

§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:

<u>TYPE:</u>	<u>MINIMUM SPACE:</u>
<u>Commercial Establishments:</u>	One space for every 10,000 square feet of gross floor area.
<u>Industrial, Warehouse, Factory, Manufacturing:</u>	One space for every 7,500 square feet of gross floor area.
<u>Schools, Hospitals, Funeral Homes:</u>	One for every 15,000 square feet of gross floor area.

(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.

ORDINANCE NO. 4 OF 2014
AMENDING THE WHITE HAVEN BOROUGH ZONING ORDINANCE
NO. 2 OF 2014

AN ORDINANCE OF THE BOROUGH OF WHITE HAVEN, LUZERNE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 29, SECTION 803(c), ANIMAL HOSPITAL AND KENNEL, AS FOLLOWS:

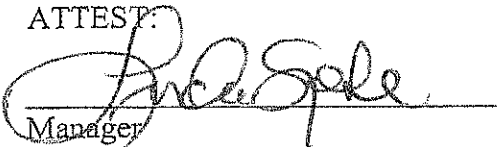
BE IT ENACTED AND ORDAINED by the White Haven Borough Council, and it is hereby enacted and ordained by the authority of the same, amendments as follows:

§803. Animal Hospital and Kennel. This section is hereby retitled: "Animal Hospital, Kennel and Livestock." and the following subsection is being added:

(c) Animal Livestock. The raising or keeping of animals as part of an agricultural use shall be permitted in the O-1 Zoning District by special exception provided that the animals are located on a property having a total minimum lot size of five (5) acres. All areas where animals are kept or raised shall be located not less than 20 feet from a property line and 50 feet from any residence.

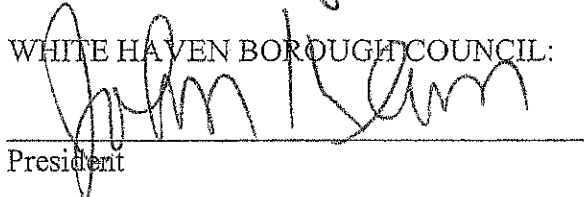
NOW THEREFORE, these amendments to the White Haven Borough Zoning Ordinance are hereby enacted and become effective this 28th day of July, 2014.

ATTEST:



Manager

WHITE HAVEN BOROUGH COUNCIL:



President

APPROVED BY:



Mayor

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 be 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.

(c) Contents of Logging Plan.

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 without the express written consent of the Borough, County or Pennsylvania 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 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 measures to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.

(f) All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.

(g) All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.

(h) 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 (0-1) 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 (0-1) 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.

1. Streets and Access Roads.

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.

8. Noise.

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.

9. Hours of Operation.

- 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.

10. Prohibitions.

- 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.*

§828. Public Utility Buildings and Structures.

(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, Germanischer Lloyd 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)(1), (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.

§836. Solar Energy Systems (Minor and Major).

(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.

ORDINANCE NO 1 OF 2018
WHITE HAVEN BOROUGH, LUZERNE COUNTY, PENNSYLVANIA

**AN ORDINANCE OF WHITE HAVEN BOROUGH, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING ITS ZONING ORDINANCE TO ADDRESS
VACATION HOME RENTALS**

The Council of White Haven Borough does hereby adopt the following amendments to the White Haven Borough Zoning Ordinance of 2012, as amended by:

Adding the following term under Chapter 29, Zoning, Part 2, Definitions, Section 202 of the Zoning Ordinance:

“Vacation Home Rental” means any dwelling within a residential dwelling unit rented for the purpose of overnight lodging for a period of not less than one (1) day and not more than thirty (30) days. Specifically included in this definition is any dwelling rented or leased through any online community marketplace or Airbnb.

Amending the following Sections of Part 4, Basic District Regulations, Section 405, R-3, Residential, Multi-Family, and Section 411, O-1, Open Space, of the Zoning Ordinance to include the following use:

§405. “R-3” Residential, Multi-Family.

(b) Special Exception Uses.

10. Vacation Home Rental.

§411. “O-1” Open Space.

(b) Special Exception Uses.

17. Vacation Home Rental.

Adding the following section under Chapter 29, Zoning, Part 8, Supplemental Regulations:

§837. Vacation Home Rental.

(a) Each owner of a vacation home rental who resides more than twenty (20) miles from the rental shall designate a local person, property manager or agent, as a local contact person who has access and authority to assume management of the unit and take remedial measures.

(b) The owner shall by written agreement, limit overnight occupancy of the vacation home rental to not more than two (2) persons per bedroom with the maximum number of bedrooms not to exceed five (5) per vacation home rental.

(c) All written agreements and/or documents associated with the rental must be made available to the White Haven Borough Code Officer, law enforcement officials, and the Fire Chief.

(d) A vacation home rental shall have a minimum of one (1) off-street parking space per bedroom. The required number of parking spaces may include spaces in a garage which can accommodate vehicles. All parking spaces shall comply with the requirements of Section 701 of the Zoning Ordinance.

(e) The owner shall use best efforts to assure that the occupants or guests of the vacation home rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Zoning Ordinance, and other local and state laws pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding vacation home rentals and responding when notified that occupants are violating laws regarding their occupancy.

(f) Any lights used for exterior illumination shall be directed away from adjoining properties. Lighting shall be pointed/shielded downward to minimize upward glare.

(g) Occupancy of recreational vehicles, camper trailers and tents shall not be allowed.

(h) Outdoor burning is prohibited under Chapter 10, Part 1, Section 103 of the White Haven Code of Ordinances.

(i) The owner of the vacation home rental shall conspicuously place a notice on the front door of the principal building indicating that it has been approved as a vacation home rental; listing these zoning provisions so that occupants have notice of the rules and regulations governing vacation home rentals; and containing the following information:

- (i) The name of the managing agency, agent, property manager, local contact, or owner of the unit, and a telephone number at which that party may be reached on a twenty-four (24) hour basis.
- (ii) The maximum number of occupants permitted to stay in the unit at any one time.
- (iii) The maximum number of all vehicles allowed to be parked on the property and the requirement that all renter/guest parking must be on the property and not in any private, community or public right-of-way.
- (iv) The number and location of on-site parking spaces and the parking rules for seasonal snow removal and emergency vehicle access (if any).

(v) The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property except within twenty-four (24) hours of the day designated for trash pick-up.

(j) The owner of the vacation rental unit must register with the Borough Zoning Officer the names, addresses and contact numbers for all persons renting a unit at least one week prior to the rental.

(k) The owner of the vacation rental unit must register the property with all applicable Commonwealth and Luzerne County offices, including all taxing authorities.

(l) All Vacation Home Rentals operating before the enactment of this ordinance, in operation during the enactment of this ordinance, or contemplated to be operating after the enactment of this ordinance must obtain a variance from the White Haven Borough Zoning Hearing Board.

(m) Vacation Home Rentals may not be used as anything other than Vacation Rentals or short term occupancy dwellings.

(n) An annual fee for each Vacation Home Rