>X</td>
<td>A</td>
</tr>
<tr>
<td>Street Signs</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Street Lights</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Off-Street Parking</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Off-Street Loading</td>
<td>NA</td>
<td>NA</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Central Water</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Fire Hydrants</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Central Sewers</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Storm Water</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Sewers</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Underground Utilities*</td>
<td>B</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

* Electric, Telephone & Cable T.V.

X – Denotes Type of Improvements that are Required  
A – Denotes Type of Improvements which may be Required Based upon Individual Site Characteristics.  
B – Denotes Waiver of Underground Utilities contingent upon Approval of Utility Company
Part 9
Fee Schedule for Subdivision and Land Development Applications

§901. Major Subdivision. $450.00 plus $10.00 for each lot or dwelling in the subject plan.

§902. Minor Subdivision. $250.00 per subdivision.

§903. Land Development. $250.00 per land development plan.

§904. Additional Fees. In addition to the filing fees set forth above, the applicant, subdivider and agent shall individually or jointly be responsible for paying all review and inspection fees incurred by the Borough. These fees include:

(a) The cost of the Solicitor, Borough Engineer and Land Use Planner to perform the following services:
   • Review of plan
   • Site Inspection
   • Preparation of cost estimates for required improvements
   • Inspection of required improvements during the course of construction and installation of said improvements
   • Final inspection of the subdivision and/or land development and the required improvements contained therein
   • Review and draft Development Agreements, Stormwater Maintenance and Monitoring Agreements, etc.

(b) Review and inspection fees will be charged by the Borough at the current hourly rate being billed to the Solicitor, Borough Engineer and Land Use Planner at the time of the review or inspection.

(c) The review and inspection fees will be billed by the Borough monthly and the developer(s), subdivider(s), or their agent(s) shall be required to pay those bills within thirty (30) days from the date they are billed.

(d) Subdivision and/or land development approval will not be granted until all fees have been paid.
CHAPTER 27

TAXATION

Part 1
Occupational Privilege Tax

§101. Definitions
§102. Levy
§103. Amount of Tax
§104. Duty of Employers
§105. Returns
§106. Dates for Determining Tax Liability and Payment
§107. Individuals engaged in more than one Occupation
§108. Self-employed Individuals
§109. Employers and Self-employed Individuals Residing beyond the Corporate Limits of the Borough
§110. Administration of Tax
§111. Suits for Collection
§112. Validity
§113. Saving Clause
§114. Fine and Penalty
§115. Effective Date and Duration

Part 2
LST Tax

[RESERVED FOR POSSIBLE FUTURE ADOPTION OF A LOCAL SERVICE TAX]
CHAPTER 27

TAXATION

Part 1

Occupational Privilege Tax

§101. Definitions. The following words and phrases when used in this part shall have the meanings ascribed to them in this Section, except where the context or language clearly indicates or requires a different meaning.

(a) Employer – an individual, partnership, association, corporation, governmental body, agency, or other entity employing one or more persons on a salary, wage commission or other compensation basis, including a self-employed person.

(b) Individual – any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough.

(c) Occupation – any trade, profession, business, or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

(d) Tax – the occupational privilege tax in the amount of $5.00 levied by this part.

(e) Tax Receiver – shall mean the person, persons or agency designated by the Borough for the collection of the occupational privilege tax and under whose direction this tax shall be enforce.


Editorial Note: The enacting clause of Ord. No. 1967-6 stated that that ordinance was enacted under authority of the Local Tax Enabling Act of 1965 P.L. 1257. The tax was originally imposed for the fiscal year of 1968 only, at the rate of $10. It was reenacted annually in the tax-levying ordinance, with the rate reduced to $5. Ord. No. 1970-4 amended Ord. No. 1967-6 to make the tax a permanent one until repealed, and making annual reenactment unnecessary. Nevertheless annual reenactment was continued, the most recent being the ordinance set out as Section 101.

§102. Levy. The Borough levies and imposes upon the privilege of engaging in an occupation within its corporate limits during any calendar year an annual occupational privilege tax. This tax shall be paid by the individual exercising that privilege and is in addition to all other taxes of any kind or nature previously levied by the Borough. (Ord. No. 1967-6, 12/15/1967, Sec. 2, as amended by Ord. No. 1970-4, 12/29/70)
§103. Amount of Tax. Every person engaging in an occupation, as defined in Section 101 (c) in any calendar year, shall be required to pay an occupational privilege tax of $5 for that year. (Ord. No. 1967-6, as amended by Ord. No. 1970-4, 12/29/70)

§104. Duty of Employers. Each employer within the Borough as well as those employers situated outside the Borough but who engage in business within the Borough, is charged with the duty of collection from each of his employees engaged by him and performing for him within the borough the tax of $5 per annum and making a return and payment of it to the tax receiver. Further, each employer is authorized to deduct this tax from each employee in his employ whether or not part or all those services are performed within the Borough. (Ord. No. 1867-6, 12/15/1967, Sec. 4, as amended.)

§105. Returns. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the tax receiver. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of two percent (2%) of the gross tax due and payable, provided that the tax collected and paid over by the employer on or before the dates after set forth in Section 106. If the employer fails to file the return and pay the tax, whether or not he makes collection of it from the salary, wages, or commissions paid by him to an employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

§106. Dates for Determining Tax Liability and Payment. Each employer shall use his or her employment records from the 1st day of January to the 1st day of June, of each year, for determining the number of employees from whom the tax shall be deducted and paid over to the tax receiver on or before August 1, of that year. Supplemental reports shall be made by each employer on October 1, for new employees as reflected on his employment records from June 1, to October 1, of that year. Payments on this supplemental report shall be made on or before November 1 of that year. (Ord. No. 1967-6, 12/15/1967, Sec. 6, as amended by Ord. No. 1970-4, 12/29/70)

§107. Individuals engaged in more than one Occupation. Each individual who shall have more than one occupation within the Borough shall be subject to the payment of this tax on his or her principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deduction having been made and when presented to any other employer shall be authority for that employer to not deduct this tax from the employee’s wages, but to include that employee on his return by setting forth his or her name, address and the name and account number of the employer who deducted this tax. (Ord. No. 1967-6, 12/15/67, Sec. 7)

§108. Self-employed Individuals. All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the Borough shall be required to comply with this part and pay the tax to the tax receiver on August 1 of each
year or as soon after than date as he engages in an occupation. (Ord. No. 1967-6, 12/15/1967, Sec.8, as amended by Ord. No. 1970-4, 12/29/1970)

§109. Employers and Self-employed Individuals Residing beyond the Corporate Limits of the Borough. All employers and self-employed individuals residing or having their place of business outside of the Borough, but who perform services of any type or kind, or engage in any occupation or profession within the Borough do by virtue of that fact agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this part, with the same force and effect as though they were residents of the Borough and an employee of a non-resident employers may, for the purpose of this part, be considered a self-employed person, and in the event this tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as provided in Section 111. (Ord. No. 1967-6, 12/15/1967, Sec. 9)

§110. Administration of Tax.

(a) It shall be the duty of the tax receiver to accept and receive payment of this tax and to keep a record showing the amount received by him from each employer or self-employed person together with the date the tax was received.

(b) The tax receiver is charged with the administration and enforcement of this article and is charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this part, including provisions for the examination of the payroll records of any employer subject to this part; the examination and correction of any return made in compliance with this part and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the tax receiver shall have the right to appeal to the court of common pleas of Luzerne County as in other cases provided.

(c) The tax receiver is authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is directed and required to give the tax receiver the means, facilities and opportunity for that examination.

(Ord. No. 1967-6, 12/15/1967, Sec. 10)

§111. Suits for Collection.

(a) In the event that any tax under this part remains due or unpaid 30 days after the due dates above set forth, the tax receiver may sue for the recovery of any such tax due or unpaid under this part together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of the tax shall be calculated beginning with the due date of
the tax and a penalty of five percent (5%) shall be added to the flat rate of the tax for nonpayment. Where suit is brought for the recovery of this tax, the individual liable for the tax shall, in addition, be responsible and liable for the costs of collection. (Ord. No. 1967-6, 12/15/1967, Sec. 11)

§112. Validity. The provisions of this part are severable and if any of its provisions shall be held invalid or unconstitutional, the decision of the court shall not affect or invalidate any of the remaining provisions. It is declared to be the legislative intent that this part would have been adopted if those illegal, invalid or unconstitutional provisions had not been included in it. (Ord. No. 1967-6, 12/15/1967, Sec. 13)

§113. Saving Clause.

(a) Nothing contained in this part shall be construed to empower the Borough to levy and collect the tax imposed by this part on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth.

(b) If the tax imposed under the provisions of this part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States and of the laws of the Commonwealth of Pennsylvania as to any individual, the decisions of the court shall not affect or impair the right to impose or collect that tax, or the validity of the tax so imposed on other persons or individuals as provided in this part.

(Ord. No. 1967-6, 12/15/1967, Sec. 14)

§114. Fine and Penalty. Whoever makes any false or untrue statement on any return required by this part, or who refuses inspection of his books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his employment, or, whoever fails or refuses to file any return required by this part shall, upon conviction, be sentenced to pay a fine of not more than Three Hundred ($300) Dollars for each offense and in default of payment of the fine and costs be imprisoned not more than 30 days for each offense. It is further provided that the action to enforce the fine and penalty provided in this section may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this part. (Ord. No. 1967-6, 12/15/1967, Sec. 12)

§115. Effective Date and Duration. This ordinance shall become effective 30 days after date of adoption and shall remain in force and effect for the fiscal year 1971, and subsequent thereto until repealed. (Ord. No. 1967-6, 12/15/1967, Sec. 15, as amended by Ord. No. 1970-4, 12/29/70, Sec. 2)

Editorial Note: “This Ordinance” refers to Ord. No. 1967-6, as amended by Ord. No. 1970-4, and not to this code of ordinances.
Part 2

[RESERVED FOR POSSIBLE FUTURE ADOPTION OF A LOCAL SERVICE TAX]
CHAPTER 28

TREES

Part 1

Shade Tree Commission; Trees

§101. Definitions
§102. Shade Tree Commission
§103. Compensation of Members
§104. Duties and Responsibilities of Commission
§105. Administration of Commission; Quorum
§106. Authorized Species of Street Trees
§107. Planting Requirements
§108. Public Tree Care
§109. Tree Topping
§110. Pruning; Corner Clearance
§111. Removal of Stumps
§112. Interference with Commission
§113. Bond required for Arborists; Insurance
§114. Review of Commission by Borough Council
§115. Repealer
§116. Severability
§117. Violations and Penalties

Part 2

Regulation of Planting and Maintaining Trees along Public Ways

§201. Definitions
§203. Clearance above Street and Sidewalk
§204. Removal and Trimming of Trees
§205. Repealer
§206. Severability
§207. Penalties
CHAPTER 28
TREES

Part 1
Shade Tree Commission

§101. Definitions. As used herein, the following terms shall have the meanings indicated:

(a) Park Trees – Trees, shrubs, bushes, and all other woody vegetations in public parks having individual names and all areas owned by the Borough or to which the public has free access as a park.

(b) Street Trees – Trees, shrubs, bushes and all other woody vegetation extending or lying within the right-of-way of streets, avenues, alleys or ways within the Borough.

(Ord. No. 6-1992, 12/11/1992, Sec. I (1))

Editorial Note: Section I of Ordinance No. 6-1992 was actually the enacting clause which also deleted in entirety the original Article A of Chapter 3, Part 12 of the Code of Ordinances, and in its place inserted this new Article (Section 101 through 117) of this chapter. The preamble of Ordinance 6-1992 referred to the original Article A, dealing with the planting and care of trees along streets and sidewalks; and expressed the wishes of Council to delete those provisions in their entirety and in lieu thereof adopt this new Article.

Section II of Ordinance No. 6-1992 repealed all inconsistent ordinances and parts of ordinances. Section III contained severability provisions similar to those in Section 1-1005 of this Code of Ordinances. Section IV directed that the provisions of the ordinance become part of the Code of Ordinances, and authorized renumbering the sections of the ordinance to accomplish that intention. Section V provided that the ordinance become effective five (5) days from the date of enactment.

§102. Shade Tree Commission. A Shade Tree Commission for the Borough of White Haven, Pennsylvania is established pursuant to Section 503 (Shade Tree Commission) of Chapter 1, Part 5, of the White Haven Borough Code of Ordinance, which is incorporated herein by reference. (Ord. No. 6-1992, 12/11/1992, Sec I (2)) The Commission shall be comprised of three (3) residents of the Borough, appointed by Borough Council for a five (5) year term with the first term comprised of one (1) for a three (3) year term, one for a four (4) year term and one for a five (5) year term.

§103. Compensation of Members. Members of the Commission shall serve without compensation. (Ord. No. 6-1992, Sec. I (3))

§104. Duties and Responsibilities of Commission. It shall be the responsibility of the Commission to study, investigate, counsel and develop and/or update annually and
administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Borough council and, upon its acceptance and approval, shall constitute the official Comprehensive Borough Tree Plan for the Borough of White Haven, Pennsylvania. The Commission, when requested by the Borough Council, shall consider, investigate, make findings on report upon and recommend any special matter or question coming within the scope of its work. (Ord. No. 6-1992, 12/11/1992, Sec. I (4))

§105. Administration of Commission; Quorum. The Commission shall choose its own officers, make its own rules and regulation and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. No. 6-1992, 12/11/1992, Sec. I (5))

§106. Authorized/Prohibited Species of Street Trees.

(a) The following list constitutes the official street tree species for White Haven, Pennsylvania. Trees should be selected off this list based on suitability to planting site, (i.e. overhead wire height, amount of shade at planting site, etc.) No species other than those included in this list may be planted as street trees without written permission of the Shade Tree Commission.

(1) Small Trees (12-25 ft mature height):

<table>
<thead>
<tr>
<th>Species</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serviceberry (Amelianchier, cultivar ‘Spring Glory’)</td>
<td>15ft</td>
</tr>
<tr>
<td>Gray Dogwood (Cornus Racemosa, tree form cultivar ‘Ottawa’)</td>
<td>12ft</td>
</tr>
<tr>
<td>Gray Dogwood (Cornus Racemosa, tree form cultivar ‘Cuyahoga’)</td>
<td>15ft</td>
</tr>
<tr>
<td>Hawthorn (Crataegus, cultivar crusgalli-inermis)</td>
<td>20ft</td>
</tr>
<tr>
<td>Crabapple (Malus, cultivars American Spirit, Red Jewel, Sentinel)</td>
<td>18ft</td>
</tr>
<tr>
<td>Crabapple (Malus, cultivars Adams, Adirondack, American Salute, Sugar Tyme)</td>
<td>20ft</td>
</tr>
<tr>
<td>Crabapple (Malus, cultivars Bob White, Donald Wyman, Prairifire, Purple Prince, Red Barron)</td>
<td>22ft</td>
</tr>
</tbody>
</table>

(2) Medium-Small Trees and Approved Tree-like Shrubs (25-35 ft mature height):

<table>
<thead>
<tr>
<th>Species</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trident Maple (Acer buergeranum)</td>
<td>30ft</td>
</tr>
<tr>
<td>Amur Maple (Acer ginnala, cultivars ‘Beethoven, Mozart’)</td>
<td>25ft</td>
</tr>
<tr>
<td>Tatarian Maple (Acer tataricum)</td>
<td>25ft</td>
</tr>
<tr>
<td>Serviceberry (Amelianchier, cultivars ‘Autumn Brilliance, Reflection, Robin Hill’)</td>
<td>25ft</td>
</tr>
<tr>
<td>Serviceberry (Amelianchier, cultivar ‘Cumulus, Princess Diana, Traditional’)</td>
<td>30ft</td>
</tr>
<tr>
<td>Kousa Dogwood (Cornus kousa, tree form cultivars ‘Prophet, Rutgers Hybrid Celestial and Constellation’)</td>
<td>25ft</td>
</tr>
</tbody>
</table>
Kousa Dogwood (*Cornus kousa, tree form cultivars ‘Galilean, Milky Way’) 30ft
Hawthorn (*Crataegus, cultivar ‘Ohio Pioneer’) 25ft
Hawthorn (*Crataegus, cultivars ‘Winter King, Sentry’) 30ft
Crabapple (*Malus, cultivars ‘Harvest Gold, zumi calocarpa’) 25ft
Crabapple (*Malus, cultivar ‘Spring Snow’) 30ft
Cherry (*Prunus, cultivar ‘Snow Goose’) 25ft
Tree Lilac (*Syringa reticulata, cultivar ‘Summer Snow’) 25ft
Tree Lilac (*Syringa reticulata, cultivars ‘Ivory Silk, Regent’) 30ft

(Medium Trees (35-50 ft mature height):

American Hornbeam (*Carpinus caroliniana)
European Hornbeam (*Carpinus betulus)
Redspire callery Pear or Aristocrat callery pear (*Pyrus calleryiana, cultivar ‘Redspire, Aristocrat’)
Imperial Honeylocust (*Gleditsia Triacanthos inermis*)

(Large Trees (50 or more ft mature height):

Red Maple (*Acer Rubrum*)
Sugar Maple (*Acer saccharum*)
Native Oaks (*Quercus spp.: Northern Red Oak, White Oak, Scarlet Oak, Black Oak, Pin Oak, Swamp White Oak, etc.*)
English Oak (*Quercus robur*)
Honeylocust (*Gleditsia Triacanthos inermis, cultivars ‘Skyline, Shademaster’*)
Ginko (*Ginko biloba, male plants only*)
Zelkova (*Zelkova serrata, cultivar ‘Green Vase’*)
Little Leaf Linden (*Tilia cordata, cultivar ‘Greenspire’*)
Black Gum (*Nyssa sylvatica*)
Turkish Filbert (*Corylus colurna*)
Dawn Redwood (*Metasequoia glyptostroboides*)

(b) The following list constitutes the officially prohibited species of street trees in White Haven, Pennsylvania. This list consists of trees known for poor form, structural inferiority, susceptibility to insect and disease, and/or status as a Pennsylvania State invasive species.

Tree of Heaven (*Ailanthus altissima*)
Poplars (*Populus spp.*)
Silver Maple (*Acer saccharinum*)
Ash Species (*Fraxinus spp.*)
Princess Tree (*Paulownia tomentosa*)
Ginko-female trees (*Ginko biloba*)
NOTE: This section replaces the previous section, Ord. No. 6-1992, 12/11/1992, Sec. I (6), which had a smaller approved species list. The new section also added a prohibited species list. The section was recommended and proposed by the Shade Tree Commission.

§107. Planting Requirements.

(a) Street trees may be planted no closer together than thirty (30) feet.

(b) The distance trees may be planted from curbs or curblines and sidewalks will be no closer than two (2) feet.

(c) No street tree shall be planted closer than thirty-five (35) feet from any street corner, measuring from the point of the nearest intersection, curb or curbline. No street tree shall be planted closer than ten (10) feet from any fireplug.

(d) No street tree other than those species listed in Section 106(a) above may be planted under or within ten (10) lateral feet of any overhead utility wire or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. No. 6-1992, 12/11/1992, Sec. I (7))

§108. Public Tree Care.

(a) The Borough shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The Borough may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which, by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pest.

(c) This Section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said tree is in accordance with Section 106 and Section 109 of this Ordinance.

(Ord. No. 6-1992, 12/11/1992, Sec. I (8))

§109. Tree Topping. It shall be unlawful as a normal practice for any person, firm or Borough department to top any street tree, park tree or other tree on public property. “Topping” is defined as the severe cutting back of limbs to stubs larger than two (2) inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are
impractical may be exempted from this Ordinance at the determination of the Shade Tree Commission. (Ord. No. 6-1992, 12/11/1992, Sec. I (9))

§110. Pruning; Corner Clearance.

(a) Every owner of any tree overhanging any street or right-of-way within the Borough shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, disease or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The Borough shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign, or does not provide a clear space of eight (8) feet above the street or six (6) feet above the sidewalk.

(b) The Shade Tree Commission will notify, in writing, the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Borough shall have the authority to remove such trees and assess the cost of removal on the owners of said property.

(c) The Borough shall cause thirty (30) days, written notice of the assessment to be given to the owners, said notice stating the exact amount of the assessment and the time and place of payment. If payment in full is not made within said 30-day notice period, a claim may be filed and collected as provided by law.

(Ord. No. 6-1992, 12/11/1992, Sec. I (10))

§111. Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground to that the top of the stump shall not project above the surface of the ground.

(Ord. No. 6-1992, 12/11/1992, Sec. I (11))

§112. Interference with Commission. It shall be unlawful for any person to prevent, delay or interfere with the Shade Tree Commission, or any of its agent, while engaging in and about the planting, cultivation, mulching, pruning spraying or removing or any street trees, park trees or trees on private grounds, as authorized in this Ordinance.

(Ord. No. 6-1992, 12/11/1992, Sec. I (12))

§113. Bond required for Arborists; Insurance. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the Borough without first showing evidence of liability insurance in the minimum amounts of Fifty Thousand ($50,000.00) Dollars for bodily injury and One
Hundred Thousand ($100,000.00) Dollars for property damage indemnifying the Borough for any person injured or damage resulting from the pursuit of such endeavors as herein described. The Borough may also require the purchase of a bond for public service endeavors to ensure proper pruning, treating or removal of trees.

(Ord. No. 6-1992, 12/11/1992, Sec. I (13))

Editorial Note: Removed License and added Bond.

§114. Review of Commission by Borough Council. The Borough Council shall have the right to review the conduct, acts and decisions of the Shade Tree Commission.

(Ord. No. 6-1992, 12/11/1992, Sec. I (14))

§115. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

(Ord. No. 6-1992, 12/11/1992, Sec. I (15))

§116. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§117. Violations and Penalties. Any person violating any provision of this Ordinance shall be, upon conviction or plea of guilt, subject to a fine not to exceed Six Hundred ($600.00) Dollars, or in default of the fine a term of imprisonment for a term not to exceed thirty (30) days. Each day the violation continues shall constitute a separate offense. In addition, the Borough may seek reimbursement of the costs of prosecution, including court costs, attorney fees, and the full replacement costs when the damage is beyond recovery or kills a street tree, or repair and maintenance costs when the damage is such that a tree may be recovered.
Part 2

Regulation of Planting and Maintaining Trees along Public Ways

§201. Definitions. The word “person,” as used in this ordinance, shall mean and include any natural person, partnership, association, firm or corporation. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§202. Restrictions on Planting and Growing of Certain Trees. It shall be unlawful for any person to plant, maintain or allow any designated prohibited species, as listed in Part 1, Section 106(b) of this part, within the lines of any street, alley or sidewalk in the Borough.

§203. Clearance above Street and Sidewalk. Every owner of property in the Borough shall be required to keep limbs and branches of all trees growing upon such property or along the street sidewalk, curb or alley abutting upon such property so that no part of such limbs or branches or of the foliage growing thereupon, shall have a clearance of less than six (6) feet above the surface of the sidewalk or of less than eight (8) feet above the street.

§204. Removal and Trimming of Trees. It shall be the responsibility of property owners in the Borough to conform to the requirements of this Ordinance as to trees upon property owned by them, or along street, alley and sidewalks abutting upon such property, and upon notice from the designated official, to remove any tree or trees growing in violation of this Ordinance, and to trim or cut the branches or limbs of trees required by this Ordinance hereof. Any person failing to comply with any such notice, within the time limit stated therein, shall be guilty of a violation of this ordinance, and following the expiration of such time limit, the Borough shall have the authority to cause the work required by such notice to be done by the municipality or under contract therewith, and to collect the cost of such work, with an additional amount of ten percent (10%) from such property owner in default.

§205. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§206. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§207. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars ($600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Each day the violation continues shall constitute a separate offense.
ZONING ORDINANCE
WHITE HAVEN BOROUGH
Luzerne County, Pennsylvania

ADOPTED: March 3 of 2012

Prepared By:
Donald G. Karpowich, Esq.
85 Drasher Road, Drums, PA 18222

This ordinance is to be enacted, ordained, adopted and approved by White Haven Borough Council, on this 27th day of August, 2012. This Ordinance shall take effect immediately upon its adoption.

ATTEST:

WHITE HAVEN BOROUGH COUNCIL:

SECRETARY

APPROVED BY THE MAYOR THIS 27TH DAY OF AUGUST, 2012

MAYOR
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CHAPTER 29

ZONING

Part 1
General Provisions

§101. Short Title. This Ordinance shall be known and cited as “The White Haven Borough Zoning Ordinance of 2012”.

§102. Application. No building, structure or land shall be used or occupied and no building, sign or other structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance. However, this part shall not require any change to any building, structure or use legally existing at the effective date of this Ordinance, or any amendment to this Ordinance; or to any building, structure or use planned and construction started in compliance with existing laws prior to the effective date of this Ordinance, or any amendment to this Ordinance, and completed within a one (1) year period after the effective date of this Ordinance, or any amendment to this Ordinance, except as to lawfully terminated non-conforming uses.

§103. Purposes. This Ordinance is enacted for the following purposes:

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

   (b) To prevent one or more of the following: overcrowding of land; blight, danger and congestion in travel and transportation; loss of health, life or property from fire, flood, panic or other dangers.

   (c) To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that this Ordinance shall not be deemed invalid for the failure to provide any other specified dwelling type.
To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

§104. Statement of Community Development Objectives. This Ordinance is based on the “Comprehensive Plan for the Borough of White Haven”, as prepared and subsequently amended by the Planning Commission, and adopted by Borough Council. That comprehensive plan establishes the community development objectives which are adopted and made a part of this Ordinance.

§105. Interpretation and Validity.

(a) Interpretation. When interpreting the provisions of this Ordinance the following rules shall apply:

(1) In interpreting the language of the provisions of this Ordinance to determine the extent of the restriction upon the use of land, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the landowner and against any implied extension of the restriction.

(2) In the interpretation and application, the provisions of this Ordinance are the minimum requirements for the promotion of the public health, safety, welfare and morals.

(3) Except as limited under Section 105(a) (1) above, in the event that any of the provisions of this Ordinance conflict with another provision of this Ordinance or any other local, state or federal ordinance, law statute or regulation, the most restrictive shall apply.

(4) The provisions in the White Haven Borough Subdivision and Land Development Ordinance (SALDO) concerned with varying design standards shall not be considered to be in conflict with the provisions of this Ordinance.

(b) Validity. The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

(c) Repealer. All other existing ordinances or parts of ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are repealed.

(d) Severability. The provisions of this Ordinance shall be severable, and if any of its provisions shall be found to be unconstitutional, unlawful, ineffective, or
invalid, by any Court of competent jurisdiction such decision of the court shall not affect or impair the remaining sections or provisions of this Ordinance. It is hereby declared to be the intention of the Borough Council that this Ordinance would have been adopted if such unconstitutional, unlawful, ineffective or invalid provision had not been included therein.

(e) Procedural Defects. Any allegation that this Ordinance or any amendment thereto has been enacted in a procedurally defective manner shall be appealed as provided by state law and must be filed no more than 30 days after the intended effective date of this Ordinance or any amended thereto.

§106. Effective Date. This Ordinance shall become effective immediately upon its date of enactment as set forth in Section 107 below.


WHITE HAVEN BOROUGH COUNCIL:

ATTEST:

______________________________            BY: ______________________________
SECRETARY                             PRESIDENT

______________________________
MAYOR
Part 2
Definitions

§201. Rules of Ordinance Construction. Unless the context clearly provides otherwise, the following words and terms shall be interpreted as follows:

(a) Words used in the present tense shall include the future tense.

(b) The word “person” includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship, or individual.

(c) The words “used” or “occupied” as applied to any land, structure or building include the words intended, arranged, or designed to be used or occupied.

(d) The word “building” includes “part thereof” and “structure”, and the word “structure” includes “part thereof” and “building”.

(e) The word “lot” includes “plot”, “parcel” and “property”.

(f) The word “shall” is always mandatory, the word “must” is always a mandatory condition, and the word “may” or “should” means something is recommended or encouraged.

(g) The singular number includes the plural, and the plural the singular.

(h) Words imparting the masculine gender includes the feminine as well.

(i) The word “street” includes “road”, “highway”, and “lane”.

(j) Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined or interpreted differently within Part 2, Section 202 below.

§202. Definition of Terms. When used in this Ordinance, the following words, terms and phrases shall have the meaning indicated herein:

“Abandon” or “Abandonment” means the voluntary termination of a use or activity for a period in excess of one year or without the intent to resume the use or activity.

“Abut” or “Abutting” means a lot having a common or shared lot line with a contiguous lot, or being separated by a street, waterway, right-of-way, or easement. This term includes the words “adjacent” and “adjoining” and vice versa.

“Access” means a way of gaining access to and from a property or providing ingress, egress, and regress to a property.
“Accessory Structure” means a structure not attached to, but located on the same lot as the principal structure, which is used to serve a purpose customarily incidental to and subordinate to the use of the principal structure. Residential accessory structures include such things as sheds, garages, carports, swimming pools and non-commercial satellite antenna dishes.

“Accessory Use” means a use customarily incidental and subordinate to the principal use or principal structure and located on the same lot as the principal use or structure.

“Act 13” means Act 13 of 2012 (H.B. 1950), P.L. 87, § 1, approved February 14, 2012, 58 Pa.C.S. § 2301 et seq., which is also known as the Unconventional Gas Well Impact Fee Act, as well as any amendments thereto and regulations promulgated thereunder.

“Active Solar Energy” (Photovoltaic or Thermal) captures the sun’s energy in order to store or convert it to thermal or electric power. In active solar energy systems, there is an active and intentional collection and redirection of energy that requires external mechanical power. Photovoltaic Solar Energy is used to transform the sun’s energy to generate electricity for both grid-tied and off-grid systems. Thermal Solar Energy is used to generate heat for hot water, cooking, heating, melting, steam engines, etc.

“Active System” is a solar heating or cooling system that requires external mechanical power.

“Adult Uses” includes adult bookstores, adult entertainment, adult massage parlors, and adult movie theaters.

“Adult Bookstore” means an establishment where 10% or more of the total retail floor area is occupied by books, magazines, periodicals, photographs, films, motion pictures, video cassettes, slides, instruments, devices, or paraphernalia that has a clear emphasis on depicting or describing explicit sexual activities or specified anatomical areas.

“Adult Entertainment” means live entertainment where persons performing expose specified anatomical areas or display, simulate or carry out explicit sexual activities.

“Adult Massage Parlor” means a private or semi-private establishment where a massage is performed for some form of consideration on a person with the use of one’s hand or a mechanical device. This term does not include any type of massage therapy or treatment performed by a licensed medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state, or any accessory use to a permitted athletic or health club, educational facility, or similar establishment.
“Adult Movie Theater” means a use where persons expose specified anatomical areas or display, simulate or carry out explicit sexual activities on film, motion pictures, videos, slides, or other forms of reproducing images that have an emphasis on depicting explicit sexual activities or specified anatomical areas.

“Agricultural Use” means the use of land for agricultural purposes, including farming crops or trees, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry, and the necessary accessory uses for farm homes and packing, treating or storing the product; provided, however that the operation of any accessory uses are secondary to that of normal agricultural activities, and provided further that the use does not include commercial poultry or hog farms, fur farms, or fertilizer plants.

“Agri-tourism” means an activity or operation that is agriculturally based and brings in visitors to a farm or ranch, including buying produce direct from a farm stand, navigating a corn maze, picking fruit, feeding animals or staying at a B & B on a farm.

“Airport” means an area used for the landing and taking-off of motorized aircraft carrying either people or cargo, whether public or private.

“Alley” means a public or private way affording secondary means of access to abutting property.

“Alterations” includes any change, addition, extension, enlargement, replacement or movement of a building or structure.

“Ambient Noise Level” means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location except for those sources related to oil and gas drilling, production, and compression, constituting the normal or existing level of environmental noise at a given location.

“Animal Cemetery” means a place where four or more animals, either agricultural or domesticated, are buried or cremated. This term includes crematories, mortuaries and mausoleums.

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

“Animal Kennel” means a place where six or more domesticated animals are kept, housed, boarded or trained.

“Apartment Buildings or Townhouses” means a residential building or structure constructed as a single entity containing no more than six single-family residential dwelling units.
“Applicant” means a landowner, or an authorized agent of the landowner, who has filed a zoning application with the Zoning Officer.

“Assisted Living Facilities, Nursing Homes or Personal Care Homes” means a coordinated and centrally managed rental housing licensed by the state where the resident or occupant stays overnight. This use includes self-contained units designed to provide supportive services (such as meals, transportation, housekeeping, linen and organized social activities) and to accommodate relatively independent lifestyles. The term does not include adult care facilities where the person does not stay overnight and is only being cared for or supervised during daytime hours on a temporary basis.

“Associated Facility or Associated Facilities” means a land use whose principle purpose involves the distribution, processing, storage, handling, or other related and supporting activities necessary for a Special Utility, not including administrative activities or offices.

“Auto, Boat and Mobile or Manufactured Home Sales” includes the use of any building, structure or land, other than a street, for the outdoor or indoor display, sale or rental of motor vehicles, recreational vehicles, boats, motorcycles, trucks, farm equipment and machinery, trailers, mobile/modular homes or the like.

“Automotive Parts Store” means a use that involves the sale of automotive parts and accessories for installation by someone other than the seller of the automotive part or accessory.

“Automobile Repair Garage” means a place where gasoline is sold or dispensed and where repairs, installations and improvements are made to motor vehicles, motorcycles, recreational vehicles or boats. This use includes the installation of parts and accessories; the performing of mechanical repairs, bodywork, painting, welding and the rebuilding of any motor vehicle, motorcycle, recreational vehicle, boat, or trailer. The term trailer as used in this definition refers to a device used to transport, pull or haul a vehicle.

“Automobile Service Station” means a place where gasoline or other petroleum products are sold and light automotive maintenance activities are performed such as oil changes, tune-ups, tire changing and minor repairs.

“Base Flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”).

“Base Flood Evaluation” (BFE) means the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
“Basement” means a portion of a building that is partly or completely below grade or underground. A basement constitutes a story if the vertical distance from the average adjoining grade to the ceiling is five feet or greater.

“Bed and Breakfast” means an owner-occupied dwelling containing not more than three bed and breakfast units which are rented on a nightly basis for periods of not more than two weeks. Dining and other facilities are not to be open to the public, but to be used exclusively for the residents and registered guests. Such rooms are not to have separate utilities, provisions for cooking or dormitories for sleeping and are to be located within the principle structure.

“Board” means anybody granted jurisdiction under this Ordinance or the provisions of the Pennsylvania Municipalities Planning Code, Act 247 as amended, to render final adjudications or decisions.

“Boarding House or Rooming House” means a building or structure or any portion thereof containing residential rooming units rented or leased for a minimum of five days, with the occupants of said units being non-transient, and utilizing the location as their domicile.

“Borough” means the political subdivision or municipality of White Haven Borough, Luzerne County, Pennsylvania.

“Borough Council” means the elected officials of Borough Council, White Haven Borough, Luzerne County, Pennsylvania.

“Borough Engineer” means the professional engineer licensed in the state of Pennsylvania, and appointed by White Haven Borough Council to provide professional engineering services for the Borough.

“Borough Solicitor” means the attorney appointed by White Haven Borough Council to provide legal services for the Borough, and may include a law firm as opposed to an individual.

“Buffer Area or Buffer Yard” means a strip of land area intended to separate one use from another use, wherein no structure, building, parking area, loading space, or storage may be located.

“Building” means any roofed structure intended for shelter, housing or enclosure of persons, animals, or property.

Building, Accessory: means a subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.
Building Area or Coverage: means the total area of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

Building Height: means the vertical distance of a building measured from the average elevation of the proposed finished grade within 10 feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

Building Width: means the horizontal measurement between two vertical structural walls that are generally parallel of one building, measured in one direction that is most closely parallel to the required lot width.

Building for purposes of an oil or gas well operation means an occupied structure with walls and roof with which persons live or customarily work. The term shall not include a barn, shed or other storage building.

“Care Facilities, Child or Adult” means a use involving the supervised care during the day time on a temporary basis for children or adults, either within a home or outside of a home, wherein the use is licensed or regulated by the state. This use does not include care of children or adults by their own relatives, or care of not more than three children or two adults in addition to children or adults who are relatives of the caregiver provided that the use is not regulated or required to be licensed by the state.

“Carport” means any roofed accessory structure opened on one or more sides and used for the storage of private and personal motor vehicles.

“Car Wash” means a place where motor vehicles are cleaned, washed or waxed either by hand or by use of a machine.

“Cellar” means any portion of a building located partly underground and having more than one-half of its height below the average adjoining grade, no portion of which is to be counted as a story for the purposes of the maximum height regulations set forth in this Ordinance.

“Cemetery” means a place where humans are buried or cremated. This term includes crematories, mortuaries and mausoleums.

“Certificate of Zoning Compliance” means an official document issued by the Zoning Officer after he or she has inspected a structure, building, sign, land or land use for which a zoning permit is required to ascertain compliance with this Ordinance. This certificate authorizes the use or occupancy of land, buildings and structures.

“Change of Use” means any use, which differs from the previous use of a building, structure or land.
“Clear Sight Triangle” means an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the “corner” so as not to interfere with traffic visibility across the corner.

“Club” means a building primarily used for non-profit social, educational, or recreational purposes. A club does not include any use where services or goods are sold primarily as a business or for a profit.

“Collector” is a device that collects solar radiation and converts it into heat.

“Collector Street” means a public street or road which, in addition to providing access to abutting lots, intercepts local streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial streets.

“Commercial Use” means an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

“Common Open Space” means a parcel or parcels of land, or a combination of land and water, located within a development and designed and intended for the use or enjoyment of residents of that development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

“Communications Antenna” means a device used for transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation, omni-directional or whip antennas, directional and panel antennas owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition does not include private residence mounted satellite dishes, or television antennas or amateur radio equipment including without limitation citizen band radio antennas.

“Communications Equipment Building” means an unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 square feet.

“Communications Tower” means a structure other than a building, such as a monopole, self-supporting, or guyed tower, designed and used to support communication antennas.

“Communications Tower, Height” means the vertical distance measured from the ground level to the highest point on a communication tower, including antennas mounted on the tower.
“Community Center” means a use existing solely to provide religious, fraternal, social and recreational programs and activities to the public or a designated group of persons in a community.

“Concentrating Solar” uses mirrors to either focus sunlight on photovoltaic (PV) array or to heat water or other fluids to create steam that drives turbine generators. Concentrating solar is more complicated to build and manage, involves moving parts and is more often used in larger-scale, centralized systems at commercial energy plants that tend to serve upwards of tens of thousands of homes and businesses.

“Conditional Use” means a use conditionally permitted in a particular zoning district with approval of Borough Council in accordance with the applicable provisions of this Ordinance. The use will find classification under the heading Conditional Uses for the zoning district in which the property is located.

“Convenience Store” means any retail establishment offering for sale prepackage food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

“County Planning Commission” means the Luzerne County Planning Commission.

“Daytime” means the timeframe between 7:00 a.m. to 6:00 p.m.

“Decision” means a final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Pennsylvania Municipalities Planning Code, Act 247, as amended, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions are appealable to the Court of Common Pleas of Luzerne County and the judicial district wherein the municipality lies.

“Decommissioning” means the process of terminating operation and completely removing related buildings, structures, foundations, access roads, and equipment.

“Density” means the total number of dwelling units permitted on a lot.

“Department” in terms of an oil and gas well operation refers to the Department of Environmental Protection of the Commonwealth.

“Derrick” means any portable framework, tower mast and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.

“Determination” means a final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the governing body; zoning hearing board; or planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans.
under the subdivision and land development ordinance or planned residential development provisions. Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

“Development” means any man-made improvements to land such as the construction, reconstruction, conversion, alteration, relocation, or enlargement of any building or structure, including mining, dredging, filling, grading, paving, excavating, drilling, earth disturbance and any use of land.

“Domestic Animals or Domesticated Animals” means a dog, cat, rabbit, gerbil, lizard, parrot or other domestic animal normally or ordinarily kept in or permitted to be at large in the dwelling of its owner. This term does not include such animals such as bears, goats, wolves, wolf-dog hybrids, cows, horses, venomous snakes, hogs, or sheep.

“Drilling” means digging or boring a new well for the purpose of exploring for, developing or producing oil and/or gas, water, or any other fluid or substance into the earth.

“Drilling Equipment” means the derrick, together with all parts of an apparatus to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

“Drilling pad” means the area of surface operations surrounding the surface location of a well or wells. Such area shall not include an access road to the drilling pad.

“Driveways” means every entrance or exit used by vehicular traffic to or from properties abutting a road. The term includes existing and proposed streets, lanes, alleys, courts and ways.

“Dwelling” means a building or structure used for residential purposes. This term does not include hotels, motels, boarding houses, rooming houses or other uses intended for transient occupancy.

“Dwelling Types” includes the following types of dwelling units:

Apartment, Townhouses or Multi-Family: means a residential building containing three or more dwelling units each accommodating one family.

Single-Family: means a residential building containing one dwelling unit to accommodate one family.

Two Family: means a residential building containing two dwelling units each accommodating one family, and entirely separated from each other by vertical walls or horizontal floors, excluding possible common access to enter, or exit the building or for access to a common cellar or basement.
“Dwelling Unit” means a building or portion thereof arranged or designed so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein.

“Easement” means a right of use over property of another, or an interest which one has in the land of another. This right may be limited or unlimited depending on the grant. For purposes of this Ordinance, an easement should be commonly referred to as and considered a “street”, for all intent and purposes.

“Emergency Responders” means the police department serving the Borough, the Pennsylvania State Police, all fire companies serving the Borough, all EMT and ambulance companies serving the Borough, and the Borough and Luzerne County Emergency Management offices.

“Environmental Acts” means all statutes enacted by the Commonwealth relating to the protection of the environment or the protection of public health, safety and welfare, that are administered and enforced by the department or by another Commonwealth agency, including an independent agency, and all Federal statutes relating to the protection of the environment, to the extent those statutes regulate oil and gas operations.

“Essential Services” means the erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, of underground or overhead gas, electric, steam or water transmission systems, collection, communication, supply or disposal systems and their essential buildings, excluding Communications Towers and Communication Antennas, as defined in this Ordinance, and including what is commonly known as Public Utility Facilities.

“Explicit Sexual Activities” includes the fondling or erotic touching of human genitals, private parts, buttocks, anus, or breasts; simulated or actual sexual acts, such as intercourse, oral copulation, sodomy and masturbation.

“Exploration” means geologic or geophysical activities, including seismic surveys, related to the search for oil, gas or other hydrocarbons.

“Facility Owner” means the entity or entities having an equity interest in the Solar Energy System, including their respective successors and assigns.

“Family” means one or more of the following: (1) persons related by blood, marriage or adoption; (2) children placed into or receiving foster care; and (3) unrelated persons not in excess of four, who are occupying a single dwelling unit as a common housekeeping unit. A family also expressly includes numbers of unrelated persons under a Group Home provided that the home is licensed.
“Fence or Wall” means a man-made structure constructed, erected or installed as a line of demarcation or barrier made of wood, chain-link metal with vinyl or plastic inserts, vinyl, masonry, concrete or cinderblock.

“Fracking” means the process of injecting water, customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.

“Frontage” means a property line the length of which abuts a street or proposed street.

“Garage, Private” means a building or structure for the private use of the owner or occupant of a principal building situated on the same lot for the storage of motor vehicles used or owned by the owner or occupant with no commercial facilities for mechanical service or repair.

“Gas” means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

“Gas Well” means any well drilled, to be drilled, or used for the intended or actual production of natural gas or oil.

“Governing Body” means the Council of White Haven Borough, Luzerne County, Pennsylvania.

“Grid-Tied Solar System” is one in which solar power is connected to the power grid.

“Group Home” means a dwelling unit occupied by a maximum of six unrelated persons (excluding staff members) who function as a common household unit operated by a responsible individual, family or organization with a program to provide supportive living arrangements to persons with special needs due to age, infirmity, emotional, mental, developmental or physical disability or handicap. The term does not include a Treatment Center or Clinic.

“Hazardous Substances or Materials” includes any material or substance that is stored or used in quantities that may cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions.
“Heliport” means an area, either at ground level or elevated on a structure, licensed and approved for the loading, takeoff and landing of helicopters, and including accessory facilities such as parking, waiting or stand-by areas, fueling and maintenance.

“Highway Occupancy Permit” means either a state or local permit depending on the street, which when issued authorizes access from a parcel of land onto a state highway, or Borough or county road/street. The issuing authority for a state highway is Penn Dot; a county road is Luzerne County Road and Bridge; and a Borough road is White Haven Borough.

"Historic structure" is any structure that is:

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

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

- Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

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

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

  or

  Directly by the Secretary of the Interior in states without approved programs.

“Home Occupation” means an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit or permitted accessory structure and which does not alter the residential characteristics of the neighborhood.

“Hospital” means a use involving the diagnosis, treatment or other medical care of humans that may include providing 24 hour emergency service; overnight care of patients; medical research and training; and rehabilitation to patients. This term does not include a medical use basically comprised of professional offices for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, as it is considered a professional office for purposes of this Ordinance.
“Hotel or Motel” means a building offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

“Hybrid Solar Energy System” is a system that uses both active and passive methods in its operation.

“Impervious Surface or Coverage” means the covering of lot area by man-made structures. Impervious surfaces include buildings, structures, parking areas, streets, sidewalks, driveways and similar vehicular and pedestrian right-of-ways.

“Industrial, Heavy” means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. This use includes asphalt plants, concrete batch plants and other industrial manufacturing uses not considered light industrial.

“Industrial, Light” means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. This use includes the manufacturing, repairing and assembling of clothes, shoes, furniture and home appliances.

“Institutional Use” means a use or structure which provides medical, educational, social, health or rehabilitative services to more than eight unrelated persons on a regular basis. This term is synonymous with a Treatment Center for purposes of this Ordinance.

“Junk” any discarded or salvageable material or abandoned physical objects, including scrap metal, paper, machinery, equipment, rags, glass, appliances, furniture, rubber, motor vehicles, and any parts of motor vehicles.

“Junk Vehicle” includes any vehicle unable to move under its own power, and containing one or more physical defects or characteristics such as a broken windshield, missing or flat tires, missing body parts, body parts that are rusted or have sharp edges, exposed battery acid, leaking gasoline or fluids, and other defects, or characteristics which could threaten the public health, safety and welfare.

“Junk Yard, Automobile Dismantling Plant or Automobile Salvage Yards” the term includes the dismantling or wrecking of automobiles, motor vehicles, trailers, or parts thereof. The term also includes the storage or accumulation of any junk or of two or more motor vehicles, which are incapable of operating under their own power and from which parts have been or are to be removed for reuse or sale. The term includes automobile wrecking yards and automobile salvage yards.
“Landowner, Property Owner, or Owner” means the legal or beneficial owner or owners of land including the holder of an option or Contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he or she is authorized under the lease to exercise the rights of the landowner, or other person having a propriety or equitable interest in land.

“Leased Unit” is a building or a portion of a building or lot or a portion of a lot which is leased or rented within a subdivision or land development.

“Local Street” means a public street or road designed to provide access to abutting lots and to discourage through traffic.

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

“Lot Area” means the area contained within the lot lines of a lot excluding right-of-ways and permanent drainage easements.

“Lot, Corner” means a lot abutting on and at the intersection of two or more streets.

"Lot Coverage” means a percentage which when multiplied by the lot area will determine the permitted building area for all roofed structures and buildings.

“Lot Depth” means the average horizontal distance between the front and rear lot lines.

“Lot Line” means a line dividing one lot from another lot or from a street or alley.

“Lot Line, Front” means a property line the length of which abuts a street or proposed street.

“Lot Line, Rear” means a line dividing one lot from another lot or from a street or alley.

“Lot Line, Side” means any lot other than a front or rear lot line.

“Lot of Record” means any lot which exists as shown or described upon a plat or deed and recorded in the Office of the Record of Deeds of Luzerne County, Pennsylvania.

“Lot Width” means the horizontal distance between side lot lines measured along the required front yard and set back line.
“Major Energy System” means a system that is not a minor energy system such as, but not limited to a Solar Farm.

“Manufactured Home” means a structure, transportable in one or more sections, which is built upon a chassis and is designed for permanent occupancy when placed on a foundation and connected to the required utilities. The term includes mobile homes, and trailers, but does not include recreational and other similar vehicles.

“Manufactured Home Park” means a parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes or mobile homes.

“Medical Clinic” means a health care facility primarily devoted to the care and treatment of outpatients, but also providing health, educational, social and rehabilitative services. This use includes outpatient clinics, methadone clinics and ambulatory care clinics, but does not include a hospital, prison or group home.

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

“Minor Energy System” means a system for the production of electrical energy that (a) uses as its fuel solar power (b) is located on the power beneficiary’s premises (c) is intended primarily to offset part or all of the beneficiary’s requirements for electricity and (d) is secondary to the beneficiary’s use of the premises for other lawful purpose(s).

“Mobile Home” means a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. The term includes manufactured homes, and trailers, but does not include recreational and other similar vehicles.

“Municipality” means White Haven Borough, Luzerne County, Pennsylvania.

“Natural Gas” means a fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes natural gas from oil fields known as associated gas or casing head gas, natural gas fields known as nonassociated gas, coal beds, shale beds and other formations. The term does not include coal bed methane.
“Natural Gas Compressor Station” means a facility designed and constructed to compress natural gas that originates from a gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field. The term includes one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

“Natural Gas Processing Plant” -- A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.

“Net Metering” is an electricity policy for consumers who own renewable energy facilities, such as solar power, for selling electricity back to the grid.

“Night Club” means a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted, including the term “cabaret”. This term does not include any adult use.

“Nighttime” means the timeframe between 6:00 p.m. to 7:00 a.m.

“Nonconcentrating Solar” does not involve the use of mirrors or other means to directly focus the sun’s light.

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

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

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

“No-impact Home Based Business” means a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether
vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with the residential use.

“Normal Maintenance and Repair” includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. “Normal Repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction.

“Off Grid Solar System” means relying totally on an individual (stand alone) system of solar panels, charge controller, batteries, and inverter to generate electricity.

“Office” means a building or portion of a building, wherein services are performed involving administrative, professional, clerical or similar type operations.

“Oil” means hydrocarbons in liquid form at standard temperature of 60 degrees Fahrenheit and pressure 14.7 PSIA. This term is also referred to as petroleum.

“Oil and gas operation(s)” includes the following:

1. Well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associated with an oil or gas well of any depth;
2. Water and other fluid storage or impoundment areas used exclusively for oil and gas operations;
3. Construction, installation, use, maintenance and repair of:
   a. Oil and gas pipelines;
   b. Natural gas compressor stations; and
   c. Natural gas processing plants or facilities performing equivalent functions.
4. Construction, installation, use, maintenance and repair of all equipment directly associated with activities specified in paragraphs (1), (2) and (3) above, to the extent that:
   a. The equipment is necessarily located at or immediately adjacent to a well site, impoundment area, oil and gas pipeline, natural gas compressor station or natural gas processing plant; and
   b. The activities are authorized and permitted under the authority of a federal or commonwealth agency.

“Oil or Gas Well” means a pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal. This term shall include an “unconventional gas well.”
“Oil or Gas Well Site” means the location where facilities, structures, materials and equipment whether temporary or permanent, necessary for the preparation, construction, drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.

“Operator” in the context of a Solar Energy System is the entity responsible for the day-to-day operation and maintenance of the Solar Energy System. In the context of a gas or oil well, the operator is the person designated as the well operator on the permit application or well registration.

“Outdoor recreation facility” means a public or private recreation facility, except one located on a residential lot, which includes soccer fields, basketball courts, baseball fields, golf courses, tennis courts, playgrounds, and other similar sports facilities that are used for leisure and recreation purposes.

“Owner” in the context of oil or gas operations means a person, who owns, manages, leases, controls or possesses an oil or gas well.

“Parking Space, Off-Street” means an unobstructed space or area other than a street or alley that is located completely within the property lines of one’s property and permanently reserved and maintained for the parking of a motor vehicle.

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

“Peak Watt” is the maximum rated output of a photovoltaic device, such as a solar cell or array, under standardized test conditions, usually 1000 watts per square meter (0.645 watts per square inch) of sunlight with other conditions, such as temperature specified. Typical rating conditions are 68°F (20ºC), ambient air temperature, and 1 m/s (6.2 x 10-3 miles/sec.) wind speed.

“Permit” is a document issued by the Borough Zoning Officer authorizing the applicant to undertake certain activities.

“Permitted use” means a use which, upon submission of written zoning application and receipt of a permit issued by a zoning officer is authorized to be conducted since it is in compliance with this Ordinance.

“Permit Granting Authority” is the Zoning Hearing Board or Zoning Officer of White Haven Borough.

“Person” includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship or individual.

“Personal Services” includes any enterprise conducted for gain not classified elsewhere within this Ordinance, which primarily offers legitimate services to the general
public, such as a beauty or barbershop, beauty salon, shoe, wood carving, or watch repair and related activities.

“Photovoltaic Array” is a linked collection of photovoltaic modules, which are in turn made of multiple interconnected solar cells. The cells convert solar energy into direct current electricity via the photovoltaic effect. The power that one module can produce is seldom enough to meet requirements of a home or business, so the modules are linked together to form an array.

“Place of Worship” means a building used for religious services, including churches, synagogues, mosques, monasteries, seminaries and shrines. The term also includes accessory religious missions and other charitable events.

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

“Principal Use, Structure or Building” means the main or primary use of land or structures, as distinguished from or opposed to a secondary or accessory use or structure.

“Prison” means a correctional institution for the detention of juveniles or adults. The term includes half-ways houses and similar penal institutions whether providing mandatory rehabilitation or counseling services.

“Private” means something owned, operated and supported by private persons, rather than by government, and not available for public use.

“Professional Consultant” includes professionals such as land use planners, attorneys, engineers and architects. An office of a professional consultant is a professional office.

“Public” means something owned, operated and supported by persons, the community or government for the use and benefit of the general public.

“Public Communications Transmission Tower” means a structure, owned and operated by a public utility electrical company regulated by the Pennsylvania Public Utility Commission (PUC), designed and used to support overhead electricity transmission lines.

“Public Hearing” means a formal meeting held pursuant to public notice by the Governing Body or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.
“Public Meeting” means a forum held pursuant to public notice under the Sunshine Act.

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

“Public Utilities” see essential services.

“Public Uses” includes public schools, recreational uses and administrative, cultural and service buildings excluding public land, buildings and structures primarily devoted to the storage and maintenance of equipment and materials.

“PV Array” is a photovoltaic array.

“Quasi-Public” means entities that operate like (and are sometimes organized as) private organizations and are run by a board of directors or similar arrangement whose members are appointed by government entities.

“Recreation” means the offering of leisure-time activities to unrelated persons.

“Recreation, Commercial” means recreational facilities operated as a business and open to the public for a fee or admission.

“Recreation, Indoor” means a building or structure used principally for recreational activities, such as a bowling alley, billiard hall, roller skating or ice skating rink or similar facilities. This term does not include outdoor recreational activities, adult uses or restaurants/taverns.

“Recreation, Outdoor” means the use of land or structures for recreational activities such as golf, amusement parks, shooting ranges, campgrounds, race tracks and similar activities.

“Recreation, Private” means recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests. This term includes common open areas or space used for permitted accessory recreational purposes within a private development or planned residential development, wherein the use is limited to residents of the development and their guests.

“Recreation, Public” means recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.
“Re-drill” means re-completion of an existing well by deepening or sidetrack operations extending more than one hundred fifty (150’) feet from the existing well bore.

“Restaurant” means an establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or dispensable containers, and where the customer consumes these foods while seated at tables or counters located within a building. This use may include drive through facilities where permitted by this Ordinance.

“Re-working” means re-completion or re-entry of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than one hundred fifty (150’) feet from the existing well bore, or replacement of well liners or casings.

“Right-of-Way” means an area or strip of land reserved for use as a street, railroad, public utility, private utility or other special uses.

“Road” means that portion of a road improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

“Satellite Dish Antenna, Noncommercial” means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device is intended to be used to transmit or receive radio or electromagnetic waves between terrestrial and orbital based uses. This term includes satellite earth stations, television reception antenna, satellite microwave antennas and the like.

“Sewer Central” means a sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Protection, in which sewage is carried from a building on an individual lot by a system of pipes to a central treatment and disposal facility. This term includes a public sewer systems that are owned and operated by the municipality or municipal authority.

“Sewer On-Lot” means a sanitary sewer service, approved by the Pennsylvania Department of Environmental Protection by way of a permit issued by the Sewage Enforcement Officer, which does not meet the definition of a “Central Sewer”.

“School” means any facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools. This term does not include care facilities.

“Screening” means the method by which a view of one lot from another adjacent lot is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, shrubs, trees, natural forest, berms and other features, as provided for and required in this Ordinance.
“Self-Storage Facilities” means a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to individuals for the storage of the individual’s personal property.

“Setback” means the required minimum horizontal distance between the building line and the related front, side or rear property line.

“Shopping Center” means a building or group of units within a single building, which is comprised of commercial, retail or service oriented businesses.

“Sign” means a structure or device designed or intended to advertise, identify or convey information to the public.

“Sign Area” includes the entire area within a continuous perimeter, wherein lettering, wording, numerals, designs and symbols are located, except for any structural supports that do not contain any lettering, wording, numerals, designs or symbols. Signs may contain several signs provided that they share the same structure or structural supports with the total sign area being the area of a common geometric form that could encompass all signs. The sign area for a sign either attached or painted on a wall or building is the smallest rectangle that includes all of the letters, words, numbers, designs and symbols.

“Sign Construction Types” includes the following:

Ground Sign: A sign not supported by structures or supports or upon the ground not attached or dependent for support from any building.

Wall Sign: A sign attached, painted or affixed directly to the exterior wall of a principal structure, or dependent upon a principal building for support, which does not project more than two feet from the building structure.

Projecting Sign: A sign which is affixed to a building and extends beyond the line of such building more than two feet from the building structure.

“Sign Types” includes the following:

Sign, Billboard: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the lot where the sign is located.

Sign, Business: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development
which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.

Sign, Construction: A temporary sign erected on property where construction is taking place, indicating the name of the person performing the construction, architectural, engineering, or inspection activities or services.

Sign, Directional or Informational: A sign containing no advertising material and limited to information and directions necessary for visitors entering or exiting a property, including signs marking entrances and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas.

Signs, Event: A temporary sign advertising public or private not-for profit events such as picnics, carnivals, bazaars, game nights, arts and crafts and similar types of funding raising events.

Sign, Institutional: A sign which identifies a use pertaining to a school, church, hospital, governmental service or other institution of a similar public or semi-public nature.

Sign, Name Plate/Identification: A sign which communicates the name address of an occupant or a permitted home occupation upon the lot on which the sign is located.

Signs, Political: A temporary sign identifying one or more candidates running for a public office, which describes the office for which he or she is running, the party or the issues.

Sign, Real Estate: A temporary sign which advertises the sale, rental or development of the premises upon which the sign is located.

Signs, Shopping Center: A group of not less than five contiguous and different non-residential uses originally planned and developed as a single unit having a total floor area of not less than 20,000 square feet.

“Social Hall” means a building or portion thereof used for social gatherings, which is usually operated by a nonprofit or civic organization or association.

“Solar Access” refers to a building’s ability to receive the benefits of the sun’s rays without obstruction from neighboring buildings, structures, plants, and trees.

“Solar Array” is a ground mounted solar collection system consisting of a linked series of photovoltaic modules.
“Solar Collection System” is a panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

“Solar Easement” is an easement of direct sunlight which may be acquired over the land of another by express grant or covenant.

“Solar Energy” means radiant energy (direct, diffuse, and reflected) received from the sun.

“Solar Energy Device” (active and passive) Solar energy device means the equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, or other applications that would otherwise require the use of conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource.

“Solar Energy System” means any solar collector or other solar energy device or any structural design feature whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating or for electricity that may be mounted on a building or on the ground and is not the primary use of the property.

“Solar Farm or Farms” means a facility or area of land principally used to convert solar radiation to electricity. The term does not include devices or combinations of devices which rely upon direct sunlight as an energy source for a minor energy system.

“Solar Radiation (Solar Energy)” is electromagnetic radiation emitted by the sun.

“Solar Site Orientation” refers to situating a building to optimize exposure to the winter sun for passive heating and lighting, while reducing this exposure to the summer sun to minimize overheating.

“Solar Trees” are arrays that, as the name implies, mimic the look of trees, provide shade, and at night can function as street lights.

“Solar Water Heating” refers to using the sun directly to heat water in homes and swimming pools.

“Solid Waste Facilities” means any facility operated under the laws of the Commonwealth of Pennsylvania governing the management, processing, incinerating, treatment, storage, transfer or disposal of solid waste. Solid waste includes garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities,
excluding hazardous substances, material and waste. This term includes Solid Waste Landfills, Solid Waste Transfer Facilities, and Solid Waste Energy Facilities.

“Special Exception” means a use only permitted in a particular zoning district by approval of the Zoning Hearing Board in accordance with the applicable provisions of this Ordinance. The use will find classification under the heading Special Exception Uses for the zoning district in which the property is located.

“Special Utility or Special Utilities” means electrical transmission lines exceeding one-hundred fifteen thousand volts or electrical substations.

“Specified Anatomical Areas” includes less than completely and opaquely covered human genitals, private parts, buttocks, anus, or female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Stand-Alone Wind Mill” means not more than one (1) wind mill constructed primarily for residential, agricultural or for a single commercial or industrial building used to generate electricity for a principal structure for which it is intended to be accessory.

“Storage, Contractor” includes any lot or structure, or part thereof, used to store materials used by a contractor in a construction trade such as the building, construction or installation of a street, or structure. This term includes construction contractors, excavators, paving contractors, landscapers, and other similar construction trades.

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

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

“Street” includes any right-of-way, avenue, boulevard, road, highway, alley, freeway, land, viaduct and any other ways used or intended to be used by vehicular or pedestrian traffic whether public or private or dedicated or undedicated.

“Structural Alterations” includes any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

“Structure” means any man-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.
“Tavern” means an establishment licensed to sell alcoholic beverages to be consumed on the premises. The primary business is the sale of alcoholic beverages, and the use may include the secondary sale of prepared food items. The term also includes a bar.

“Temporary” means for the purpose of this Ordinance, a continuous period of time not to exceed six (6) months.

“Trucking Facility” means the use of a structure, building or land, which consists of a storage area, management and dispatch office, and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

“Truck Service Center, Repair and Storage” means a use that primarily involves providing fuel and repairs to tractor-trailers, including incidental storage of tractor-trailers.

“Unconventional formation” -- A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

“Unconventional gas well” -- A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation. The term shall also include wells that utilize hydraulic fracture treatment through a single vertical well bore and produce natural gas in quantities greater than that of a stripper well.

“Utility Corridor” means a lineal transportation route utilized by one or more Special Utilities.

“Variance” means a waiver or modification of this Ordinance that may only be granted by the Zoning Hearing Board.

“Warehouse and Distribution” means one or more buildings or structures used primarily for storage, transfer and distribution of products, goods and materials. This term does not include trucking facilities.

“Water, Central” means a public or privately owned system, under the jurisdiction of the Pennsylvania Public Utility Commission, designed to transmit potable water from a common source to users, and in compliance with the governing standards of all applicable State agencies. Any water supply system not deemed central water is deemed to be an on-site water supply system.
“Well, Oil or Gas” means a hole or holes, bore or bores, to any horizon, formation, or strata used for the purpose of producing oil, gas, liquid hydrocarbon, brine water, or sulphur water, or used as an injection well for secondary recovery, disposal or production of oil, gas, or other hydrocarbons from the earth.

“Well Pad” means the area of surface operations immediately surrounding the surface location of a well or wells. Such area shall not include an access road to the well pad and shall not include the entirety of an oil or gas well site.

“Well, Storage” means a well that is used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.

“Wetlands” means those areas that are inundated or saturated by the surface or ground water at frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes wetland areas listed in the State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

“Wind Farm” means a facility where two or more wind mills are located and are used for the generation of electricity which is used on-site for commercial purposes or which is sold on the open market. This definition shall not include a stand-alone wind mill.

“Wind Mill” includes a machine that operates on the energy generated by a series of blades or slates rotated by the wind, or a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any. When used in the context of this Ordinance, Wind Mills shall include both a Stand-Alone Wind Mill and Wind Farm.

“Wind Mill Height” means the vertical distance measured from the surface of the tower foundation at grade to the highest point of the structure, including blades. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

“Yard” means a prescribed open and unobstructed space or area on a lot that is located between a building or structure and the nearest lot line. A yard is also referred to as a setback.

Yard, Front: means a space or area extending the full width of the lot between a principal or accessory building or structure and the front lot line
and measured perpendicular to the building or structure at the closest point to the front lot line. This area is bounded by the street line, front setback line and side property lines.

Yard, Rear: means a space or area extending the full width of the lot between the structure or building and the rear lot line and measured perpendicular to the building or structure at the closest point to the rear lot line. This area is bounded by the rear property line, rear setback line and side lot lines.

Yard, Sides: means a space or area extending from the front yard to the rear yard between a building or structure and the side lot line measured perpendicular from the side lot line to the closest point of the building or structure. This area is bounded by side property lines, and side, front and rear setback lines.

“Zoning District” means those portions of White Haven Borough depicted upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

“Zoning Hearing Board” means the White Haven Borough Zoning Hearing Board of Luzerne County, Pennsylvania.

“Zoning Map” means the map containing the zoning districts of White Haven Borough, Luzerne County, Pennsylvania. This map is also referred to as the Official Zoning Map of White Haven Borough.

“Zoning Officer” means the person appointed by the White Haven Borough Board of Council to administer and enforce the provisions of the White Haven Borough Zoning Ordinance, and any amendments thereto.
Part 3
Establishments of Zoning Districts

§301. Zoning District Classifications. For the purposes of this Ordinance, the Borough is hereby divided into the following zoning districts:

(a) “R-1” Residential, Single-Family
(b) “R-2” Residential, Two-Family
(c) “R-3” Residential, Multi-Family
(d) “C-1” Commercial, Neighborhood
(e) “C-2” Commercial, Downtown
(f) “C-3” Commercial, General
(g) “I-1” Industrial, Light
(h) “I-2” Industrial, Heavy
(i) “O-1” Open Space

§302. Zoning Map. The boundaries of the zoning districts listed in Section 301 above are delineated on the official “White Haven Borough Zoning Map”, which together with all explanatory matter thereon, is hereby made a part of this Ordinance by reference thereto, together with all future notations, references and amendments.

§303. Interpretation of Zoning District Boundaries. If uncertainty exists as to the boundary of any zoning district shown on the White Haven Borough Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the following guidelines:

(a) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Zoning Map.

(b) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines and does not scale more than 10 feet there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

(c) If after applying the guidelines set forth above uncertainty still exists as to
the boundary of any zoning district, the Zoning Officer shall determine the location of such boundary with the use of a survey of the property or area of land in question prepared by a registered surveyor the cost of which is to be paid by the person who is questioning or contesting the boundary location.

§ 304. Lots Divided by Zoning District Boundaries. If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing 75% or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining 25% or less of the lot so divided.
Part 4
Basic District Regulations

§401. Zoning District Dimensional Regulations. Except as otherwise provided in this Ordinance or by state or local law or regulation, each building, structure and use shall be governed by the dimensional regulations listed in the following table:

<table>
<thead>
<tr>
<th>Regulation By District</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>C-1</th>
<th>C-2</th>
<th>C-3</th>
<th>I-1</th>
<th>I-2</th>
<th>O-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>30 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>15 ft.</td>
<td>25 ft.</td>
<td>35 ft.</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>25 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>30 ft.</td>
</tr>
<tr>
<td>Each Side Yard</td>
<td>(a)</td>
<td>(a)</td>
<td>(a)</td>
<td>8 ft.</td>
<td>4 ft.</td>
<td>8 ft.</td>
<td>(a)</td>
<td>15 ft.</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
<td>10,000(b)</td>
<td>6,000(b)</td>
<td>8,000(b)</td>
<td>5,000(b)</td>
<td>6,000(b)</td>
<td>5,000(b)</td>
<td>5,000(b)</td>
<td>10,000(b)</td>
<td>20,000(b)</td>
</tr>
<tr>
<td>Width</td>
<td>80 ft.</td>
<td>50 ft.</td>
<td>70 ft.</td>
<td>30 ft.</td>
<td>40 ft.</td>
<td>40 ft.</td>
<td>40 ft.</td>
<td>40 ft.</td>
<td>110 ft.</td>
</tr>
<tr>
<td>Depth</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>100 ft.</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>2.5 stories or 35 ft.(c)</td>
<td>2.5 stories or 35 ft.(c)</td>
<td>2.5 stories or 35 ft.(c)</td>
<td>2.5 stories or 35 ft.(c)</td>
<td>2.5 stories or 35 ft.(c)</td>
<td>3 stories or 40 ft.(c)</td>
<td>4 stories or 60 ft.(c)</td>
<td>4 stories or 60 ft.(c)</td>
<td>2.5 stories or 35 ft.(c)</td>
</tr>
<tr>
<td>Maximum Percentage of Impervious Coverage</td>
<td>30%</td>
<td>40%</td>
<td>40%</td>
<td>40%</td>
<td>80%</td>
<td>45%</td>
<td>60%</td>
<td>50%</td>
<td>20%</td>
</tr>
</tbody>
</table>

(a) Each side yard shall be ten (10) percent of the width of the property; however, in no event shall a side yard be less than five (5) feet.
(b) Minimum Lot Size for lots not serviced by public sewer is 21,780 square feet for R-1, R-2, R-3, C-1, C-2, C-3 and O-1; and 43,560 square feet for I-1 and I-2. Minimum lot size is in square feet.
(c) Maximum building height shall be the number of stories or feet, whichever is less.

§402. Permitted Uses, Special Exception Uses and Conditional Uses.

(a) Permitted Uses. A use indicated or listed under any of the zoning districts or zoning overlay districts as a “Permitted Use” is a use permitted by right within that zoning district, thereby not necessitating Zoning Hearing Board approval, but only a determination by the Zoning Officer, and the issuance of a zoning permit.

(b) Special Exception Uses. A use indicated or listed under any of the zoning or overlay districts as a “Special Exception Use” is a use for which the Zoning Hearing Board decides whether to permit or deny in accordance with this Ordinance and the Zoning Officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
Conditional Uses. A use indicated or listed under any of the zoning or overlay districts as a “Conditional Use” is a use for which Borough Council decides whether to permit or deny in accordance with this Ordinance and the Zoning Officer has no discretion to approve any permit where the use is classified as requiring conditional use approval.


(a) Permitted Uses.

1. Single-family dwelling units
2. No-impact home based businesses
3. Public utilities or essential services (excluding storage yards and Buildings)
4. Customary accessory uses

(b) Special Exception Uses.

1. Two-family dwelling units
2. Home occupations
3. Public uses
4. Recreation, public
5. Care facilities (child and adult)
6. Places of worship
7. Bed and Breakfast
8. Customary accessory uses

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device

§404. “R-2” Residential, Two-Family.

(a) Permitted Uses.

1. Single-family dwelling units
2. Two-family dwelling units
3. No-impact home based businesses
4. Public utilities or essential services (excluding storage yards and buildings)
5. Customary accessory uses

(b) Special Exception Uses.

1. Multi-family dwelling units (including apartments and townhouses)
2. Home occupations
3. Public uses
4. Recreation, public
5. Care facilities (child and adult)
6. Places of worship
7. Private nonprofit social halls, clubs, or lodges
8. Group homes
9. Bed and Breakfast
10. Customary accessory uses

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device

§405. “R-3” Residential, Multi-Family.

(a) Permitted Uses.

1. Single-family dwelling units
2. Two-family dwelling units
3. Multi-family dwelling units (including apartments and townhouses)
4. No-impact home based businesses
5. Public utilities or essential services (excluding storage yards and buildings)
6. Customary accessory uses

(b) Special Exception Uses.

1. Home occupations
2. Public uses
3. Recreation, public
4. Care facilities (child and adult)
5. Places of worship
6. Private nonprofit social halls, clubs, or lodges
7. Group homes
8. Bed and Breakfast
9. Customary accessory uses

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device

§406. “C-1” Commercial, Neighborhood.

(a) Permitted Uses.
1. All local or service businesses listed in §407(a)
2. Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products which is clearly incidental to a permitted retail or service business and where goods so produced or processed are to be sold exclusively on the premises
3. Building and plumbing supply stores
4. Gas or oil service stations
5. Customary accessory uses

(b) Special Exception Uses.

1. All local or service businesses listed in §407(b)
2. Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products which is clearly incidental to a retail or service business permitted by special exception and where goods so produced or processed are to be sold exclusively on the premises
3. Drive-in and drive-thru businesses and restaurants
4. Public Utility Buildings
5. Customary accessory uses

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device


(a) Permitted Uses.

1. Retail business establishments:
   - Agricultural products
   - Artist, music, hobby supplies and crafts
   - Automotive parts store
   - Beverage package store
   - Building or plumbing supplies
   - Convenience stores (without gasoline)
   - Dry goods and variety stores
   - Food and drugs
   - Garden Supplies
   - Hardware and paint
   - Household goods and appliance stores
   - Newspapers, books and stationery
   - Office furniture, equipment and supplies
   - Pets and pet supplies
   - Photo supplies
2. Customer service establishments:

Appliance repair shops
Banks, credit unions and similar financial uses
Bus and taxi passenger stations
Dry cleaning and laundry
Funeral homes
Night Club (excluding adult uses)
Personal services
Professional consultants, general and commercial offices
Public uses
Public utility facilities and essential services (excluding storage yards)
Restaurants (excluding drive-in or drive-thru)
Taverns

(b) Special Exception Uses.

1. Medical, chiropractor, dental and similar offices
2. Schools (private)
3. Single-family dwelling units accessory to a business
4. Customary Accessory Uses

§408. “C-3” Commercial, General.

(a) Permitted Uses.

1. Retail business establishments:

Agricultural products
Artist, music, hobby supplies and crafts
Automotive, boat and manufactured/mobile home sales
Automotive parts store
Beverage package store
Building or plumbing supplies
Dry goods and variety stores
Food and drugs
Garden Supplies
Hardware and paint
Household goods and appliance stores
Newspapers, books and stationery
Office furniture, equipment and supplies
Pets and pet supplies
Photo supplies
Specialty and gift items
Sporting goods

2. Customer service establishments:

   Appliance repair shops
   Assisted living facilities
   Automotive repair garage and sales
   Banks, credit unions and similar financial uses
   Bus and taxi passenger stations
   Car wash
   Care facilities
   Forestry and timber harvesting
   Funeral homes
   Gasoline service stations
   Gymnasiums and physical health salons
   Health clubs and spas
   Hotels and motels
   Personal services
   Professional consultants, general and commercial offices
   Public uses
   Public utility facilities and essential services (excluding storage yards)
   Restaurants
   Taverns

3. Recreation and entertainment establishments:

   Commercial Indoor Recreational Facilities
   Nonprofit Social Halls, Clubs and Community Centers
   Recreational Facilities, Private
   Recreational Facilities, Public

4. Dwelling units attached to a business
5. Customary accessory uses

(b) Special Exception Uses.

1. Animal Hospitals/Kennels
2. Boarding or rooming houses and single family dwelling unit
3. Cemeteries
4. Communications towers
5. Convenience stores
6. Contractor’s yard and shops
7. Dry cleaners and laundry
8. Gasoline Service Stations
9. Hospitals
10. Medical, chiropractor, dental and similar offices
11. Storage, Outdoor
12. Self-storage facilities
13. Customary accessory uses
14. Night Club (excluding adult uses)
15. School

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device

§409. “I-1” Industrial, Light.

(a) Permitted Uses.

1. Automotive repair garages
2. Automotive sales
3. Print shops
4. Equipment sales and repairs
5. Industry, light
6. Lumberyards, forestry and timber harvesting
7. Contractors’ storage yards, shops, store fronts and offices
8. Storage, Outdoor
9. Warehouse and distribution facilities
10. Self-storage facilities
11. Public utility facilities
12. Public uses
13. Gasoline service stations and tire re-treading and recapping
14. Building and plumbing supplies
15. Oil service stations
16. Customary accessory uses

(b) Special Exception Uses.

1. Communications towers
2. Trucking facilities
3. Research and testing facilities
4. Stone and monument works
5. Outdoor Recreation – Private, commercial or public
6. Customary accessory uses

(c) Conditional Uses.

1. Stand-Alone Wind Mill or Minor Solar Energy System/Device

(a) Permitted Uses.

1. Automotive repair garages
2. Automotive sales
3. Print shops
4. Equipment sales and repairs
5. Industry, light
6. Lumberyards
7. Contractors’ storage yards, shops, store fronts and offices
8. Storage, outdoor
9. Warehouse and distribution facilities
10. Self-storage facilities
11. Public utility facilities
12. Public uses
13. Gasoline service stations and tire re-treading and recapping
14. Forestry and timber harvesting
15. Processing Plants
16. Compressor Stations
17. Oil and Gas Operations and Impoundments
18. Customary accessory uses

(b) Special Exception Uses.

1. Bulk Fuel Storage
2. Communications towers
3. Staging areas
4. Transfer stations
5. Automotive wrecking yards
6. Junk yards
7. Industry, heavy
8. Sewage treatment facilities
9. Trucking facilities
10. Adult uses
11. Research and testing facilities
12. Stone and monument works
13. Outdoor Recreation – Private, commercial or public
14. Prisons
15. Medical clinics
16. Customary accessory uses

(c) Conditional Uses.

1. Mineral Extraction
2. Solid Waste Facilities
4. Any other use not provided for in this Ordinance.

§411. “O-1” Open Space.

(a) Permitted Uses.

1. Agricultural uses excluding animal husbandry
2. No-impact home based businesses
3. Forestry and timber harvesting including all tree farming
4. Greenhouses and nurseries
5. State game lands and state parks
6. Single-family dwellings units (including mobile homes on permanent foundations)
7. Two-family dwelling units
8. Social halls, hunting clubs and lodges
9. Public utility or essential services (excluding storage yards)
10. Planned Residential Developments
11. Customary accessory uses

(b) Special Exception Uses.

1. Agricultural uses including agri-tourism and animal husbandry
2. Bed and breakfast
3. Home occupations
4. Storage, Outdoor
5. Communication towers
6. Cemeteries
7. Group homes
8. Recreation, public or private/indoor or outdoor
9. Commercial indoor recreation
10. Animal kennels and hospitals
11. Care facilities
12. Communications towers
13. Fish Hatcheries
14. Manufactured mobile home parks
15. School (public or private)
16. Customary Accessory Uses

(c) Conditional Uses.

1. Water Withdrawal
2. Wind Farm or Major Solar Energy System/Devices
Part 5
Nonconforming Lots, Uses and Structures

§501. Nonconforming Lots of Record.

(a) Lots of Record. A structure may be built on a lot of record existing as of the effective date of this Ordinance even though the lot does not meet the minimum requirements for lot area or lot width as established for the zoning district in which the lot is located provided that the structure conforms to all other dimensional requirements for that zoning district including the minimum front, side and rear yard setbacks.

(b) Contiguous Lots of Record. If two or more contiguous lots of record in single ownership exist as of the effective date of this Ordinance and those lots do not meet the required minimum lot area or lot width, then the lots shall be considered to be an undivided parcel and no portion of that parcel shall be used or sold in a manner which further diminishes compliance with the dimensional requirements of the zoning district in which such parcel is located.

§502. Continuation of Nonconformities. Except as otherwise provided in this Ordinance, any lawful, or prior approved, nonconforming use, structure or lot which fails to conform to the requirements of this Ordinance shall be permitted to continue.

§503. Change of Nonconforming Uses. Upon application for a special exception, the Zoning Hearing Board may approve the change from one nonconforming use to another nonconforming use provided that all of the following provisions are met:

(a) No structural alterations are made.

(b) The proposed use is less objectionable than the existing nonconforming use.

(c) The proposed use is more compatible with the character of the neighborhood than the existing nonconforming use.

(d) There is no increase in vehicular and pedestrian traffic and the proposed use will not cause any traffic problems, hazards, or congestion.

(e) There is no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.

(f) There will be no increase threat to the public health, safety, welfare or morals.

(g) There will be no further depreciation in market value to other properties in the neighborhood.
(h) There is no public danger by the use of hazardous substances or explosive materials.

(i) There is no outdoor storage unless the existing nonconforming use had outdoor storage and only then will outdoor storage be permitted provided that the outdoor storage is not hazardous, entirely enclosed, and located in the rear yard.

(j) The general, specific and supplemental criteria for the granting of a special exception have been met.

(k) The nonconforming use shall not be changed to a nonconforming adult use.

(l) The hours of operation of the proposed use are not greater than the hours of operation of the existing nonconforming use.

§504. Enlargement or Expansion of Nonconforming Uses and Structures. Upon application for a special exception, the Zoning Hearing Board may approve the expansion or enlargement of a nonconforming use or structure provided that all of the following provisions are met:

(a) The expansion or enlargement must be confined to the lot on which it is located at the effective date of this Ordinance. No expansion or enlargement to an adjoining lot shall be permitted, even if such lot was in the same ownership at the effective date of this Ordinance.

(b) The enlargement will not replace a conforming use.

(c) The nonconforming structure or use, after enlargement, shall comply with all of the bulk, dimensional, parking and loading requirements applicable to the zoning district in which the structure or use is located.

(d) The total of all such enlargements or expansions shall not exceed an additional 35% of the floor area or land area as it existed at the time the structure or use first became nonconforming.

(e) The expansion may not create any new dimensional nonconformities or further increase existing dimensional nonconformities.

(f) The appearance of the structure must be harmonious with the neighborhood. This feature includes but is not limited to: landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance in good condition of all improvements, and open spaces.

(g) Buffers and screens consisting of fences, walls, plantings or open space
shall be provided as may be necessary to adequately obstruct the view of neighboring
properties.

(h) The general, specific and supplemental criteria for the granting of a special
exception have been met.

§505. Restoration of Nonconforming Uses and Structures. If any nonconforming
use or structure is destroyed by reason of windstorm, fire, explosion or other similar act,
or by any act of God or public enemy, then such structure may be rebuilt, restored,
repaired or reused even though not in conformity with the provisions of this Ordinance.

§506. Abandonment.

(a) A nonconforming use shall be terminated and not permitted to resume if
that nonconforming use is abandoned.

(b) A nonconforming use shall be considered abandoned when there occurs an
intend by the owner of the nonconforming use to abandon that use, or cessation of the use
or activity has been shown by an overt act, apparent act, or failure to act on the part of the
user or owner of the nonconforming use for a period in excess of 18 months measured
from the date of cessation or discontinuance. The use shall not thereafter be reinstated
and the structure, if any, shall not be reoccupied or used except in conformity with this
Ordinance.

(c) A user and owner of a nonconformity shall file a written request with the
Zoning Officer to discontinue a nonconformity for a period of more than 18 months
whenever the user and owner of the nonconformity intends on resuming the
nonconformity sometime after that 18 month period. The request shall include the
reasons for discontinuing the nonconformity and the anticipated date that such
nonconformity will resume. The nonconformity shall be deemed abandoned for a failure
to file such a written request with the Zoning Officer.

§507. Reversion. No nonconformity shall, if once changed to conform to this Ordinance
or changed to another nonconformity, be changed back again to a nonconformity or the
previous nonconformity.

§508. Change of Ownership. The ownership property classified as nonconforming may
be transferred without affecting the right to continue that nonconforming use provided
that the nonconforming use was not changed or abandoned under §503 or §506 of this
Ordinance.

§509. Registration of Nonconforming Uses, Structures and Lots.

(a) The Zoning Officer shall prepare and maintain an accurate list of all
nonconformities. A copy of the list shall be given to the Zoning Hearing Board and
Planning Commission.
(b) The Zoning Officer or the property owner may initiate the process of registering a nonconformity.

(c) The Zoning Officer shall issue a Certificate of Nonconformity where the Zoning Officer finds through credible and reliable evidence that the nonconformity, although not in compliance with all applicable requirements of the zoning district in which the property is located, is lawful.

(d) All forms for the issuance of a Certificate of Nonconformity shall be supplied by the Zoning Officer, and any documents relied upon by the Zoning Officer in issuing the Certificate of Nonconformity shall be attached to the Certificate.

(e) The fee for registering the Nonconformity shall be established by resolution of Borough Council.
Part 6
General Regulations

§601. Attached Accessory Structures. Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same dimensional requirements including such things as minimum front, side and rear yard setbacks, lot coverage and other lot requirements applicable to the principal structure.

§602. Unattached Accessory Structures.

(a) Non-Residential. When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback and side yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than ten (10) feet from any rear yard lot line.

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

   (1) Maximum Height - One and one-half (1 ½) stories or fifteen (15) feet in height.

   (2) Distance from Side Lot Line - Not less than five (5) feet from the side lot line.

   (3) Distance from Rear Lot Line - Not less than five (5) feet from the rear lot line.

   (4) Distance from Principal Structure - Not less than ten (10) feet from a principal structure.

§603. Residential Units for Care of Relatives. The use of a separate residential dwelling unit within or attached to a single-family dwelling unit may not be considered a second principal use, but shall constitute a permitted accessory use provided that all of the following criteria are met:

(a) Not more than two persons may occupy the separate accessory residential dwelling unit who must be relatives of the persons occupying the principal residential dwelling unit.

(b) At least one of the residents of the separate accessory residential dwelling unit must need accommodations because of illness, infirmity, age or disability.

(c) The separate accessory residential dwelling unit must be designed and
constructed so that it may be reconverted into part of the principal residential dwelling unit within six (6) months of the relatives no longer residing within the unit. This shall be a condition of any permit issued by the Zoning Officer.

(d) The separate accessory residential dwelling unit shall be attached to the principal residential dwelling unit in such a way as not to detract from the residential characteristics of the neighborhood.

(e) One additional off-street parking space shall be required for the separate accessory residential dwelling unit unless the applicant can prove to the satisfaction of the Zoning Officer that the residents of the separate accessory residential dwelling unit do not drive an automobile.

§604. Swimming Pools. Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. All swimming pools, capable of containing water to a depth, at any point, in excess of 40 inches shall be enclosed in accordance with the following subsections:

(a) In-Ground Pools. The swimming pool, or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock.

(b) Above Ground Pools. An above ground swimming pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock, or in lieu of a fence, a barrier not less than four (4) feet in height. The fence or barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. Access into a pool which includes a deck shall also be secured by a gate with a lock. Pools without access from a deck, shall include removable or locking retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered a barrier. Decks which are attached to the pool may not project into any required yard setback for the pool.

(c) Setback Requirements.

(1) In the case of above ground swimming pools, no portion of the body of water in the pool shall be located closer than five (5’) feet from the sides and rear yard property lines and no portion of any walks or accessory pool appurtenances surrounding the body of water shall be closer than four (4’) feet to the side or rear property lines. Any above ground swimming pool whose body of water is closer than six (6) feet to a property line shall be shielded by a six (6) foot high privacy fence, hedge or other suitable visual obstruction which shall serve to screen the pool from the adjoining property. Such a privacy fence may also serve as the fence required to deter direct access to the body of water, except shrubbery.

(2) In the case of in-ground swimming pools, including any walks,
paved areas and accessory structures adjacent thereto, shall have a minimum setback of ten (10) feet from any rear or side yard lot line.

(d) Other Regulations. Swimming pools shall conform to all manufacturer recommendations and specifications and all other state and federal regulations.

§605. Structures Allowed in Yards and Open Areas. The following structures shall be permitted in required yards and shall not be subject to yard setback requirements or calculated as part of the maximum building coverage:

1. Lamp posts, walkways, sidewalks, driveways, retaining walls, fences, steps or landscaping.

2. Projecting architectural features such as bay windows, cornices, eaves, chimneys, window sills, or other similar architectural features provided that any such structure does not extend more than three (3) feet into any required yard setback, and may project into front yards not closer than ten (10) feet to the street right-of-way line.

3. Terraces, patios, outdoor fireplaces, outdoor furniture, or play ground equipment provided that these structures are not under roof, without walls or other form of enclosure and are located not less than three (3) feet to any lot line, and may project into front yards not closer than ten (10) feet to the street right-of-way line.

4. Stairways, balconies, canopies or handicap ramps provided that these types of structures are setback not less than five (5) feet from any lot line.

5. Noncommercial satellite dish antennas provided that they do not exceed fifteen (15) feet in height when erected in a residential zoning district.

6. Temporary construction trailers provided that they are used on the lot where construction is being conducted and only while construction is occurring.

§606. Exceptions to Height Limitations. The height limitations of this Ordinance shall not apply to the following structures or projections:

1. Structures such as chimneys, flagpoles and water towers.

2. Structures located on buildings above the roof level such as church
steeples, water tanks, cupolas, skylights and other accessory mechanical appurtenances provided that such structures do not cover more than 25% of the roof on which they are located.

(3) Parapet walls or cornices used solely for ornamental purposes if not in excess of five (5) feet.

§607. Exemption from Yard Requirement for the Enclosure of any Structure. In all zoning districts, any area of a pre-existing nonconforming roofed structure may be enclosed without meeting the yard setback requirements for the zoning district in which the property is located.

§608. Required Access. Every structure erected after the adoption of this Ordinance shall have access to or be located upon a lot adjacent to a public or private street.

§609. Visibility at Intersections, Streets and Private Driveways. A clear-sight triangle shall be provided at all street and driveway intersections. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of two and one-half (2 ½) feet and below ten (10) feet, measured from the centerline grade of intersecting streets and driveways.

(a) Street and Driveway Intersections. Available stopping sight distance shall be provided at all street and driveway intersections per state requirements.

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

§611. Fences and Walls. A fence or wall shall be permitted in any yard subject to the following requirements:

(a) Location. The posts or structural supports of a fence or wall may be located within the interior yard line to be enclosed so that the edge of the fence or wall is situated within or on the property line where it is being constructed. Walls and fences shall not be subject to any setback requirements.

(b) Height-Residential. Residential fences or walls shall have a maximum height of four (4) feet in a front yard and six (6) feet in height in any side or rear yards.

(c) Height-Non-residential. Fences or walls shall have a maximum height of six (6) feet in a front yard and eight (8) feet in height in any side or rear yards.

(d) Materials. All fences shall be constructed with industry recognized materials designed to provide a permanent enclosure. No barbed wire or other potentially injurious, hazardous or offensive material shall be used as fencing or attached to any wall or fence.
§612. Exemption-Public Utilities. With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of the party to the proceedings.

§613. Road or Highway Occupancy Permit. Zoning approval for any proposed use or the development of a property, which includes the construction or relocation of a driveway onto a Borough road, Luzerne County road or State Legislative Route or highway shall be conditioned upon the applicant or property owner obtaining a permit from the applicable governmental agency.

§614. Mobile Homes.

(a) Replacement of Non-conforming Mobile Homes. The removal of a mobile home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted without Zoning Hearing Board approval provided that the new mobile home is in conformity with all applicable setback, area, and bulk requirements for the zoning district in which it is located. In addition, the replacement of the mobile home shall be done in accordance with the construction standards set forth in Section 614(b) below.

(b) Construction Standards. A mobile home shall be set on a concrete frost-free footer with skirting made of brick, block or concrete wall, and any towing tongues, wheels and axles shall be removed from the mobile home and the home must be secured with a safety strap or cable to the concrete footer or steel cross support. Only under these conditions shall a mobile home constitute a single-family residence. The specifications of the footer and its depth shall be as prescribed under the applicable building code.

(c) Commercial/Industrial Use of Mobile Homes. Mobile homes may be utilized for nonresidential purposes subject to the following:

(1) The proposed use is an approved use by right or special exception in the zoning district in which it is to be located.

(2) The mobile home is placed and anchored upon a permanent foundation.

(3) Prior to occupancy, the mobile home shall be connected to all necessary utilities, including water, sewer, gas and electrical service. The mobile home
shall contain sanitary facilities, including restroom facilities for employees, customers and clients.

(4) Mobile homes which are solely utilized for nonresidential purposes as temporary office space directly related to the construction of any building, structure or other facility shall be exempt from the above requirements. The Zoning Officer shall have the authority to issue a temporary zoning permit for such uses as warranted.

§615. Number of Principal Uses or Structures on a Lot. No more than one principal use or structure shall be permitted upon a lot without first obtaining special exception approval from the Zoning Hearing Board.

§616. Screens and Buffers. Screening and Buffering of Nonresidential Uses or Structures Adjoining a Residential District or Use. Except as otherwise provided for in this Ordinance, all nonresidential uses and structures that adjoin a residential district or residential use shall be screened by a fence or wall not less than six (6) feet in height and a planting strip not less than five (5) feet in depth, with shrubbery, plants or trees which are a minimum of three (3) feet in height at the time of planting. The planting strip must be planted in such a manner as to screen the view of the nonresidential use or structure from the residential district or use. This area must then be suitably landscaped and perpetually maintained at all times. No zoning permit is required for planting.

§617. Outdoor Lighting. All outdoor lighting on private or public residential, commercial, industrial, recreational or institutional property shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property (nuisance glare). No zoning permit is required for outdoor lighting.

§618. Composting. The composting of biodegradable vegetative material such as trees, shrubs, leaves and vegetable waste, which do not contain garbage or animal fats shall be permitted as an accessory use in all zoning districts provided that:

(a) The composting is conducted in such a manner as not to create any health, welfare or safety concerns.

(b) Any composting of manure shall be restricted to lots where an agricultural use is permitted, and the manure must be setback not less than one hundred (100) feet from a property line. The composting must also comply with the published manure management standards of the Pennsylvania State University Cooperative Extension Service.

(c) No zoning permit is required for composting.
§619. **Home Gardening, Nurseries and Greenhouses.** Home gardening and accessory structures used for nurseries or as greenhouses are permitted in residential areas, provided they are used by the residents for non commercial purposes and provided further that they shall not include the outdoor storage of equipment and supplies. No zoning permit is required for gardening or nurseries provided they have no structures.

§620. **Non-Commercial Satellite Dishes and Standard Antennas.** A non-commercial satellite dish or standard antenna including amateur television and radio antennas shall be permitted as an accessory use in all zoning districts provided that they are properly attached and secured to a structure at a height not to exceed three (3) feet.
Part 7
Parking and Loading Regulations

§701. Off-Street Parking.

(a) Size of Off-Street Parking Spaces. Each off-street parking space shall have an area of not less than 180 square feet, being 10 feet in width and 18 feet in length, exclusive of access drives or aisles appurtenant to the space and giving access to it.

(b) Required Spaces. Any structure, building or use of land hereafter constructed, erected, converted, or enlarged shall comply with the minimum off-street parking spaces as provided herein. Except in the C-2 Zoning District, if any structure, building or use of land contains more than one of the following classified uses, then required parking for each specific use shall be provided:

<table>
<thead>
<tr>
<th>TYPES OF USE</th>
<th>NO. OF PARKING SPACES REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family Structure:</td>
<td>One space for each dwelling unit.</td>
</tr>
<tr>
<td>Two-family Structure:</td>
<td>One space for each dwelling unit.</td>
</tr>
<tr>
<td>Multifamily Residential/</td>
<td>Two spaces for each dwelling unit.</td>
</tr>
<tr>
<td>Apartments/Townhouses:</td>
<td></td>
</tr>
<tr>
<td>Rooming or Boarding Homes or Bed and Breakfasts:</td>
<td>One space for each guest room plus one space for each owner and employee.</td>
</tr>
<tr>
<td>Home Occupation:</td>
<td>One space for home occupation and one space for the non-resident employee, excluding those required for the dwelling unit.</td>
</tr>
<tr>
<td>Churches/Places of Worship:</td>
<td>One space for every three seats.</td>
</tr>
<tr>
<td>Places of Public or Private Assembly:</td>
<td>One space for every three seats.</td>
</tr>
<tr>
<td>Schools, Elementary/Secondary:</td>
<td>One space for each staff member, plus one space for every 8 classroom seats for students who are 16 years of age or older.</td>
</tr>
<tr>
<td>College, Commercial, Business or Vocational Trade Schools:</td>
<td>One space for each staff and/or faculty member, plus one space for every four classroom seats.</td>
</tr>
<tr>
<td>Category</td>
<td>Description</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Care Facilities:</td>
<td>One space for each employee, plus one space for every three children or adults, based upon the maximum number of children which the facility is licensed to serve.</td>
</tr>
<tr>
<td>Assisted Living Facilities:</td>
<td>One space for every three beds, plus one space for each employee on the maximum working shift.</td>
</tr>
<tr>
<td>Professional or General Offices or Medical Clinics:</td>
<td>One space for each 200 square feet of gross floor area.</td>
</tr>
<tr>
<td>Social Halls, Clubs and Lodges:</td>
<td>One space for every 100 square feet of gross floor area.</td>
</tr>
<tr>
<td>Public Uses:</td>
<td>One space for every 100 square feet of gross floor area.</td>
</tr>
<tr>
<td>Public Utility Facilities:</td>
<td>Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one for each employee assigned to work at such facility.</td>
</tr>
<tr>
<td>Recreational Facilities:</td>
<td>One space for every 100 square feet of gross floor area.</td>
</tr>
<tr>
<td>Retail Businesses:</td>
<td>One space for every 150 square feet of gross floor area.</td>
</tr>
<tr>
<td>Restaurants:</td>
<td>One space for every three seats, plus two spaces every three employees based upon the maximum working shift.</td>
</tr>
<tr>
<td>Veterinary Clinic/Hospital:</td>
<td>Five spaces for every veterinarian or doctor.</td>
</tr>
<tr>
<td>Funeral Homes and Crematories:</td>
<td>One space for every 50 square feet of gross floor area.</td>
</tr>
<tr>
<td>Motels and Hotels:</td>
<td>One space for each unit for guest accommodations.</td>
</tr>
<tr>
<td>Drive-In Business:</td>
<td>One space for every 60 square feet of customer service area, plus two spaces every three employees based upon the maximum working shift.</td>
</tr>
</tbody>
</table>
Automobile, Repair/Gasoline/Wash/Sales:
One space for every 200 square feet of gross floor area, plus one space for each service or wash bay, gas pump.

Other Commercial Uses/Buildings:
One space for every 400 square feet of gross floor area.

Industrial Uses/Buildings Including Trucking Facilities and Warehousing:
One space for every 2,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.

(c) Fractions of a Space. When the required off-street parking computation results in any fraction, the fraction shall be construed to require another additional off-street parking space.

(d) Location of Off-Street Parking Areas. Off-street parking spaces for any type of use shall be located on the same lot as the principal use for which the accessory off-street parking spaces are required. Off-street parking spaces may also be permitted on an adjoining lot held under the same ownership provided that the lot to be used for off-street parking and the lot on which the principal use is located are in the same zoning district; and the lot to be used for off-street parking shall be no more than 300 feet to any lot line on which the principal structure is located.

(e) Location and Layout of Off-Street Parking Spaces. Off-street parking areas shall be permitted in any yard area. If the parking area is located in a side or front yard, then the off-street parking spaces shall be located not less than five feet to the nearest point of the property line. Any non-residential off-street parking area when abutting a residentially used property shall be located not less than 15 feet from the residential property and screening and buffering shall be provided under §616 of this Ordinance. All off-street parking areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out onto any public right-of-way.

(f) Paving of Off-Street Parking Areas. All required parking areas and parking spaces shall be paved with a concrete or bituminous paving material, or shall be surfaced so as to provide a durable, dustless and mud free surface.

(g) Handicap Parking Spaces. In addition to requirements of this Section 701, any person or business that owns, leases or operates a facility, which is open to the public or provides public accommodations including commercial facilities shall provide handicap parking spaces in accordance with state and federal laws and regulations.
§702. Off-Street Loading Spaces.

(a) Size of Off-Street Loading Spaces. Every off-street loading space shall be not less than 50 feet in depth, 12 feet in width and provide an overhead clearance of not less than 14 feet.

(b) Required Spaces. Off-street loading spaces must be provided for all commercial, industrial and other non-residential establishments and in no case shall a public right-of-way be used for the loading, unloading, or storage of any vehicles. Off-street loading spaces must be provided in accordance with the following schedule:

<table>
<thead>
<tr>
<th>TYPE:</th>
<th>MINIMUM SPACE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Establishments:</td>
<td>One space for every 10,000 square feet of gross floor area.</td>
</tr>
<tr>
<td>Industrial, Warehouse, Factory, Manufacturing:</td>
<td>One space for every 7,500 square feet of gross floor area.</td>
</tr>
<tr>
<td>Schools, Hospitals, Funeral Homes:</td>
<td>One for every 15,000 square feet of gross floor area.</td>
</tr>
</tbody>
</table>

(c) Location and Layout of Off-Street Loading Spaces. Off-street loading spaces shall not be permitted in any front yard area. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

(d) Paving of Off-Street Loading Spaces. All off-street loading areas and spaces shall be paved with a concrete or bituminous paving material, or shall be surfaced so as to provide a durable, dustless, and mud free surface.

§703. Access Drives.

(a) Size of Access Drives. There shall be adequate ingress or egress to all parking spaces and loading spaces by way of an access drive leading to the off-street parking and loading areas. Within ten feet of the street right-of-way line, access drive may not exceed 35 feet in width.

(b) Required Spaces. Access drives to off-street parking and loading areas shall be limited to well defined locations, unless otherwise provided under this Ordinance for a specific type of use. The number of access drives shall not exceed two for each zoning lot.
(c) Location and Layout of Off-Street Loading Spaces. Access drives shall be located and designed so as to prevent the blocking of vehicles entering or exiting the site; so as not to cross any street right-of-way; in such a manner that provides safe and adequate drainage; and to provide sight distances that do not obstruct one’s vision.

(d) Paving of Access Drives. All access drives shall be paved with a concrete or bituminous paving material, or shall be surfaced so as to provide a durable and dustless surface.

§704. Fire Lanes.

(a) An approved fire lane shall extend to within 150 feet of all portions of a commercial or industrial structure. Larger structures may require more than one approved fire lane as determined by recommendation of the White Haven Borough Planning Commission.

(b) All commercial and industrial structures shall have adequate access for fire department apparatus. All fire lanes shall be designated as such by postings and markings, with Fire Company approval. In no case shall a fire lane be less than twenty (20) feet wide, or 28 feet wide in curves, with a vertical clearance of less than thirteen (13) feet six, (6) inches.

(c) Fire lanes may be marked using signs, pavement markings, curb markings or a combination thereof with the following specifications:

(1) **Signs.** Signs shall read “FIRE LANE – NO PARKING” and shall be at least twelve (12) inches wide and eighteen (18) inches high. Signs shall be painted on a white background with letters and borders in red, using not less than two-inch lettering. Signs shall be permanently affixed to a stationary post, and installed six (6) feet, six (6) inches above the finished grade. Signs shall be spaced no more than 50 feet apart. Signs may be installed on permanent buildings or walls.

(2) **Pavement Markings.** All pavement markings shall be installed using red and white traffic paint. The boundaries of the fire lane shall be identified by red stripes at least six (6) inches wide. The words “FIRE LANE – NO PARKING” shall appear in four inch white letters at no more than twenty-five (25) foot alternating intervals on the red border markings.

(3) **Curb Markings.** Curb markings shall be painted in red traffic paint from the top seam of the curb to a point even with the driving surface. The words “FIRE LANE – NO PARKING” shall appear in four inch white letters at no more than 25 foot intervals along the curb.

(d) Fire lanes shall remain unobstructed at all times.
Part 8
Supplemental Regulations

§801. Applicability. This Part specifies certain uses, whether permitted by right, special exception, conditional use, or variance, that shall be subject to the following additional regulations and requirements besides those set forth elsewhere within this Ordinance.

§802. Adult Use. No person shall operate or conduct any adult use within 1000 feet of any of the following:

(a) The boundary of any residential zoning district.

(b) The property line of any lot, devoted in whole or in part, to any type of residential use.

(c) A church or place of worship.

(d) A public or private preschool, elementary or secondary school.

(e) The property line of any park or playground.

(f) Publicly owned buildings.

(g) Senior Citizens Centers.

(h) Fraternal and/or nonprofit organizations.

(i) Another Adult Use.

1. A 50 feet buffer yard shall be provided and the property (except for access drives) shall be screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained.

2. No pornographic material, display or words shall be placed in view of persons who are not inside the establishment.

§803. Animal Hospital and Kennel.

(a) Animal Hospital. An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than 35 feet from any property line. All pasture and outdoor recreation areas shall be fenced. Adequate measures shall be taken to minimize nuisance conditions such as excessive noise, dust and odor.
(b) Animal Kennels. Any buildings, runways, fenced enclosures and similar structures shall be located not less than 100 feet from all property and street lines. Where the property abuts a zoning district having residences as a principal permitted use, all buildings, runways, fenced enclosures and similar structures shall be located not less than 200 feet from such property lines. All pasture and outdoor recreation areas shall be fenced. Adequate measures shall be taken to minimize nuisance conditions such as excessive noise, dust and odor.

§804. Assisted Living Facilities, Nursing Homes or Personal Care Centers. The minimum lot size shall be one acre. All buildings shall be located not less than 50 feet from any property line or street line. A minimum of 20% of the lot shall be designed, developed, used, and maintained for outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and/or pedestrian walkways.

§805. Auto Related Activities.

(a) Auto Repair Garage. Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. All paint work shall be performed within a building, with a ventilation system that directs fumes away from adjacent properties and buildings. Temporary outdoor parking of vehicles intended to be replaced is permitted in the side or rear yard areas only. Service bays shall face the front yard property line whenever possible.

(b) Auto/Boat/Recreational Vehicles/Motorcycles, Manufactured Home or Mobile Home Sales. The outdoor display of new or used automobiles, boats, recreational vehicles, motorcycles, manufactured homes or mobile homes shall not be located on any part of an existing or future street right-of-way or required parking area. The display area shall meet the required principal building setback requirements of the zoning district in which the property is so located.

(d) Auto Service Stations. This use shall include convenience stores. Fuel pumps or other service appliances may be located in any yard provided that the pumps are not less than 25 feet from the existing street right-of-way and meet side yard principal building setbacks. All repairs, service, storage or similar activities in connection with the use shall be conducted within an enclosed building.

(e) Auto Car Wash. Appropriate drainage facilities for washing automobiles shall be provided, wherein water from the car wash will not flow onto sidewalks, streets or adjoining properties. The site shall be sufficiently large to accommodate three cars per awaiting washing during peak periods so that lines along streets are avoided.

§806. Bed and Breakfast. The use shall have a residential appearance and character. Except for a permitted identification sign, the use of any other type of signs, show windows or other displays for advertising shall be prohibited. The use shall be operated and/or managed by permanent residences of the property. There shall not be separate cooking facilities in any guestroom, and food shall only be prepared or served to
overnight guests unless a restaurant is also a permitted use within the zoning district in which the property is located. No guests shall be permitted to stay for more than four weeks in any given year.

§807. Boarding or Rooming Houses. The minimum lot area shall be two acres and the minimum lot width shall be 200 feet. The maximum density for the use shall be six bedrooms per acre of land area and a boarding or rooming house shall serve no more than 20 persons. Each bedroom shall be limited to no more than two adults. Rooms shall be rented for a minimum of five days.

§808. Bulk Fuel Storage. Bulk fuel storage shall be located on a tract of land not less than five acres. Storage tanks shall be located not less than 100 feet from any property line and shall be not less than 500 feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than 200 feet from all property lines. The tank storage area shall be fenced with a chain link fence at least six feet in height. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

§809. Compressor Stations. See §824 Oil and Gas Operations.

§810. Contractor’s Storage Yards. Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than 2,000 square feet shall be located on a tract of land of not less than one acre. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be a roadway 14 feet in width provided for in every 40 linear feet of stored materials. The roadway shall be kept passable for fire-fighting equipment.

§811. Child Care Facilities. All outdoor play areas shall be completely enclosed with a fence being six feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The applicant and/owner shall provide evidence that vehicular traffic congestion will be avoided in “pick-up and drop-off points” utilized in transporting children to and from the facility. A child care facility shall not be located within 300 feet of another child care facility. A child care facility shall meet all state licensing and regulations as well as all building, fire, safety, health and maintenance codes.

§812. Communication Antennas and Equipment Buildings. Building mounted communication antennas shall not be located on any single-family or two-family dwelling units. Building mounted communication antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than 20 feet. Omni-directional or whip communication antennas shall not exceed 20 feet in height and seven inches in diameter. Directional or panel communication antennas shall not exceed five feet in height and three feet in width. Any applicant proposing communication antennas to be mounted on a building or structure shall submit: (a) evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location; (b) detailed construction and elevation drawings
indicating how the antennas will be mounted on the building or structure for review for compliance with the applicable building code; and (c) evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communication equipment building can be accomplished. Communication antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Communication antennas shall not cause radio frequency interference with other communication facilities located within White Haven Borough. A communication equipment building shall be subject to the height and setback requirements of the applicable zoning district for accessory structures. The owner or operator of communication antennas must be licensed by the Federal Communication Commission to operate such antennas.

§813. Communications Towers.

(a) The applicant must be licensed by the Federal Communications Commission to operate a communication tower. The applicant must demonstrate that the proposed communication tower complies with all applicable standards established by the Federal Trade Commission governing human exposure to electromagnetic radiation, Federal Aviation Administration regulations, and Commonwealth Bureau of Aviation regulations. Any applicant proposing construction of a new communications tower shall first demonstrate that a good faith effort has been made to obtain permission to mount the communication’s antenna on an existing building, structure, or communications tower. A good faith effort shall require that all owners of a potentially suitable structure within a two-mile radius of the communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply: (1) The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost; (2) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost; (3) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to perform its intended function; (4) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation; or (5) A commercially reasonable agreement could not be reached with the owners of such structures. Access shall be provided to the communication tower and communication equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet with a dust free, all weather surface for its entire length. A communication tower may be located on a lot occupied by a principal structure and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the zoning district. Land development shall not be required for a lease parcel on which a communication tower is proposed to be constructed provided that the communication equipment building is unmanned. However, a subdivision plan shall be required for a lease parcel on which a communication tower is proposed to be
constructed. The applicant shall demonstrate that the proposed height of the communication tower is the minimum height necessary to perform its functions, but in no event shall a communication tower exceed 150 feet. However, a communication tower’s height may be increased to 200 feet provided the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet. The foundation and base of any communication tower located adjacent to any property being used for residential purposes, or adjacent to any property where the principal permitted use is residential, shall be setback from the property line (not lease line) at least 150 feet and shall be set back from any other property line (not lease line) at least 50 feet. The base of a communication tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties. The communications equipment building shall comply with the required setbacks and height requirements of the applicable zoning district for an accessory structure. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current structural standards for steel antenna towers and antenna supporting structures published by the Electrical Industrial Associations/Telecommunications Industry Association. The applicant shall also submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communication tower; a certificate of insurance evidencing general liability coverage in the minimum amount of $1,000,000.00 per occurrence and property damage coverage in the minimum amount of $1,000,000.00 per occurrence covering the communication tower, communication antennas, communication equipment and communication building. Proof of said insurance to be submitted annually to the White Haven Borough Zoning Officer.

(b) All guy wires associated with the guyed communication tower shall be clearly marked so as to be visible at all times and shall be included within a fenced enclosure. The site of a communication tower shall be secured by a fence with a minimum height of eight feet to limit accessibility by the general public. A minimum of one off-street parking space shall be provided within the fenced area. No lights or signs shall be mounted on a communication tower except as may be required by the Federal Communications Commission, Federal Aviation Administration, or all other governmental agency having jurisdiction. If a communication tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communication tower within six months of the expiration of the 12 month period. The owner or operator must provide a bond to the Borough in a monetary amount sufficient to cover the costs of removal. The cost of removal shall be determined by the Borough.

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

(a) The drive through lane or aisle shall be designed with adequate space for a minimum of four waiting vehicles per lane or aisle. There shall be a maximum of one lane or aisle per drive through window.
(b) Each drive through lane or aisle shall be clearly marked and designed so as to prevent traffic hazards and congestion while at the same time minimizing conflicts with pedestrian travel.

(c) Canopies situated over drive-through areas shall meet all setback requirements for the zoning district in which the property is located.

§815. Dwellings Above or in Combination with Commercial Establishments.
Such a dwelling must be attached to the commercial establishment and designed for living quarters. The dwelling must have its own heating, kitchen, and bathrooms facilities. The dwelling must also have a private access separate from the commercial establishment. Required residence parking and commercial parking must be provided for each use in accordance with the parking requirements of this Ordinance.

§816. Forestry and Timber Harvesting.

(a) Applicability. This Section applies to all timber harvesting and land clearing within the Borough where the value of the trees, logs and/or other forest products removed exceed $1,000.00. It does not cover the cutting of trees for the personal use of the landowner, or for pre-commercial timber stand improvement.

(b) Submission and Approval of Logging Plan.

1. Plan Approval Requirement. It shall be unlawful for any operator or landowner to conduct timber harvesting on more than five acres in the Borough except as provided in an approved logging plan which is available at the harvest site at all time during the operation.

2. Plan submission, approval, and appeal. At least 30 business days before the operation is scheduled to begin, a landowner on whose land timber harvesting is to occur shall prepare and submit to the Zoning Officer a written plan or amendment in the form specified in this Section. Within 30 business days of the receipt of the plan or amendment, the Zoning Officer shall approve (with or without conditions) or deny the plan. The landowner may appeal the decision of the Zoning Officer within 30 days of issuance to the Zoning Hearing Board.

3. Notification. The operator shall notify the Zoning Officer in writing at least two business days before operations commence and ten business days before operations are completed under an approved timber harvesting plan. The notification shall identify the operation, and, as applicable, shall specify the commencement and completion date.
1. Minimum Requirements: As a minimum, the logging plan shall include the following:

   i. Design, construction, maintenance and retirement of the access system, including, haul roads, skid roads, skid trails, and log landings;

   ii. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars;

   iii. Design, construction and maintenance of stream and wetland crossings;

   iv. A stand prescription for each stand located in the proposed harvest area; and

   v. The general location of the proposed operation in relationship to municipal and state highways, including any access to those highways.

2. Map: Each logging plan shall include a site map containing the following information:

   i. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property;

   ii. Significant topographic features related to potential environmental problems;

   iii. Location of all earth disturbance activities such as roads, landings, and water control measures and structures;

   iv. Location of all crossings of waters of the Commonwealth; and

   v. The general location of the proposed operation to municipal and state highways, including any access to those highways.
3. Compliance with all State and Local Laws and Regulations:
The plan shall address and comply with the requirements of all applicable State and local laws and regulations including, but not limited to erosion and sedimentation control; stream crossing and wetland protection; and storm water management. Any permits required by state and local agencies shall be attached to and become a part of the logging plan.

(d) Forest Practices. The following requirements shall apply to all timber harvesting activities within the Borough:

1. Felling or skidding on or across any public thoroughfares is prohibited with the express written consent of the Borough, County or Pennsylvanian Department of Transportation, whichever is responsible for the maintenance of the thoroughfare.

2. No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining property.

3. All tops and slash between 25 feet and 50 feet from a public roadway or private roadway providing access to any adjoining property or within 25 feet of any adjoining property line shall be lopped to a maximum height of four feet above the ground level.

4. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner.

5. Litter resulting from a timber harvesting operation shall be removed from the site before the operator vacates it.

6. A buffer strip of at least 50 feet must be maintained along any road, stream, or recognized recreational trail. Selective cutting only will be allowed in these zones except for salvage cuts.

7. Timber operations and related activities shall be conducted only between the hours of 7:00 A.M. and 7:00 P.M. unless authorized by the Zoning Hearing Board.

8. Soil carried or washed onto public streets during the operation shall be removed daily.
9. Road Maintenance, Repair and Bonding. The landowner and the operator shall be responsible for repairing any damage to Borough, state, or county roads caused by traffic associated with the timber harvesting operation to the extent of the damage that is in excess of that caused by normal traffic. Pursuant to 67 Pennsylvania Code, Chapter 189, the Borough may require the landowner or operator to furnish a bond to guarantee the repair of such damages.

§817. Group Home. Group Homes are permitted within a permitted residential dwelling unit provided that:

(a) The maximum occupancy shall not exceed four unrelated persons and not more than six people related or unrelated in a dwelling, excluding paid professional staff members, who shall live on the premises and function as a common household unit.

(b) The Group Home shall have adequately trained professional staff supervision for the number and type of residents.

(c) Evidence of applicable Federal, State and County licensing or certifications shall be presented to the Zoning Officer with the permit application.

(d) Written documentation must be provided at the time the permit application is made verifying that the Group Home complies with all applicable governmental standards and regulations.

(e) The exterior appearance of the Group Home shall be residential in nature.

(f) No person shall be eligible for placement in a group home if such person is assigned to a community corrections program; on parole from a correctional institute or on probation for a felony offense or in state mental institute following a finding of mental disease.

§818. Home Occupations. A home occupation shall not be considered a no impact home based business and shall be subject to the following provisions:

(a) The occupation shall be carried on entirely within the principal structure or an attached or unattached accessory structure provided that the accessory structure is located on the same lot as the principal structure.

(b) No display or advertisement of products or services or adult products or services may be visible from outside the building. Any storage of materials associated with the home occupation shall be within the building.

(c) A sign no larger than two square feet in surface area is permitted. The sign may only be lit with indirect lighting.
(d) No person other than a resident of the dwelling unit may conduct the home occupation. No more than one non-occupant may be employed to perform secretarial, clerical or other assistance.

(e) Not more than 30%, or 600 square feet, whichever is less, of the total floor area of the building wherein the home occupation is being conducted may be devoted to the home occupation.

(f) Each home occupation shall have off-street parking as indicated below, in addition to that one space required for the dwelling unit.

1. One space for the home occupation and one space for the non-resident employee, if applicable.
2. Three additional parking spaces for a physician, dentist, or other licensed medical practitioner.
3. Two additional parking spaces for a barber, beautician or other similar occupation.

(g) Where the building or dwelling unit is service by on-lot sewage disposal system, the applicant must show that the existing sewage disposal system is adequate to service the home occupation.

(h) The home occupation may not disturb the peace, quiet and dignity of the neighborhood by electrical interferences, dust, noise, smoke, or traffic generated by the use.

(i) Retail sales of legal goods is permitted.

(j) There shall be no change in the residential character of the building wherein the home occupation is being conducted.

(k) Deliveries shall be limited to no more than one per day, and the only type of deliveries shall be by panel truck or its equivalent. Tractor trailer deliveries are prohibited.

(l) Hours of operation shall be from Monday through Saturday from 6:00 A.M. to 9 P.M. unless the circumstances warrant a more restrictive time period.

§819. Junk Yards, Automobile Dismantling Plants and Automobile Salvage Yards. Junkyards shall comply with the following:

(a) Such premises shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.
(b) Burning or incineration of any kind shall be prohibited.

(c) No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.

(d) Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed from the vehicle.

(e) The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within a fireproof building.

(f) The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises, which is a place for the breeding of rodents, insects and vermin.

(g) Stockpiling of motor vehicles is prohibited.

(h) Outdoor storage of junk may not be piled higher than eight feet in height, and must be setback no less than 100 feet from any adjoining property line, street right-of-way, water way, 100 year floodplain, and drainage swale.

(i) The site shall contain a minimum of two access drives, each of which shall remain unobstructed at all times for emergency vehicles and be not less than 20 feet in width.

(j) The minimum and maximum lot size shall be 5 acres.

(k) Motor vehicles, parts and other junk shall be arranged in such a manner as to allow access drives no less than 12 feet in width for emergency vehicles. The access drives shall be kept open and unobstructed at all times.

(l) Except for the required access drives, the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained.

§820. Mineral Extraction (except for Oil or Gas Operations).

(a) The use, activity or any aspect of the operation shall be located not less than 100 feet from any street right-of-way and lot line; 150 feet from any 100 year floodplain, edge of a surface water body, creek, stream or wetland; and 400 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.
(b) Except for approved access drives (which shall be secured by locked gates, which may only be open during business hours), the premises shall be completely screened to protect public safety with an industrial type gauge fence eight feet in height. Signs shall be conspicuously attached to the fence every 75 feet warning the public of the nature of the operation. A yard area not less than 50 feet in width shall also be maintained with natural vegetative ground cover along all exterior lot lines that are within 300 feet of an area of excavation. This yard shall include an earth berm with a minimum height of six feet and an average of one shade tree for each for each 50 feet of distance along the lot lines. The shade trees shall be planted outside of the required berm and fence. If substantial trees, vegetation or forest exist within the required yard area, then new plantings in those area is not necessary provided that the existing trees, vegetation or forest are well-kept, preserved, maintained and adequately serve the purpose for which the yard was to be created.

(c) The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare. The days and hours of operation, including excavation, blasting and relating trucking, may be limited by the Zoning Hearing Board taking into consideration the characteristics of the neighborhood.

(d) The site shall contain a minimum of two access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the White Haven Borough Subdivision and Land Development Ordinance, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. Access drives shall be located so as to prevent public safety hazards, dust and noise.

(e) All applications shall include a plan that evidences the measurers to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.

(f) All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.

(g) All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

(h) A batch plant or processing operations shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the mineral extraction is taking place provided that industrial uses are permitted uses by right within the zoning district in which the property is located.
§821. Mobile Home/Manufactured Home Parks. The minimum lot size shall be five (5) acres, which must be under single ownership. The lot shall have a minimum width at the minimum building setback line of 200 feet. The maximum density shall be three homes or dwelling units per acre. Except for required access drives, the entire lot shall be completely enclosed by a buffer yard 75 feet in depth measured at right angles to the tract boundary lines and three feet in height at the time of planting. The buffer yard shall be planted and maintained with attractive evergreens and deciduous trees. Each home or dwelling unit and any attached or unattached accessory structures shall be setback not less than 35 feet from any other home or dwelling unit located within the park. A minimum of 30 percent of the total lot area shall be set aside and devoted as common open space to be developed for recreational purposes limited to use by the residents and their guests. Access drives or driveways to individual homes or dwelling units shall be from interior private streets, which shall include the installation of curbing and sidewalks. All homes or dwelling units shall be connected to a central water and central sewer system.

§822. Motels and Hotels. Any lot to be used for a motel or hotel shall be not less than four acres in area and shall contain at least 10 sleeping rooms not less than 1,000 square feet per sleeping room. Not less than 60 percent of the gross floor area shall be devoted to sleeping rooms. The remaining floor area may be used for such uses as a restaurant, retail store, game room, ballroom and banquet room provided that these uses are primarily designed to serve the guests of the motel or hotel. All buildings and structures shall be not less than 60 feet from a front yard line, and not less than 35 feet from the side and rear lot lines. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

§823. No-Impact Home Based Business. The business or activity must satisfy the following requirements:

(a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(b) The business shall employ no employees other than family members residing within the dwelling unit.

(c) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(d) There shall be no outside appearance of a business use, including, but not limited to parking, signs and lights.

(e) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
(f) The business activity may not generate any solid water or sewage discharge in volume or type, which is not normally associated with residential use in the neighborhood.

(g) The business activity shall be conducted only within the dwelling unit (no accessory building or structure) and may not occupy more than 25% of the habitable floor area.

(h) The business may not involve any illegal activity.

§824. Oil and Gas Operations.

(a) **Zoning Classifications.** Subject to the provisions of this Ordinance, and in order to allow for the reasonable development of oil and gas resources, the following zoning classifications shall apply:

1. Well and pipeline assessment operations – Well and pipeline assessment operations, including seismic operations and related activities, shall be a permitted use within all zoning districts, provided that such activities are conducted in accordance with all applicable Federal and State laws and regulations relating to the storage and use of explosives.
2. Oil or gas wells and oil or gas well sites – Oil or gas wells and oil or gas well sites shall be a permitted use within all zoning districts, provided that the well site must be placed so that the wellhead is at least 500 feet from any existing building. In addition, the following restrictions shall also apply in all Residential Zoning Districts (R-1, R-2 and R-3): (i) Oil or gas well sites are prohibited unless the outer edge of the well pad is at least 300 feet from an existing building, (ii) Oil and gas operations, other than the placement, use and repair of oil and gas pipelines, water pipelines, access roads and security facilities, are prohibited from taking place within 300 feet of an existing building.
3. Impoundment areas – Impoundment areas used for oil and gas operations shall be a permitted use within all zoning districts, provided that the edge of the impoundment area shall not be closer than 300 feet from an existing building.
4. Natural gas compressor stations – i. Permitted use – Natural gas compressor stations shall be a permitted use only within Open Space (O-1) and Industrial (I-1 and I-2) Zoning Districts, provided that the natural gas compressor stations satisfy the distance and noise restrictions of this Section. ii. Conditional use – Natural gas compressor stations shall be a conditional use within all zoning districts other than Open Space (O-1) and Industrial (I-1 and I-2) Zoning Districts, provided that the natural gas compressor stations satisfy the distance and noise restrictions of this Section. iii. Distance and noise restrictions – In order to be eligible for approval as a permitted use or conditional use, natural gas compressor
stations must be located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and operate in such a manner that the noise level generated by the natural gas compressor station does not exceed a noise standard of 60dbA at the nearest property line or the applicable standard imposed by federal law, whichever is less.

5. Natural gas processing plants - i. Permitted use – Natural gas processing plants shall be a permitted use only within Industrial Zoning Districts, provided that the natural gas processing plants satisfy the distance and noise restrictions set forth in this Section.

ii. Conditional use – Natural gas processing plants shall be a conditional use only within Agricultural Zoning Districts, provided that the natural gas processing plants satisfy the distance and noise restrictions set forth in this Section.

iii. Prohibition – Natural gas processing plants shall be prohibited in all zoning districts other than as set forth in this Section.

iv. Distance and noise restrictions – In order to be eligible for approval as a permitted use or conditional use, natural gas processing plants must be located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and operate in such a manner that the noise level generated by the natural gas processing plant does not exceed a noise standard of 60dbA at the nearest property line or the applicable standard imposed by federal law, whichever is less.

6. Oil and gas operations shall be a permitted use within all zoning districts, subject to the restrictions set forth in this Ordinance.

(b) Applicability. This Ordinance applies to all oil and gas operations, including, but not limited to, well and pipeline assessment operations, oil or gas well sites, impoundment areas used exclusively for oil and gas operations, natural gas compressor stations and natural gas processing plants that will be permitted or constructed after the effective date of the Ordinance. Oil and gas operations, including, but not limited to, well and pipeline assessment operations, oil or gas well sites, impoundment areas used exclusively for oil and gas operations, natural gas compressor stations and natural gas processing plants that were permitted or constructed prior to the adoption of this Ordinance, if any, shall not be required to meet the requirements of this Ordinance. However, any owner and/or operator seeking to make a modification to existing oil and gas operations after the effective date of this Ordinance that alters the size, type, location, number of wells or physical modifications to existing structures or the situs of oil and gas operations shall comply with the terms of this Ordinance. The Borough acknowledges that it is preempted from enacting or enforcing Ordinances that impose conditions, requirements or limitations on the same features of oil and gas operations regulated in Chapter 32 of Act 13 or that accomplish the same purposes set forth in Chapter 32 of Act 13. In addition, the Borough acknowledges that environmental acts are of statewide concern and that it is preempted from regulating oil and gas operations to the extent that such operations are regulated by the environmental acts. This Ordinance is intended to comply with such preemptive restrictions.
(c) Permit Requirements. No oil and gas operations shall be performed, constructed or located within the Borough until the owner and/or operator of the oil and gas operations has made a written request for a permit and a permit has been issued by the Zoning Officer or other equivalent official approving the performance, construction or location of the oil and gas operations.

1. The written notice of request for a permit, or amended written notice, if necessary, shall be accompanied by payment of a fee to the Borough, as established and set forth in the Borough’s schedule of fees.
2. Prior to making any modification to an existing and permitted oil or gas well site that alters the size, location, number of wells or accessory equipment or structures, the owner and/or operator shall make a written notice of request for and obtain a modified permit from the Borough pursuant to this Ordinance. Like-kind modifications and replacements shall be exempt from this requirement.
3. Prior to making any modification to any other existing oil and gas operation, including, but not limited to, a natural gas compressor station, natural gas processing plant or impoundment area, other than like-kind modifications and replacements, the owner and/or operator shall make a written notice of request for and obtain a modified permit from the Borough pursuant to this Ordinance.
4. The owner or operator of a proposed oil and gas operation shall obtain a grading permit, if applicable, pursuant to the Borough’s Subdivision and Land Development Ordinance prior to conducting any grading or earth moving.
5. The owner or operator of a proposed oil and gas operation shall obtain a building permit and certificate of occupancy, as appropriate for the use.

(d) Pre-Application Conferences.

1. Purpose. Before submitting an application the applicant is strongly encouraged to meet with the Zoning Officer, Borough Council, and the Borough Planning Commission to determine the requirements of and the procedural steps and timing of the application. The intent of this process is for the applicant to obtain necessary information and guidance from the Borough staff before entering into any commitments or incurring substantial expenses with regard to the site and plan preparation.
2. Process. A pre-application conference is not mandatory on the part of the applicant and shall not be deemed the beginning of the time period for review as prescribed by law. The pre-application conference is intended for the benefit of the applicant in order to address the required permit submittals and is advisory only, and shall not bind the Borough to approve any application for a permit or to act within any time limit relative to the date of such conference.

(e) Permit Application. The applicant’s written notice of request for a permit to conduct oil and gas operations shall include the following:
1. A brief narrative of the project, the address where the oil and gas operations will take place and the contact information for the individual(s) responsible for the oil and gas operations, including a phone number where such individual(s) can be contacted twenty-four hours a day, three-hundred sixty-five days a year.

2. Verification that the applicant has: (1) received all permits or other written approvals required by the Department or other state and/or federal regulatory agencies before constructing or conducting oil and gas operations; and (2) accepted and complied with any and all applicable bonding, fee, and permitting requirements including, but not limited to, those imposed by Act 13.

3. A location map of the oil or gas well site, impoundment area, natural gas compressor station, natural gas processing plant or other oil and gas operations showing, as appropriate, the approximate location of derricks, drilling rigs, wells, equipment and structures and all permanent improvements to the site and any post-construction surface disturbance in relation to natural and other surroundings. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the transportation of personnel and/or development and use of the site. Such location shall be configured to allow for the normal flow of traffic on public streets, which shall be undisturbed. Parking spaces shall be provided for the total number of persons employed at the site during the highest shift plus three additional parking spaces. Separate parking spaces shall be provided for each tractor trailer or container vehicle on the site on a daily basis plus two additional parking spaces for such vehicles.

4. A map describing the manner and routes for the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the oil or gas well site, impoundment area, natural gas compressor station, natural gas processing plant, or other oil and gas operations.

5. Verification that, prior to the commencement of any activity relating to oil and gas operations, the applicant shall have entered into an appropriate Borough roadway maintenance and repair agreement with the Borough, in a form acceptable to the Borough’s solicitor, regarding the maintenance and repair of the Borough’s streets that are to be used by vehicles for site construction, drilling activities and other site operations.

6. Verification that a copy of the applicant’s emergency management plan has been made available to the Department, the Borough and all Emergency Responders and that the applicant, upon changes occurring to the emergency management plan, will immediately make available a revised copy to the Department, the Borough and all Emergency Responders.

7. If the written notice of request for a permit is complete and fulfills the requirements of this Ordinance, the Borough shall issue or deny a permit within 30 days (for permitted uses) or within 120 days (for conditional uses) following the date of submission to the Borough.
8. If the written notice of request for a permit is incomplete and/or inadequate, the Borough shall notify the applicant within 15 days of its receipt. The applicant shall be permitted to submit a revised written notice.

(f) Design Standards.

   i. Access to oil and gas operations shall be arranged in a manner that minimizes the danger to traffic, nuisance to surrounding properties and maintains the integrity of the Borough’s roads.
   ii. No oil and gas operations shall be accessed solely through a local street. Whenever possible, access to oil and gas operations should be from a collector street. The Borough shall approve access through a local street if no other access route is feasible.
   iii. Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to by the owner and operator of the oil and gas operations.
   iv. All owners and/or operators that conduct oil and gas operations shall comply with any generally applicable bonding, excess maintenance agreements and permitting requirements for roads in the Borough that are to be used by overweight vehicles and equipment for purposes of development. The Borough agrees to comply with Title 75 and the MPC in connection with its regulation of vehicular access routes for overweight vehicles.
   v. All owners and/or operators that conduct oil and gas operations must ensure that Borough streets utilized by them, as well as their agents and contractors, shall remain free of dirt, mud and debris resulting from oil and gas operations. Such streets must be promptly swept or cleaned if dirt, mud and debris occur as a result of usage by the owner and/or operator or their agents and contractors.
   vi. Any newly established private easements/roadways constructed on the parcel containing an oil and gas operation shall be located at least 50 feet from any property line unless written consent is obtained from the adjoining property owner(s).
   vii. The access road shall be paved for the first 50 feet and be constructed with an additional 150 feet of limestone in a manner that reasonably minimizes water, sediment or debris carried onto any public road and prevents dust and mud. This work shall be completed prior to the commencement of oil and gas operations.

3. Construction.
   i. The duration of construction activities of oil and gas operations shall not exceed the actual time period reasonably necessary to conduct the construction activities at issue. In no event shall the aforementioned time provided exceed 12 months unless authorized by the Borough.
ii. Construction of oil and gas operations shall comply with the Pennsylvania Uniform Construction Code, 35 P.S. §§ 7210.101 to 7210.1103, as amended.

4. **Structure Height.**
   i. No permanent structure shall be erected to a height in excess of 40 feet; provided, however, that this height may be increased one foot for each additional foot that the width of each yard exceeds the minimum required. All yards shall exceed the minimum by the number of feet proposed to be added to the maximum height of 40 feet.
   ii. Heights of structures during construction phase - Restrictions on structure heights during the construction of oil and gas operations shall be no more stringent than those imposed on other industrial uses within the Borough.

5. **Setbacks.**
   i. In addition to the setbacks set forth in this Ordinance or in Act 13, the following additional setbacks shall apply:
      a. Between oil and gas operations and other industrial uses or structures or zoning districts other than Residential Zoning Districts and Open Space Zoning Districts:
         1. Front yard depth – 150 feet
         2. Side yard depth – 75 feet on each side except when the property line is a railroad spur used to service the building(s) on the property. No minimum yard depth is required.
         3. Rear yard depth – 75 feet except when the property line is a railroad spur used to service the building(s) on the property. No minimum yard depth is required.
      b. Between oil and gas operations and a Residential Zoning District and/or residential use or any non-commercial or industrial use or Open Space Zoning District:
         1. Front yard depth: 200 feet
         2. Side yard depth: 150 feet each
         3. Rear yard depth: 100 feet
      c. Between oil and gas operations and any outdoor recreation facilities: 250 feet.
      d. Exemption from the standards established in this subsection may be granted by the Borough upon a showing by the owner and/or operator that it is not feasible to meet the setback requirements and that adequate safeguards have or will be provided to justify the exemption.

6. **Screening and Fencing.**
   a. During the construction of oil and gas operations, there must be temporary security fencing of at least 6 feet in height around the perimeter of the site, unless adequate levels of manned 24-hour on-site supervision and security are provided.
   b. Upon completion of construction of oil and gas operations, security fencing consisting of a permanent chain link fence shall be promptly installed to secure, among other things, well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and other structures on the site of the oil and gas operations.
   c. Permanent security fencing shall be at least 8 feet in height equipped with lockable gates at every access point and having openings no less than 8 feet wide.
d. Emergency Responders shall be given means of access to the site of oil and gas operations in case of an emergency.

e. Warning signs shall be placed as appropriate on the fencing surrounding the site of oil and gas operations providing notice of the potential dangers and the contact information in case of an emergency.

f. When constructing oil and gas operations, the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation. Brush and trees shall not be cleared by way of burning, except in a manner that complies with the Borough’s Burning Ban Ordinance.

7. Lighting.

a. Lighting used in connection with oil and gas operations shall be directed downward and inward toward the activity so as to eliminate the glare on public roads and nearby buildings.

b. No lights located on the site of any oil and gas operations shall be directed in such a manner so that they shine directly on public roads, protected uses, adjacent properties and property in the general vicinity of the site of oil and gas operations.


a. Prior to the construction and operation of an oil and gas operation, including, but not limited to, the drilling of an oil or gas well or the operation of a natural gas compressor station or natural gas processing plant, the operator shall establish, by generally accepted testing procedures, the continuous seventy-two hour ambient noise level at the nearest property line of a residence or public building, school, medical, emergency or other public facility, or one hundred feet from the nearest residence or public building, medical, emergency or other public facilities, whichever point is closer to the affected residence or public building, school medical, emergency or other public facility. In lieu of the establishment of the ambient noise level established by the continuous seventy-two hour test the operator may assume and use, for the purpose of compliance with this ordinance, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute’s standard for sound meters or an instrument and the associated recording and analyzing equipment, which will provide equivalent data.

b. The operator shall provide the Borough documentation of the established ambient noise level prior to constructing or conducting oil and gas operations.

c. The noise generated during oil and gas operations shall not exceed the average ambient noise level established in subsection (1) by more than:

i. 10 decibels during drilling activities or hydraulic fracturing operations during the hours of 7:00 AM to 7:00 PM; and 5 decibels during the hours of 7:00 PM to 7:00 AM.

ii. 5 decibels for a natural gas compressor station or a natural gas processing plant. Allowable increases shall not exceed the average ambient noise level for more than 5, 5, and 10 minutes, respectively, within any one-hour period.

d. Effective sound mitigation devices shall be installed to permanent facilities to address sound levels that would otherwise exceed the noise level standards when located near a residence, public building, school, medical, emergency or other public facilities.
e. Exemption from the standards established in this subsection may be granted by the Borough during the drilling stage or at the oil or gas well site, natural gas compressor station, natural gas processing plant or other oil and gas operation for good cause shown and upon written agreement between the applicant and the Borough.

f. Complaints received by the Borough shall be addressed by the operator within twenty-four hours following receipt of notification by continuously monitoring for a period of forty-eight hours at the nearest property line to the complainant’s residential or public building or one-hundred feet from the complainant’s residential or public building, school medical, emergency or other public facilities, whichever is closer. The operator shall report the findings to the Borough and shall mitigate the problem to the allowable level if the noise level exceeds the allowable rate.

g. Natural gas compressor stations and natural gas processing plants shall be constructed so as to mitigate sound levels, or have installed mitigation devices to mitigate sound levels that would otherwise exceed the ambient noise level standards at residential or public buildings, medical, emergency or other public facilities.


a. No construction activities performed in connection with oil and gas operations, except for the assembly and disassembly of drilling rigs, shall be performed except between the hours of 7 AM and 7 PM on Mondays through Saturdays, or as otherwise authorized by the Borough. There shall be no restriction on the hours of operation during the assembly and disassembly of drilling rigs.

b. No oil and gas operations, except for subterranean operations and the drilling of wells and the operation of natural gas compressor stations and natural gas processing plants, shall take place except between the hours of 7 AM and 7 PM on Mondays through Saturdays. There shall be no restriction on the hours of operation for the drilling of wells and the operation of natural gas compressor stations and natural gas processing plants.

c. The restrictions on hours of operations set forth in (a) and (b) above shall apply to all truck traffic accessing the oil and gas operations site.


a. No drilling shall be allowed in the floodway designated as such in the Flood Insurance Study (FIS) and shown on the Federal Emergency Management Agency (FEMA) maps.

b. Oil and gas drilling in the 100-year floodplain is discouraged, but may be permitted by the Borough in its discretion if the following provisions are met:
   i. If no other area provides access to the oil or gas deposit, then oil and gas drilling may be permitted in the floodplain. The applicant must provide conclusive documentation that no other location allows access to the oil or gas deposit other than a location within the floodplain.
   ii. An adequate Emergency Evacuation Plan shall have been produced by the applicant and filed with the Borough.
iii. No storage of chemicals shall be permitted within the floodplain. An exemption from this requirement may be granted by the Borough if the applicant can show that such storage will not potentially cause any harm to property, persons or the environment in the case of a 100-year flood; and further provides security to the Borough assuring the applicant’s ability to remedy any damage or injury that may occur.

iv. Only necessary and needed structures will be permitted within the floodplain.

v. All structures within the flood zone shall be designed to withstand a 100-year storm event.

vi. An engineer registered in Pennsylvania and qualified to present such documentation that structures will not cause additional flooding on adjacent, upstream and/or downstream properties shall provide such documentation to the Borough.

§825. Outdoor Storage. The use of a lot for outdoor storage shall require a minimum lot size of not less than one acre. No outdoor storage shall be permitted within the required front yard. Except for a gated and located entranceway, the storage area shall be completely enclosed from public view by means of a screened chain link fence not less than six feet in height. The applicant shall also include a complete listing of all material to be stored on the lot, which shall be updated annually and filed with the Zoning Officer.

§826. Place of Worship. A minimum lot area of one acre shall be required for the use. Religious instruction and educational rooms may be permitted within the principal building as accessory uses. A minimum lot area of two acres shall be required when the use consists of one or more of the following accessory uses: primary or secondary school; day care center; and a single-family dwelling unit. Where the lot adjoins an existing residential dwelling unit, or is located within a residential zoning district, the parking area shall be screened along the side and rear lot lines with shrubbery or evergreen trees not less than four feet in height at the time of planting. The buffer area shall be kept in good condition and continuously maintained.

§827. Processing Plants. See §824 Oil and Gas Operations.


(a) Public utility facilities shall conform to the following additional requirement: In a zoning district where residential dwelling units are a principal permitted use, the facility shall not include the storage of vehicles or equipment used in the maintenance and service of any utility, and no equipment may be located on the lot that would cause noise, vibration, smoke, odor or have any adverse impacts upon the health, welfare and safety of the community. In all other zoning districts, access and parking shall be permitted for maintenance and servicing of such facilities only.

(b) When the use includes the storage of equipment not to be located
within a building, the equipment shall be enclosed by a chain link fence and locked gate not less than six feet in height, which fence and gate must consist of screening material that has openings or gaps no greater than four inches in any dimension.

(c) When the facility is located within a residential area, it shall be designed in such a manner as to conform with the characteristics of the neighborhood.

§829. Self-Storage Facilities. These facilities may consist of one or more buildings provided that the following requirements are met:

(a) All storage shall be contained within a completely enclosed building or buildings.

(b) There shall be a minimum separation between buildings of 25 feet for traffic circulation, parking and fire lane purposes.

(c) The maximum length of any building shall not exceed 300 feet.

(d) No activities including off-street parking shall be allowed within 20 feet of a property line abutting a district having residences as a principal permitted use.

§830. Shopping Center. The minimum lot size shall be three acres, and the minimum lot width shall be 300 feet. All buildings shall be setback no less than 50 feet from any property line and 100 feet from any street right of way line. Access drives shall connect to a public street. Except for the front yard property line, the side and rear yards shall contain a buffer yard not less than 100 feet in width and four feet in height at the time of planting when the property adjoins either a residential zoning district, or an existing residential dwelling unit. The buffer area shall be landscaped and maintained and may not be used for parking, loading or storage purposes. Each use located within the center shall comply with the parking requirements of this Ordinance for that particular use. Fire lanes shall be designed to prohibit parking in front of the building entrance.

§831. Solid Waste Facility (including Landfills, Solid Waste Transfer Facilities and Solid Waste-To-Energy Facilities). All solid waste storage, disposal, incineration or processing shall meet the following requirements:

(a) The use, activity or any aspect of the operation shall be located not less than 1000 feet from any street right-of-way, lot line, 100 year floodplain, edge of a surface water body, creek, stream or wetland; and not less than 2500 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, or public recreational activity is located.

(b) Burning and incineration is prohibited, except for an approved waste to energy facility.

(c) The site shall contain a minimum of three access drives, each of
which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the White Haven Borough Subdivision and Land Development Ordinance, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. One of the access drives shall be restricted to use by emergency vehicles only, and shall be clearly marked and identified as such. The application shall also be accompanied by a plan of the site that includes the location of access drives and proposed structures, and an emergency response plan to address potential safety concerns associated with the use.

(d) The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.

(e) The applicant must provide a comprehensive soil analysis and ground water analysis report which conclusively demonstrates that the proposed design, construction and operation of the facility shall not pollute surface or groundwater, nor cause any potential to public health or environmental hazard.

(f) Except for the required access drives (which shall be secured by locked gates, which may only be open during business hours) the premises shall be completely screened by a wall or fence not less than eight (8’) feet in height and a planting strip not less than ten (10’) feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six (6’) feet in height at the time of planting. This area must then be suitably landscaped and maintained. In addition, an attendant shall be present during all periods of operation or dumping to ensure that: (1) only authorized waste is accepted; (2) the access drives remain unobstructed; and (3) litter, garbage and rubbish is collected from the site and its surrounding on a regular daily basis prior to the closing of business on each day.

(g) The days and hours of operation shall be limited to Monday through Friday from 7 a.m. to 5 p.m. and Saturday from 7 a.m. to 3:00 p.m. The facility shall not conduct any approved operations at any other times and days including during any recognized Federal and State holidays.

(h) The operator shall take all necessary precautions to prevent litter, garbage and rubbish from scattering off site, and shall regularly monitor the site and its surroundings collecting litter, garbage and other rubbish that may have escaped from the facility or trucks.

(i) Dangerous materials such as radioactive, hazardous or infectious waste may not be stored, processed, disposed of, or incinerated on site.

(j) All loading and unloading of solid waste shall occur within an enclosed building, and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within an enclosed building or enclosed container.
(k) All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.

(l) All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

§832. Trucking Facilities. The minimum lot size shall not be less than two acres. Access drives shall be sufficient in width to accommodate the use, but in no event exceed 35 feet in width. Access drives must connect to a public street. No parking, loading, storage of any kind, or trucking use shall be allowed within the buffer yard.

§833. Warehouse and Distribution Facilities. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. Access drives shall be sufficient in width to accommodate the use, but in no event shall any access drive exceed 35 feet in width. No activities including off-street parking shall be allowed within 20 feet of a property line abutting a district having residences as a principal permitted use.

§834. Water (Ground and Spring) Withdrawal. The minimum lot size shall be 5 acres; any silos shall meet the height requirements of the zoning district in which the property is located; loading and unloading of trucks shall constitute a trucking facility for purposes of this Ordinance and shall meet the specific use requirements for a trucking facility; and a bottling or processing plant shall constitute an industrial use and shall not be considered an accessory use, but a separate and distinct use that shall require special exception approval when located on the same lot where the water withdrawal is taking place provided that industrial uses are permitted by right within the zoning district in which the property is located.

§835. Wind Mills (Stand-Alone and Wind Farms).

(a) Location Requirement and Number. The applicant shall demonstrate to the satisfaction of the Governing Body, using technological evidence, that the windmills must go where proposed in order to function to industry standards, including, but not limited to the standards of the American National Standards Institute.

(b) Wind Mill Design. The applicant shall submit certificates of design compliance by the equipment manufacturers from Underwriter Laboratories, Det Norske Veritas, Germanisheer Lloyed Wind Energies, or other similar certifying organizations. The Applicant must also show compliance to the maximum extent possible with the Pennsylvania Uniform Construction Code.

(c) Maximum Height. The applicant shall demonstrate that the wind mills are constructed to a height no greater than the minimum required to function to industry standards. The wind mill height (including blades) for wind mills in a wind farm
shall be no higher than 450 feet above the average grade of the land and for stand-alone wind mills no higher than 100 feet above the average grade of the land unless the applicant secures a variance from the Zoning Board and meets the criteria for the granting of a variance.

(d) Blade Height. The minimum height between any wind mill blade and the ground may not be less than 30 feet.

(e) Visual Impact. The applicant shall provide to the Governing Body three dimensional graphic information that accurately portrays the visual impact of the proposed wind farm and individual or stand-alone wind mills from various vantage points selected by the Governing Body, such as, but not limited to key roads and recreation areas. This graphic information may be provided in the form of photographs or computer-generated images with the wind mills superimposed, as may be required by the Governing Body. The Governing Body may also require the applicant to conduct a balloon test to confirm the visual impact. The Governing Body may require specific colors, consistent with applicable federal regulations, to ensure that each wind mill is compatible with the surrounding landscape. The wind mill shall be a non-obtrusive color such as white, off-white or gray. The wind mill shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator. On-site transmission and power lines between wind mills shall, to the maximum extent practicable, be placed underground.

(f) Controls and Brakes. Every wind mill shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(g) Warnings. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, color objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.

(h) Climb Prevention/Locks. Wind Mills shall not be climbable up to fifteen (15) feet above the average grade of the ground surface. Also, all access doors to wind mills and electrical equipment shall be locked or fenced to prevent entry by non-authorized persons.

(i) Setbacks. The following minimum setbacks shall apply:

1. Stand-Alone Wind Mills. No stand-alone wind mill shall be located less than 100 feet from any adjoining principal residential structure or occupied nonresidential structure whether public or private existing prior to the erection of the wind mill.

2. Wind Farms. A wind mill in a wind farm shall not be located
closer to any property line than its height, including blades, plus 200 feet. The setback for equipment containers, other accessory structures, and any guy wire anchors shall be a minimum of 200 feet. No wind mill in a wind farm shall be located less than 1,000 feet from any principal residential structure or occupied nonresidential structure whether public or private existing prior to the erection of the wind mill or any other wind mill existing or proposed. No wind mill in a wind farm shall be placed closer to any public road than its height, including blades, plus 200 feet. No wind mill shall be located less than 1,000 feet from any Important Bird Area or migration corridor, National Wetland Inventory Wetland, Historic Site or lake, dam, stream, creek, ponds or public water supply sources or waterways. These areas shall be defined or designated by the Pennsylvania Department of Protection and/or as depicted on U.S.G.S. mapping.

(j) Structure Safety. The applicant shall demonstrate that each wind mill is safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All wind mills shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania Registered Professional Engineer that all wind mills will be designed and constructed in accord with accepted engineering practices and all requirements of any applicable construction code. Within 45 days of completion of construction and before initial operation, the owner and/or operator of a wind farm shall provide a certification from a Pennsylvania Registered Professional Engineer to the Borough Zoning Officer that the wind farm and all structures comply with all applicable regulations.

(k) Licenses/Other Regulations. The applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained for the wind farm. The applicant shall also document compliance with all applicable state and federal regulations by providing to the Borough copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Inventory submission, Pennsylvania Historical and Museum Commission compliance, U.S. Fish and Wildlife Service, the Department of Conservation and Natural Resources and the PA Game Commission).

(l) Insurance. The applicant shall submit a certificate of insurance evidencing general liability coverage in the minimum amount of one million ($1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million ($1,000,000.00) dollars per occurrence covering the wind farm and all its facilities. The applicant shall provide the Borough with proof of annual renewal prior to expiration.

(m) Discontinued Use. If the use of any wind farm or stand-alone wind mill is discontinued, the owner or operator or then owner of the land on which the wind farm or stand-alone wind mill is located shall be required to remove the same within 90 days from the abandonment of the use. Failure to do so shall authorize the Borough to remove each wind mill and the facility, including foundations to a minimum of four feet below
grade, and assess the cost of removal to the foregoing parties. In addition, the Governing Body shall require a financial guarantee, in a term, form and amount determined by the Governing Body to guarantee the removal of the wind farm or stand-alone wind mill. If such guarantee is inadequate, the Borough shall be authorized to use all means provided in law, including a municipal lien, to recover all costs of removal.

(n) Noise and Shadow Flicker. The Applicant shall provide details on the noise generation of the types of wind mills proposed. The noise associated with the operation of a stand-alone wind mill shall not exceed 20 dBA (a-weighted sound level in decibels) when measured at the property line of the property upon which the wind mill is installed. The noise associated with a wind mill in a wind farm (as opposed to noise during construction) shall not exceed 50 dBA (A-weighted sound level in decibels) when measured at the property line of the wind farm. Furthermore, the facility owner and operator shall make reasonable efforts to minimize shadow flicker to any Occupied Building.

(o) Communications Interference. The applicant shall document that the radio, television, telephone or reception of similar signals from nearby properties will not be disturbed or diminished by the installation of the wind mill.

(p) Vibration. No vibration associated with the operation of a wind mill shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness.

(q) Noise, Communications Interference, and Vibration Complaint Response Plan. The Applicant shall provide to the Governing Body a plan for how complaints about noise, communications interference and vibration will be addressed by the operator of a wind mill.

(r) Signs/Lighting/FAA and PA DOT Notice.
   1. No signs or lights shall be mounted on any windmill except as may be required by this Ordinance, the Federal Aviation Administration, or other governmental agency which has jurisdiction.
   2. No wind mill shall be artificially lighted, except as required by the Federal Aviation Administration or for security purposes approved as part of the zoning permit. No approved security light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted.
   3. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation; and, the wind farm and support structure shall comply with all Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation (PA DOT) requirements.
(s) Fencing. A fence shall be required around each wind mill support structure and other equipment unless the Applicant documents that the structures will otherwise be secured from public access. If required, the fence shall be a minimum of six (6) feet in height with a locked gate to prevent public access.

(t) Landscaping.

1. Existing vegetation on and around the site shall be preserved to the greatest extent possible.

2. Landscaping installation and maintenance may be required to screen as much of each wind mill as possible, the fence surrounding the support structure, any other ground level features (such as a building), and, in general, buffer each wind mill and other structures from neighboring properties and the sight lines from prominent viewing locations. The applicant shall provide to the Governing Body a landscaping plan at the time of the application to assist the Governing Body with determining compliance with this section of the Ordinance.

3. The Governing Body may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

(u) Soil Erosion and Sedimentation Control/Stormwater Management. All earth disturbance shall comply with the soil erosion and sedimentation control requirements of the Luzerne Conservation District and the Pennsylvania Department of Environmental Protection; and, no approval shall be granted under this Ordinance until the Applicant provides a copy of the approved soil erosion and sedimentation control plan and any required permits. A stormwater management plan and storm water management facilities shall be provided in accord with the Borough’s current Stormwater Management Ordinance or requirements. There are no impervious area exemptions to relieve the requirement of submitting a stormwater management plan for wind mills.

(v) Fire Control Plan. The applicant shall provide a fire control plan including details about any fire suppression system proposed for any wind mill or structure. The plan shall be provided to the applicable fire company for review and comment.

(w) Maintenance/Identification: Notice of Problems. Wind farm maintenance and continued compliance with this Ordinance shall be monitored by the Zoning Officer with the assistance of the Building Inspector on an annual basis with the performing of an inspection and the preparation of a report to the Borough Council. There shall be affixed to each wind mill and security fence in an accessible, visible place the name and mailing address of the owner(s) and a 24-hour emergency telephone number. This information shall be kept current by the owner(s). The Zoning Officer shall inform the owner(s) of any safety problems, maintenance problems or any matter relative to the wind farm in accordance with the enforcement requirements of this Ordinance, sent to the posted address. If the problem outlined in the letter from the Zoning Officer is not
resolved within 30 days of receipt of notice, or within such other period as allowed in writing by the Zoning Officer, this shall constitute a violation of the Ordinance. An unresolved violation shall constitute grounds for revoking the wind mill permit.

(x) Land Development Plan. The applicant shall submit a Land Development Plan to the Borough for their review and approval for all wind farms. The Land Development Plan shall be developed in accordance with the most recent version of the Borough Subdivision and Land Development Ordinance (SALDO) and shall be subject to all of its requirements, where applicable.

(y) Subsections (a), (b), (e), (i)(l), (j), (k), (n), (o), (p), (q), (r), (v) and (w) above shall be the only sections that apply to roof-mounted wind turbines that generate power outputs of no more than two kilowatts. Each property is limited to one roof-mounted wind turbine. No roof-mounted wind turbine shall exceed five (5’) feet in height and shall have a maximum blade-roof clearance of two (2’) feet.


(a) Permit Requirement and Application. No Solar Energy System shall be constructed or located within the Borough unless a permit has been issued to the Applicant of the Solar Energy System under this Ordinance. All applications for a Major Solar Energy System, shall be considered a Major Land Development, shall meet the requirements of this Ordinance and the Borough Subdivision and Land Development Ordinance (SALDO), and shall be reviewed by the Borough Planning Commission and approved by Council. Any physical modification to a permitted Solar Energy System that materially alters the equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

(b) Design Requirements.

1. Solar collection systems shall not be located in the front yard between the principal structure and the public right-of-way, or private street. Corner lots shall have front yard requirements along all streets.

2. Height. Freestanding Collection systems shall not exceed twenty (20’) feet in height.

3. Size. Freestanding Collection systems on residential properties shall not exceed the greater of one-half (1/2 the footprint of the principal structure or six hundred (600) square feet, whichever is greater. The size of arrays for non-residential properties shall not exceed one-half (1/2) of the footprint of the principal structure except for rooftop systems.

4. Solar Collection Systems are permitted to be located on the roof or the exterior wall of a structure provided that it does not extend more than twelve (12) feet above the roof line. The collection system shall not exceed the maximum height permitted in the zoning district in which it is located; and collection systems located on
the roof or attached to a structure shall provide, as part of their permit application, a structural certification.

5. Code Compliance: Solar Collection Systems shall comply with all applicable building and electrical codes.

6. Minor collection systems may be located on accessory structures subject to setback requirements for the zoning district in which the structure is located.

(c) Installation.

1. To the extent applicable, the Solar Energy System shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and the regulations adopted by the Department of Labor and Industry.

2. The design of the Solar Energy System shall conform to applicable industry standards.

3. Major Solar Energy Systems as defined by this Section shall use public right-of-ways or established utility corridors when reasonable. While a utility corridor may be used for more than one utility of purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement between the landowner and any other party and all owners of interest in the property. Nothing in this paragraph is intended to conflict with the right of eminent domain.

4. The construction and installation of Solar Energy Systems may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spoils resulting from the construction and/or installment of a Solar Energy System and the removal of said material from the development site shall meet all local and state requirements.

(d) Setbacks, Restrictions, and Easements.

1. Minor Energy Systems shall be considered accessory structures and shall not be located in the front yard between the principal structure and the public right-of-way or private street. Minor Energy Systems shall not exceed one half of the footprint of the principal structure or six hundred (600) square feet, whichever is greater except for rooftop systems. Solar collector structures, fixtures and piping shall be concealed wherever practicable.

2. Major Energy Systems must be a minimum of one thousand (1,000’) feet from any zoning district boundary line as well as any property line of existing residential, public or quasi-public use. Major Energy Systems shall not be located within five hundred (500’) feet of a public or private road right-of-way, nor within one hundred (100’) feet from all other property lines. A fifty (50’) foot planted
buffer/screen shall be installed along all property lines. Solar collector supporting structures, fixtures and piping shall be concealed wherever practicable.

(e) Minimum Lot Size. The following minimum lot size requirements shall apply:

1. Minor Energy System. The Minimum lot size shall be as established for the zoning district in which the property is located.

2. Major Energy System. The minimum lot size shall be ten (10) acres.

(f) Licenses: Other Regulations. The Applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained. The Applicant shall also document compliance with all applicable state and federal regulations by providing to the Borough copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Inventory submission, Pennsylvania Historical and Museum Commission compliance, U.S. Fish and Wildlife Service, the Department of Conservation and Natural Resources and the PA Game Commission).

(g) Liability Insurance. The Applicant for a Major Energy System shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of one million ($1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million ($1,000,000.00) dollars per occurrence covering the Solar Energy System. The Applicant shall provide the Borough with proof of annual renewal prior to expiration.

(h) Landscaping. Existing vegetation on and around the site shall be preserved to the greatest extent possible without restricting Solar Access.

(i) Soil Erosion and Sedimentation Control; Stormwater Management. If applicable, all earth disturbances shall comply with the soil erosion and sedimentation control requirements of the Luzerne Conservation District and the Pennsylvania Department of Environmental Protection; and no approval shall be granted under this Ordinance until Applicant provides a copy of the approved soil erosion and sedimentation control plan and any required permits. A stormwater management plan and stormwater management facilities shall be provided for all major energy systems in accord with the Borough’s current Stormwater Management Requirements. There are no impervious area exemptions to relieve the requirement of submitting a stormwater management plan for Major Energy Systems.

(j) Fire Control/Local Emergency Services. The Applicant shall provide a project summary and fire control site plan including details about any fire suppression system proposed for any Major Energy System or structure. The plan shall be provided
to the applicable fire company for review and comment. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Major Energy System.
§901. Type and Use of Signs. All signs shall be classified according to type and use as provided herein:

(a) Identification Sign – a sign which communicates the names and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.

(b) Business Sign – A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.

(c) Billboard or off Premise Advertising Sign – A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared, or manufactured on the zoning lot where the sign is located.

(d) Real Estate Sign – A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.

(e) Subdivision/Development Advertising Sign – A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.

(f) Institutional Sign – A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.

(g) On-Site Directional and/or Informational Sign – A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

(h) Subdivision/Development Identification Sign – A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision or development is located.

(i) Event Signs – A temporary sign advertising private not-for-profit events and fund-raisers such as picnics, bazaars, gaming events, arts and craft shows and similar types of fundraising activities.

§902. Construction Types. All signs shall be classified according to construction types as provided herein:
(a) Freestanding Sign – A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.

(b) Wall Sign – A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2’) feet from the building or structure.

(c) Projecting Sign – A sign which projects outward or extends more than two (2’) feet from the building or structure.

§903. Permitted Signs by Zoning District. The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

(a) Identification Sign – Such signs shall be permitted in all zoning districts.

(b) Business Signs – Such signs shall be permitted in C-1, C-2, C-3, O-1, I-1 and I-2 Zoning Districts.

(c) Real Estate Signs – Such signs shall be permitted in all zoning districts.

(d) Subdivision/Development Advertising Signs – such signs shall be permitted in all zoning districts and any PRD zoning district, upon the creation of such.

(e) Institutional Signs – Such signs shall be permitted in all zoning districts.

(f) On-site Directional and/or Informational Sign - Such signs shall be permitted in all zoning districts.

(g) Billboard Signs – Such signs shall be permitted in an I-1 zoning district.

(h) Subdivision/Development Identification Signs – Such signs shall be permitted in all zoning districts.

(i) Event Signs - Such signs shall be permitted in all zoning districts.

(j) Political Signs - Such signs shall be permitted in all zoning districts.

§904. Area, Height and Setback Requirements. The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations.

(a) Identification Sign – An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10’) feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10’) feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
(b) Business Signs – A business sign shall not exceed the square feet of area for the following Zoning Districts:

- C-1 District – Thirty-two (32) square feet.
- C-2 District – Sixty-four (64) square feet.
- C-3 District – Thirty-two (32) square feet.
- I-1 District – Thirty-two (32) square feet.
- I-2 District – One Hundred (100) square feet.

In a shopping center or an integrated grouping of commercial or industrial uses which is classified as a “Land Development”, in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, that indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed two hundred (200) square feet in area.

A business sign shall have a minimum front yard setback of not less than twenty-five (25%) percent of the required set back for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.

The maximum height of any business sign shall not exceed eighteen (18’) feet.

(c) Real Estate Signs – A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10’) feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.

(d) Subdivision/Development Advertising Signs – A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed sixty (60) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than thirty-five (35’) feet from the front lot line. This sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.

(e) Institutional Signs – An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty (30) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10’) feet from the front lot line. Such signs are subject to sign permit fees.

(f) On-site Directional and/or Informational Sign – An on-site directional and/or informational sign shall not exceed six (6) Square feet in area. A front, rear or side
yard setback of not less than five (5’) feet shall be required for such signs. The maximum height of such signs shall not exceed six (6’) feet.

(g) Billboard Signs or Off Premise Advertising Sign – The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one (1) double-faced panel shall be permitted on the same structure or standard.

Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.

There shall be a minimum spacing distance of 1,000 feet between all such signs.

Such signs shall be setback not less than three-hundred (300) feet from the centerline of any highway or State Legislative Route.

Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.

Such signs are subject to sign permit fees.

(h) Subdivision/Development Identification Signs – A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one (1) sign shall be erected at any entrance point to the subdivision/development. Such signs shall be setback not less than ten (10) feet from the front lot line.

(i) Event Signs – an event sign shall not exceed six (6) square feet in area, having dimensions of 2’x3’ feet. Such signs shall not be attached to any tree, utility pole or structure within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within fifteen (15) days following the event. Such signs are subject to sign permit fees.

(j) Number of Signs – Excluding on-site directional and/or informational signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

(k) Political Signs- a political sign shall not exceed six (6) square feet in area, having dimensions of 2’x3’ feet. Such signs shall not be attached to any tree, utility pole or structure, or within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the election and shall be removed within fifteen (15) days following the election. Such signs are subject to sign permit fees.

(l) Temporary Signs- shall be treated as event signs for purposes of this Ordinance.
§905. Setback for Freestanding Signs. The minimum side yard setback and rear yard setback for any freestanding sign shall be the same as the minimum side yard or rear yard setback for a principal structure in the zoning district in which the sign is located. The minimum front yard setback, with the exception of Section 904(f), On-site Directional and/or Informational Sign and Section 904(g), Billboard Sign or Off-Premise Advertising Sign, shall be the more restrictive of twenty-five (25%) percent of the required setback for a principal structure in the zoning district in which the sign is located, or ten (10) feet. If an existing building has a front yard setback that is less than ten (10) feet, any new proposed sign shall be attached flat against the building as a wall sign.

§906. Signs Related to Nonconforming Uses. An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, that may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Ordinance 5 and for the zoning district which it is located.

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

(a) Wall Sign – for a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.

(b) Separate Symbols – Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape that encompasses all of the letters and symbols.

(c) Double-face Sign – With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.

§908. Prohibited Signs. All signs shall be constructed, placed or installed in such a manner so as not to obstruct or distract motorists, or pose a threat or cause a harm to pedestrians, or vehicular travel.
§1001. Zoning Officer.

(a) Appointment. The Zoning Officer shall be appointed by Borough Council. The Borough Council may designate others to assist the Zoning Officer, who will serve with the same authority and duties as the Zoning Officer. The Zoning Officer shall not hold any elective office within the Borough, but may hold other appointed offices provided that those offices do not conflict with his or her duties as Zoning Officer. The Zoning Officer shall meet qualifications established by Borough Council, which shall at minimum include a working knowledge of municipal zoning.

(b) Duties and Powers of the Zoning Officer. The powers and duties of the zoning officer shall include but are not limited to the following:

1. Enforce the provisions of this Ordinance in accordance with its literal terms and the Zoning Officer shall not have the power to permit any construction, alteration or any use or change of use which does not conform to the applicable provisions of this Ordinance.

2. Receive and review all types of zoning applications and approve or deny zoning permits, certificates of zoning compliance, and certificates of nonconformity in accordance with this Ordinance.

3. Keep records of all applications, permits, certificates, complaints, enforcement actions, investigations, and decisions of the Zoning Hearing Board, with all such records being the property of the Borough and making those records available for public inspection and copying pursuant to the Pennsylvania Right to Know Law.

4. Conduct property inspections.

5. Maintain the Official Zoning Map and Zoning Ordinance, as may be amended from time to time.

6. Provide the Zoning Hearing Board and Borough Council with monthly reports of the permits issued in the prior months as well as copies of the denied applications and the names and addresses of adjoining property owners. The Zoning Officer must also post the property with notice of the hearing in a conspicuous manner not less than 7 days prior to the scheduled hearing.

7. Attend and participate in proceedings before the Zoning Hearing Board and furnish such facts, records and any other information that may be necessary to assist the Zoning Board in rendering its decisions.

8. Review subdivision and land development plans for compliance.
with this Ordinance and provide a report to Borough Council and the Planning Commission.

(9) Issue enforcement notices when warranted to the owner of record of the property and any other interest party who is found to be in violation of this Ordinance. The Zoning Board and Borough Council shall be provided with copies of all enforcement notices issued.

§1002. Zoning Permit

(a) Issuance of Permit. No building, structure or sign shall be erected, constructed, moved, added to, structurally altered, or demolished, nor shall any land be used without first obtaining a zoning permit from the Zoning Officer.

(b) Zoning Applications. All applications for permits shall be made in writing by the landowner, the authorized agent of the landowner, or any person having an equitable interest in the property with the permission of the landowner. All applications for a zoning permit shall be on a form provided by the Borough and when completed shall be filed with the Zoning Officer along with the required fees. All zoning applications shall include, but not be limited to the following information:

1. The name and address of the applicant, and the landowner if different than the applicant.

2. The address of the property and a description of its location.

(c) Site Plan. Zoning applications shall be accompanied by four copies of a site plan drawn to scale and showing the following:

1. The actual dimensions and shape of the property to be built upon including existing and proposed access drives, roads and streets identifying them by name.

2. The location of any watercourses and floodplain areas.

3. The location and dimensions on the lot of all existing and proposed structures, buildings and signs, parking and loading facilities, with existing features being clearly distinguished from proposed features.

4. The exact size and location of existing and proposed uses of land, with existing uses being clearly distinguished from proposed uses.

5. The location of any existing and proposed wells and septic systems or public water and sewer lines.
6. The height of the building, structure and/or sign.

7. Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

(d) Time Period for Processing Applications. All zoning permits and certificates shall be approved or denied by the Zoning Officer within 30 days from the date of receipt of a completed application. An application shall be deemed complete for purposes of this subsection when the application has been received by the Zoning Officer, fully completed and accompanied by four copies of a site plan and the applicable fee. In the cases of denial, the applicant shall be informed of the right to appeal as provided for under this Ordinance.

(e) Expiration of Zoning Permit. A zoning permit shall expire one year from the date of issuance, if the work described in the permit has not been completed. Once a permit has expired, the applicant or landowner must reapply for another zoning permit and the Zoning Officer may approve or deny the application under the provisions of the Ordinance in effect at the time of the new application. If the work described in the zoning permit has commenced within the one year period, the permit shall expire two years from the date of issuance.

(f) Revocation of Permits. The Zoning Officer may revoke, withdraw or suspend a permit or approval issued under this Ordinance in the following instances:

1. When a permit was issued in error.

2. When the application or plan on which the permit or approval was based contains false statements, misrepresentations of fact, or misleading information.

3. When there exists a violation of any condition imposed by the Zoning Hearing Board as part of its written decision.

4. When just or good cause exists.


(a) A zoning certificate shall be required prior to:

1. The use or occupancy of any new principal building except for accessory structures.

2. The change of use of any principal non-residential building.

3. The use, occupancy or change of use of any land.
(b) A copy of the certificate must be kept on the property. It shall be unlawful to use or occupy any structure, building or land or portion thereof until a certificate has been issued by the Zoning Officer.

(c) All applications for a certificate shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with this Ordinance. An application shall not be considered complete until it is accompanied by the applicable fee.

(d) Pending the issuance of a certificate of zoning compliance, the Zoning Officer may issue a temporary certificate, to be effective for a period not to exceed six months, authorizing occupancy of a structure or building pending its completion of construction or alterations provided that such temporary occupancy would not adversely impact the public health, safety and welfare. The issuance of a temporary certificate shall not negate the obligation of the applicant or land owner to obtain a permanent certificate as required by this Ordinance.

§1004. Temporary Permits. A zoning permit shall be required for all temporary uses of land, buildings and structures. The Zoning Officer shall issue a zoning permit for any of the following:

(a) Short-term special events provided that:

1. The total event is limited to no more than 14 days.

2. Although not otherwise permitted within the zoning district where the event is to be located, it does not adversely affect or interfere with the use and enjoyment of any other permitted use within that zoning district, nor does it prohibit quiet and peaceful enjoyment of adjoining or surrounding properties.

3. Sufficient parking and traffic control will be available for the duration of the event, without obstructing parking that is required to serve other uses.

(b) Retail sales provided that:

1. The property is located within a zoning district that allows retail sales.

2. Any structure associated with the use meets the applicable dimensional regulations of the zoning district in which the structure is located.

3. The proposed use and structures must not:

   i. Obstruct safe sight distances.
ii. Interfere with vehicular and pedestrian travel and off-street parking spaces and loading facilities that are required to serve permanent permitted uses on the property where the retail sales are to take place.

iii. Violate any other local and state laws or regulations.

4. The sales do not occur for more than 90 days in any given calendar year.

(c) Temporary Structures provided that:

1. The structure is necessary to service on-site construction activities.

2. The structure is removed upon completion of construction.

3. The structure is not used for sleeping or living quarters.

4. The construction is a lawful activity for which a zoning permit has been issued.

5. The structure meets the minimum setback requirements for an accessory structure for the zoning district in which the structure will be located.

6. No more than two such structures are located on a lot.

§1005. Enforcement Procedures.

(a) Enforcement Notice. If it appears to the Zoning Officer that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by issuing an enforcement notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land, and to any other person requested in writing by the owner of record. The enforcement notice shall state at least the following:

1. The name of the owner of record and any other person against whom the Borough intends to take action.

2. The location and address of the property in violation.

3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable sections of this Ordinance.
4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days from date of the issuance of the notice using the Zoning Hearing Board application.

6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.

(b) In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting evidence first.

(c) Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board or any court in a subsequent appeal rules in the appealing party’s favor.

(d) Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the municipality or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun, by serving a copy of the complaint on the Governing Body. No action may be taken until such notice has been given.

(e) Jurisdiction/Enforcement Remedies.

1. Jurisdiction. The Magisterial District Judge shall have initial jurisdiction over proceedings brought under this Section of the Ordinance.

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

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

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

§1006. Schedule of Fees, Charges and Expenses. Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for zoning permits, certificates, appeals to the Zoning Hearing Board, amendments to the Zoning Ordinance, Official Zoning Map, certificates of nonconformance and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution by the Governing Body. No action shall be taken on any application, appeal or certificate, until all related fees, charges and expenses have been paid in full.

§1007. Amendment Procedure.

(a) The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(b) Curative Amendments.

1. Initiated by Landowner. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he or she has an interest, may submit a curative amendment to Borough Council with a written
request that his or her challenge and proposed amendment to cure the alleged defect, be heard and decided by Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

2. Initiated by Municipality. If Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, is substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.
Part 11
Zoning Hearing Board and Other Administrative Proceedings

§1101. Membership of Board. The Zoning Hearing Board shall consist of five residents of the Borough appointed by resolution by Borough Council. The existing terms of office shall continue, with terms of office being five years and so fixed that the term of office of one member shall expire each year. Members of the Zoning Board shall hold no other office in the Borough.

§1102. Alternate Members. Borough Council may appoint alternate members to the Zoning Board in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

§1103. Removal of Members. Any Zoning Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for any other just cause by a majority vote of Borough Council, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with and prior to the vote if the member shall request it in writing.

§1104. Organization of Board.

   (a) Election of Officers. The Zoning Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.

   (b) Quorum/Hearing Officer. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Zoning Board. The Zoning Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Board. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Board shall designate as many alternate members of the board to sit on the Zoning Board as may be needed to provide a quorum. Any alternate member of the Zoning Board shall continue to serve on the Zoning Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case by case basis in rotation according to declining seniority among all alternates.

   (c) By-laws/Records. The Zoning Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and the laws of the Commonwealth. The Zoning Board shall keep full public records of its business, which records shall be the property of the Borough, and the Board Chairperson or its Secretary shall submit an annual report of its activities to Borough Council.
§1105. Expenditures For Services. Within the limits of appropriated funds, the Zoning Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

§1106. Hearings. The Zoning Board shall conduct hearings and render decisions in accordance with the following:

(a) Notice of Hearings. Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least seven (7) days prior to the hearing. The posting shall be performed by the Zoning Officer. No other written notices shall be required.

(b) Fees For Hearings. Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for the hearings may include compensation for the secretary and board members, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(c) Time Periods for Hearings. The first hearing before the Zoning Board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant’s Zoning Hearing application and fee payment, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Zoning Board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his, her or its case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Zoning Board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. The applicant may, upon request, be granted additional hearings to complete his, her or its case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Borough, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

(d) Conduct of Hearings. The hearings shall be conducted by the Zoning Board or the Zoning Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Board; however, the appellant or the applicant, as the case may be, in addition
to the Borough, may, prior to the decision of the hearing, waive the decision or findings by the Zoning Board and accept the decision or findings of the hearing officer as final.

(e) Parties to the Hearings. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the board. The Zoning Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Board for that purpose.

(f) Oaths/Subpoenas. The chairman or acting chairman of the Zoning Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

(g) Right to Representation/Evidence/Argument. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(h) Rules of Evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(i) Stenographic Record and Transcript Fees. The Zoning Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Board. The cost of the original transcript shall be paid by the Zoning Board if the transcript is ordered by the Zoning Board or hearing officer or shall be paid by the person appealing from the decision of the Zoning Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(j) Communications and Site Visits. The Zoning Board or the hearing officer shall not communicate, directly or indirectly, with any party or the party’s representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or the party’s representative unless all parties are given an opportunity to be present.

(k) Time Periods for Hearings, Decisions and Findings. The Zoning Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Zoning Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and
conclusions based thereon together with the reasons thereof. Conclusions based on any provisions of this Ordinance shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that the hearing officer’s decision or findings are final, the Zoning Board shall make its report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Zoning Board prior to final decision or entry of findings, and the Zoning Board’s decision shall be entered no later than 30 days after the report of the hearing officer. Except for substantive challenges to the validity of the Ordinance under Section 916.1 of the Pennsylvania Municipalities Planning Code, where the Zoning Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (c) above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Board to meet or render a decision as hereinabove provided, the Zoning Board shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection (a) of this section. If the Zoning Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

(l) Mailing, Copies and Notice of Decisions. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him, her or it not later than the day following its date. To all other persons who have filed their name and address with the Zoning Board not later than the last day of the hearing, the Zoning Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§1107. Mediation Option.

(a) Parties to zoning hearing proceedings under this Part 11 may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Board, in no case shall the Zoning Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, the procedures in this Part 11 once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(b) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

1. Funding mediation.
2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.

3. Completing mediation, including time limits for such completion.

4. Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.

5. Identifying all parties and affording them the opportunity to participate.

6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

7. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of this Ordinance, or the Pennsylvania Municipalities Planning Code.

(c) No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

§1108. Jurisdiction of Zoning Hearing Board. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

(a) Substantive challenges to the validity of any land use ordinance, except for those brought before Borough Council such as in the case of a landowner curative amendment.

(b) Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Zoning Board within 30 days after the effective date of the Ordinance subject to the appeal.

(c) Appeals from the determination of the Zoning Officer, including but not limited to, the granting or denial of any permit, or failure to act on an application, the issuance of any cease and desist order, the revocation of a zoning permit or building permit or the registration or refusal to register any nonconforming use, structure or lot.

(d) Appeals from a determination by the Zoning Officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.

(e) Applications for variances from the terms of this Ordinance.

(f) Applications for special exceptions under this Ordinance.
(g) Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

§1109. Variances.

(a) Provisions for Granting Variances. The Zoning Board shall hear requests for variances when it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. All applications for variances shall be on forms prescribed by the Borough and shall require preliminary application to the Zoning Officer. The Zoning Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(b) Reasonable Conditions and Safeguards. In granting any variance, the Zoning Board may attach such reasonable conditions and safeguards as it may deem
necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

§1110. Special Exceptions.

(a) Provisions for Granting Special Exceptions. When special exceptions are allowed by this Ordinance, the Zoning Hearing Board shall hear and decide requests for such special exceptions in accordance with provisions of this Ordinance. All applications for special exceptions shall be on forms prescribed by the Borough and shall require preliminary application to the Zoning Officer. The Zoning Board shall grant approval only upon the determination that all applicable standards, criteria and provisions within this Ordinance, including the following have been met:

1. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.

2. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion, and providing for the safety and convenience of pedestrian and vehicular traffic.

3. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.

4. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.

5. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.

6. That the specific standards set forth for each particular use for which a special exception may be granted have been met.

(b) Burdens. An applicant shall have the burden to show that the proposed use is classified as a special exception use and meets the objective standards set forth in subsection (a) above, and the specific criteria for the particular use under this Zoning Ordinance. Once the burden of the applicant has been met, an objector has the burden of
proving that the proposed use would substantially affect the health, welfare and safety of the community to a greater extent than what is normally expected from such a use.

(c) Referral to Planning Commission. The Zoning Board prior to deciding a special exception application may refer that application to the Borough Planning Commission for review and recommendation to the Zoning Board.

(d) Reasonable Conditions and Safeguards. In granting special exception approval, the Zoning Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

§1111. Conditional Uses.

(a) Provisions for Granting Conditional Uses. When conditional uses are allowed by this Ordinance, the Governing Body shall hear and decide requests for such special exceptions in accordance with provisions of this Ordinance. All applications for conditional uses shall be on forms prescribed by the Borough and shall require preliminary application to the Zoning Officer. The Governing Body shall grant approval only upon the determination that all applicable standards, criteria and provisions within this Ordinance, including the following have been met:

1. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.

2. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion, and providing for the safety and convenience of pedestrian and vehicular traffic.

3. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.

4. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.

5. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.
6. The proposed use and development shall be in accordance with the Comprehensive Plan for the Borough and the Community Development Objectives of the Ordinance.

7. That the specific standards set forth for each particular use for which a conditional use may be granted have been met.

(b) Applications for conditional uses shall contain the additional following information and criteria so that the Governing Body could properly evaluate the proposal:

1. Need for the proposed use shall be clearly demonstrated through a comprehensive demographic and market study prepared by a qualified professional.

2. If the proposal is adjacent to, or located within a residential zoning district, the use shall relate to and complement the surrounding area.

3. The use shall not generate excessive noise, noxious odors, air pollution or glare, or result in pedestrian conflict or other safety hazards to people or property. Lighting shall be directed away from public right-of-ways and other properties.

4. A traffic impact study may be required by the Governing Body to be performed by the applicant to assess the impact of the proposed use on Borough roads. The study, if required, must demonstrate that the proposed use will not adversely affect surrounding area traffic, or traffic circulation generally within the Borough, or create any traffic congestion or hazards. The Governing Body may on-site and off-site traffic improvements to alleviate any hazardous conditions or traffic congestion.

5. An environmental impact statement may be required by the Governing Body to be performed by the applicant. The statement, if required, must address soil types, surface waters, ground cover including trees, topography, ground water, water supply, sewage system, solid waste, air quality, and noise. The statement must demonstrate that the proposed use will not adversely affect the areas required to be addressed in the statement.

(c) Plan. The conditional use application shall include a plan as required for a zoning permit under §1002 of this Ordinance.

(d) Hearings. Conditional use hearings shall be conducted by the Governing Body in accordance with zoning hearings under §1106 of this Ordinance.

(e) Burdens. An applicant shall have the burden to show that the proposed use is classified as a conditional use and meets the objective standards set forth in subsection (a) and (b) above, and the specific criteria for the particular use under this Zoning Ordinance. Once the burden of the applicant has been met, an objector has the burden of
proving that the proposed use would substantially affect the health, welfare and safety of the community to a greater extent than what is normally expected from such a use.

(f) Referral to Planning Commission. The Governing Body prior to deciding a conditional use application may refer that application to the Borough Planning Commission for review and recommendation to the Governing Body.

(g) Reasonable Conditions and Safeguards. In granting conditional use approval, the Governing Body may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

§1112. Initial Determination to be Made by the Zoning Officer. An application for a variance or special exception use shall not be submitted to or considered by the Zoning Hearing Board until the applicant has submitted a zoning permit application and site plan to the Zoning Officer and the Zoning Officer has denied the application.

§1113. Appellant Before the Zoning Board. Appeals before the Zoning Hearing Board may be filed with the Zoning Board in writing by the affected landowner or by an aggrieved person or party. The Zoning Board shall not accept appeals or applications or proceed with any hearings from any tenant or equitable owner of a property without the express written consent of the landowner.

§1114. Appeals to Court. The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing review of any decision rendered under this Ordinance.

(a) Jurisdiction and Venue on Appeal and Time for Appeal. All appeals from all land use decisions rendered pursuant to Part 11 shall be taken to the Court of Common Pleas of Luzerne County within 30 days from the date of mailing the decision, or in the case of a deemed decision, within 30 days after the date upon which notice of the deemed decision is given as set forth in section 1106(k) above.

(b) Appeals to Court; Commencement; and Stay of Proceedings.

1. Land use appeals shall be entered as of course by the Prothonotary upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

2. Upon filing of a land use appeal, the Prothonotary shall forthwith, as of course, send to the Borough Council, the Zoning Board or agency whose decision or action has been appealed, by registered or certified mail, a copy of the land use appeal notice, together with a writ of certiorari commanding the Borough Council or
Zoning Board, within 20 days after receipt thereof, to certify to the Court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to Borough Council or Zoning Board at the time it received the writ of certiorari.

3. If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing the notice to the landowner or the landowner’s attorney at his or her last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of Court.

4. The filing of an appeal in Court under this section shall not stay the action appealed from, but the appellants may petition the Court for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the Court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the Court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the Court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the Court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him, her or it if an appeal is taken from a final decision of the Court. The question of the amount of the bond shall be within the sound discretion of the Court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the Court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the Court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.
(c) Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant’s counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

(d) Hearing and Argument of Land Use Appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the Court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the Court pursuant to section 916.1 of the Pennsylvania Municipalities Planning Code governing substantive challenges to the validity of this Ordinance shall not be remanded for further hearings before any body, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board or agency whose decision or action is brought up for review and the Court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the Court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the Court or by a referee, the Court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

(e) Judicial Relief.

1. In a land use appeal, the Court shall have power to declare an ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal.

2. If the Court finds that an ordinance or map, or a decision or order there under, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the Court’s opinion and order.

3. Upon motion by any of the parties or upon motion by the Court, the judge of the Court may hold a hearing or hearings to receive
additional evidence or employ experts to aid the court to frame an appropriate order. If the Court employs an expert, the report or evidence of such expert shall be available to any party and he or she shall be subject to examination or cross-examination by any party. He or she shall be paid reasonable compensation for his or her services which may be assessed against any or all of the parties as determined by the Court. The Court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

4. The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the Court from granting the definitive relief authorized. The Court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.
Application to White Haven Borough
Zoning Hearing Board or Governing Body

1. Name, address and phone number of Applicant:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

2. Name, address and phone number of Landowner (if different than applicant):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

3. Zoning District in which the subject property is located:

________________________________________________________________________

4. Present use of land and structure(s):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

5. Proposed use of land and structure(s):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

6. Type of Appeal (check whichever is applicable to your request):

_____ A Variance under §1109 of the Zoning Ordinance.
_____ A Special Exception under §1110 of the Zoning Ordinance.
_____ A Conditional Use under §1111 of the Zoning Ordinance.
7. Based upon the type of appeal listed under item number 6 above, specifically state the nature of your request, including the grounds in support of your appeal.

________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

8. List the names and addresses of all adjoining property owners, including those located immediately across a street from the property subject to the application.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Signature of Landowner

Date

Signature of Applicant

Date
For Borough Use Only

A. Fee Paid: $_________ Date Paid: ________ Manner of Payment: ____________

B. Date of Receipt of Appeal: ________________

C. Date of Hearing: ______________________

D. Date of Decision:_______________________

E. Attach the Zoning Permit Application Denial Letter or the Enforcement Notice being Appealed signed by the Zoning Officer.
WHITE HAVEN BOROUGH, LUZERNE COUNTY
ZONING PERMIT APPLICATION

ZONING PERMIT NUMBER: ________________________________
APPLICATION DATE: ________________________________
(CHECK ONE) COMMERCIAL ___________ RESIDENTIAL _____________
CERTIFICATE OF ZONING COMPLIANCE: ________________

DIRECTORY INFORMATION

1. APPLICANT’S NAME AND ADDRESS:
______________________________________________________________________________________
______________________________________________________________________________________

2. OWNER’S NAME AND ADDRESS (IF DIFFERENT THAN APPLICANT):
______________________________________________________________________________________
______________________________________________________________________________________

3. TELEPHONE NUMBER OF:
   APPLICANT: (                  ) ___________ - ________________
   OWNER: (                   ) ___________ - ________________

4. ADDRESS/LOCATION OF PROPERTY (PLEASE BE DESCRIPTIVE):
______________________________________________________________________________________
______________________________________________________________________________________

CONTRACTOR INFORMATION

5. IF THE WORK IS NOT BEING DONE BY THE OWNER, LIST THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE CONTRACTOR(S):
______________________________________________________________________________________
______________________________________________________________________________________
______________________________________________________________________________________
6. THE FOLLOWING MUST BE COMPLETED IF A CONTRACTOR WILL BE DOING THE WORK UNDER THIS PERMIT:

   A. IS PROOF OF WORKERS COMPENSATION ATTACHED TO THIS APPLICATION?
      YES _________      NO _________

   B. IF THE ANSWER IF NO, THEN A NOTARIZED STATE FORM MUST BE ATTACHED.

   C. PLEASE INDICATE YOUR STATE HOME IMPROVEMENT CONTRACTOR’S LICENSE NUMBER: ________________________________.

EXISTING STRUCTURE(S)

7. NUMBER OF EXISTING STRUCTURES ON LOT: ________________.

8. SIZE OF EXISTING STRUCTURES ON LOT:

   STRUCTURE #1: ____________.

   STRUCTURE #2: ____________.

   NOTE: THE NUMBER AND SIZE OF EXISTING STRUCTURES SHOULD ALSO BE INCLUDED IN YOUR SKETCH PLAN.

STRUCTURE(S) TO BE BUILT

9. PROVIDE A COMPLETE JOB DESCRIPTION OF THE PROPOSED CONSTRUCTION BELOW:

   ______________________________________________________________________________________

   ______________________________________________________________________________________

   ______________________________________________________________________________________

10. SIZE OF LOT:

    WIDTH: ________.

     DEPTH: ________.

     ACRES/SQUARE FEET: ________________.

11. SIZE OF STRUCTURE(S) TO BE BUILT:

    | STRUCTURE #1 | STRUCTURE #2 | STRUCTURE #3 |
    |--------------|--------------|--------------|
    | HEIGHT: _______ | HEIGHT: _______ | HEIGHT: _______ |
    | WIDTH: _______  | WIDTH: _______  | WIDTH: _______  |
    | DEPTH: _______  | DEPTH: _______  | DEPTH: _______  |
12. TOTAL SQUARE FEET OF STRUCTURE(S) TO BE BUILT: ______________
   
   A. LIVING SPACE (IF RESIDENTIAL STRUCTURE): ________________
   
   B. TOTAL FLOOR AREA (IF NON-RESIDENTIAL/COMMERCIAL): _______________

13. LOCATION OF STRUCTURE ON LOT: STRUCTURE #1  STRUCTURE #2  STRUCTURE #3

   FEET TO FRONT YARD PROPERTY LINE: ______  ______  ______
   FEET TO REAR YARD PROPERTY LINE: ______  ______  ______
   FEET TO SIDE YARD PROPERTY LINE: ______  ______  ______
   FEET TO SIDE YARD PROPERTY LINE: ______  ______  ______

   NOTE: THESE DISTANCES MUST BE INCLUDED IN YOUR SKETCH PLAN.

SEWER AND WATER INFORMATION

14. PLEASE CIRCLE ONE FROM EACH CATEGORY:
   
   A. METHOD OF WATER SUPPLY:  ON LOT  OR  PUBLIC
   
   B. METHOD OF SEWAGE DISPOSAL:  ON LOT  OR  PUBLIC

15. HAS A SEWAGE PERMIT BEEN ISSUED:  YES  _________  NO  _______

   NOTE: PLEASE ATTACH A COPY OF THE SEWAGE PERMIT TO THIS APPLICATION.

OTHER CONSTRUCTION INFORMATION

16. STARTING DATE: _______________  COMPLETION DATE: ________________

17. TOTAL COST OF CONSTRUCTION: $_________________.

USE

18. PLEASE CHECK ANY OF THE FOLLOWING THAT APPLY TO YOUR REQUEST:

   ________ USE OF A STRUCTURE THAT HAS BEEN ALTERED, EXTENDED OR MOVED
   ________ USE OF VACANT LAND EXCEPT FOR AGRICULTURAL PURPOSES
   ________ CHANGE IN THE USE OF LAND
   ________ CHANGE IN THE USE OF A STRUCTURE

19. PLEASE EXPLAIN THE ITEM OR ITEMS CHECKED ABOVE (INCLUDE PRESENT AND PROPOSED USES):

   ________________________________________________________________________
   ________________________________________________________________________
   ________________________________________________________________________
20. WILL THE CHANGE OF THE USE RESULT IN MULTIPLE USES ON ONE LOT OF RECORD?

    YES ___________    NO ___________

21. SIZE OF LOT AREA TO BE USED: _______________________________.

22. IF YOU ARE CONSTRUCTING A NON-RESIDENTIAL/COMMERCIAL STRUCTURE, PLEASE INDICATE THE DATE UPON WHICH YOU OBTAINED LAND DEVELOPMENT APPROVAL FROM WHITE HAVEN BOROUGH COUNCIL: _______________________________.

23. IF YOU ARE CONNECTING A DRIVEWAY TO A BOROUGH STREET, COUNTY ROAD, OR STATE HIGHWAY, PLEASE ATTACH A COPY OF YOUR BOROUGH ROAD STREET, COUNTY ROAD, OR STATE HIGHWAY OCCUPANCY PERMIT.

24. PLEASE BE ADVISED THAT WHITE HAVEN BOROUGH HAS ADOPTED THE UNIFORM CONSTRUCTION CODE AND HIRED A BUILDING CODE OFFICIAL TO ADMINISTER AND ENFORCE THAT CODE. AS SUCH, YOU MUST OBTAIN A BUILDING PERMIT ISSUED BY THE BUILDING CODE OFFICIAL.

THE INFORMATION, WHICH I HAVE PROVIDED WITHIN THIS APPLICATION, IS TRUE AND CORRECT. I HEREBY AGREE TO OBEY AND CONFORM TO ALL REGULATIONS OF WHITE HAVEN BOROUGH AND THE COMMONWEALTH OF PENNSYLVANIA IN THE PERFORMANCE OF MY WORK IN WHITE HAVEN BOROUGH. I FURTHER AGREE TO NOTIFY THE ZONING OFFICER OF ANY CHANGES IN THE INFORMATION PROVIDED IN THIS APPLICATION.

_________________________  _______________________
SIGNATURE OF OWNER       DATE

_________________________  _______________________
SIGNATURE OF APPLICANT     DATE
BOROUGH USE ONLY

ZONING DISTRICT: __________________

NAME/TYPe OF ROAD PROPERTY IS LOCATED ALONG: ______________

WAS A ROAD OCCUPANCY PERMIT OBTAINED: YES _________ NO __________

APPROVED _________ DENIED _________ THIS _________ DAY OF ___________ 20_____.

APPROVAL IS SUBJECT TO THE FOLLOWING CONDITIONS:

____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

______________________________________
ZONING OFFICER
WHITE HAVEN BOROUGH SKETCH PLAN

Indicate North

The plan drawn to scale shall include:

(1) The actual dimensions and shape of the lot.

(2) The exact size and location of existing and proposed structures on the lot.

(3) The number and types of dwelling units (if applicable).

(4) The amount and location of parking or loading facilities (if applicable).

(5) The existing and proposed use of the property.

(6) The height of the proposed structure.

I will have the structure built and located in accordance with the dimensions indicated above.

_________________________________________
Signature of Applicant
WHITE HAVEN BOROUGH, LUZERNE COUNTY
CERTIFICATE OF ZONING COMPLIANCE

A CERTIFICATE OF ZONING COMPLIANCE MUST BE PROCESSED AND APPROVED PRIOR TO OCCUPYING THE STRUCTURE.

APPLICANT’S NAME AND ADDRESS:

____________________________________________________________________________________

____________________________________________________________________________________

OWNER’S NAME AND ADDRESS:

____________________________________________________________________________________

____________________________________________________________________________________

ZONING PERMIT NUMBER: ______________________

DATE ISSUED: ______________________

BUILDING PERMIT NUMBER: ______________________

DATE ISSUED: ______________________

THE FOLLOWING MUST BE SIGNED BY THE PERSON IDENTIFIED UNDER EACH SIGNATURE LINE:

STRUCTURE HAS BEEN BUILT IN COMPLIANCE WITH THE APPROVED ZONING PERMIT

___________________________________________
SIGNATURE OF CONTRACTOR

STRUCTURE HAS BEEN BUILT IN COMPLIANCE WITH THE UNIFORM CONSTRUCTION CODE

___________________________________________
SIGNATURE OF CONTRACTOR

SEWER AND WATER HAS BEEN INSTALLED AND CONNECTED

___________________________________________
SIGNATURE OF CONTRACTOR

ELECTRICAL INSTALLATION APPROVED BY PP&L

___________________________________________
SIGNATURE OF ELECTRICAL INSPECTOR

LAB CERTIFIED SMOKE DETECTORS HAVE BEEN INSTALLED AND ARE OPERATIONAL

___________________________________________
SIGNATURE OF PROPERTY OWNER
I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

_________________________________________  ____________________________
SIGNATURE OF OWNER or APPLICANT          DATE

************************************************************************************

FOR OFFICIAL USE ONLY

______________________________________  ______________________  ______________
FEE PAID                                   CHECK #                   DATE

________________________________________
ZONING OFFICER
## SCHEDULE OF ZONING FEES

1. **SIGN PERMIT FEES** - $45.00

2. **CERTIFICATE OF ZONING COMPLIANCE** -
   1. Commercial - $150.00
   2. Residential (single family) - $75.00
   3. Residential (two or multi-family) - $125.00

3. **ZONING PERMIT** -
   1. Residential - $125.00
   2. Commercial - $250.00

4. **APPEAL TO THE ZONING HEARING BOARD** - $350.00

5. **LANDOWNER CURATIVE AMENDMENT** -
   1. $500.00 plus the cost of advertising and stenographer transcript fees.
   2. $1,000.00 must be placed in an escrow account at the time of making application, which escrow will be applied toward the application fee and costs of the hearing. Any excess will be refunded to the applicant within sixty (60) days from the conclusion of the hearing.

6. **CERTIFICATE OF NON-CONFORMING USE** - $100.00

7. **ZONING BOOKS AND MAPS** -
   1. Zoning Book - $25.00
   2. Zoning Map - $15.00
   3. Subdivision and Land Development Book - $25.00

8. **DEMOLITION PERMITS** -
   1. Residential or Accessory Structures - $100.00
   2. Commercial Structures including multi-family Buildings - $250.00
CHAPTER 30

ZONING MAP

Part 1

Amendment to Zoning Map

§101. Extension of Downtown Commercial
§102. Further Extension of Downtown Commercial
§103. Susquehanna Street

Part 2

Zoning Map
CHAPTER 30
ZONING MAP

Part 1
Amendment to Zoning Map


(a) ITEM 1 - The Zoning Map enacted as Section 402 of the Zoning Ordinance of White Haven Borough is amended and revised to extend the existing C-2 (Downtown Commercial) Zone to include an area of 1.011 acres currently owned by Wilmot Company, Inc. and bounded on the north by Berwick Street, on the east by the Lehigh River, on the south by property of White Haven Municipal Authority and on the west by other property of Wilmot Company, Inc., in which is currently zoned C-2 (Downtown Commercial).

(b) ITEM 2 - In all other respects the Zoning Ordinance shall remain in full force and effect.


(a) ITEM 1 - The Zoning Map enacted as Section 402 of the Zoning Ordinance of White Haven Borough is amended and revised to extend the existing C-2 (Downtown Commercial) Zone to include an area of 12,306 square feet currently owned by Aqua Pennsylvania, Inc. and bounded on the north by other property of Aqua Pennsylvania, Inc., which are currently Zoned O-1 (Open Space), and on the south by property of Shadowscape Ltd., which are currently Zoned O-1 (Open Space), and on the west by other Main Street.

(b) ITEM 2 - In all other respects the Zoning Ordinance shall remain in full force and effect.

§103. Susquehanna Street.

(a) The Official Zoning Map enacted as Section 402 of the White Haven Borough Zoning Ordinance is hereby amended and revised changing the zoning district for property located along the Susquehanna Street Extension, White Haven, Pennsylvania 18661 from I-1 (Industrial) Zoning District to R-2 (Medium Density Residential) Zoning District.
The property proposed to be rezoned is more specifically described as:

BEGINNING at a point in the center of Susquehanna Street extended, said point being at the extension northerly of the westerly line of the “Water Tower” parcel owned, now or formerly, by Aqua America Water Company;

THENCE in a southerly direction, along the said projection of the “Water Tower” parcel and the westerly line of said “Water Tower” parcel, approximately one hundred ninety (190’) feet, more or less, to the southwesterly corner of the “Water Tower” parcel;

THENCE in a westerly direction, one hundred ninety (190’) feet, more or less, distant southerly and parallel to the center line of Susquehanna Street extended, a distance of five hundred eighty-five (585’) feet, more or less, to a point in the easterly line of the “Woodhaven Development;”

THENCE in a northerly direction, along the easterly line of the “Woodhaven development,” a distance of one hundred ninety (190’) feet, more or less, to a point in the center of Susquehanna Street extended;

THENCE in an easterly direction, along the center of Susquehanna Street extended a distance of five hundred eighty-five (585’) more or less, to the place of beginning.

COMPRISING all the area of land zoned “I-1, Limited Industrial, located on the southerly side of Susquehanna Street extended and as depicted in blue on the attached map entitled, “Sketch Depicting Proposed Zoning Changes, White Haven Borough."

(Ord. No. 3-2006, 11/20/2006)

(b) The Official Zoning Map enacted as Section 402 of the White Haven Borough Zoning Ordinance is hereby amended and revised changing the zoning district for property located at 501 Susquehanna Street, White Haven, Pennsylvania 18661 from R-1 (Single-Family Residential) Zoning District to the I-1 (Industrial) Zoning District.

The property proposed to be rezoned is more specifically described as:

BEGINNING at the point in the center of Susquehanna Street extended, said point being at the extension southerly of the dividing lands, now or formerly, of Harvey L. and Marie F. Morrison and lands of, now or formerly, Archangel M, Inc.;

THENCE in a northerly direction, along the said projection of the said line dividing Morrison and Archangel M, Inc. and the line dividing Morrison and Archangel M, Inc., approximately two hundred and thirty (230’) feet, more or less, to the northwesterly corner of the “Morrison” parcel and a corner of Archangel M, Inc.;
THENCE in an easterly direction, along the line dividing “Morrison” and Archangel M, Inc., a distance of one hundred twenty-five (125’) feet, more or less, to a point in the westerly line of several parcel of land fronting on Church Street;

THENCE in a southerly direction, along the westerly line of the said parcel fronting on Church Street, a distance of two hundred eighty (280’) feet, more or less, to a point in the center of Susquehanna Street extended;

THENCE in a westerly direction, along the center of Susquehanna Street extended a distance of one hundred sixty (160’) feet, more or less, to the place of beginning.

COMPRISING all the area of land zoned “R-1,” Low Intensity residential, located to the rear of the several parcel of land located on the westerly side of Church Street and north of Susquehanna Street Extended and as depicted in green on the attached map entitled, “Sketch Depicting Proposed Zoning Changes, White Haven Borough.”

(c) Except as amended above, the Official Zoning Map and Zoning Ordinance shall remain the same in full force and effect.

(Ord. No. 4-2006, 11/20/2006)
Part 2
Zoning Map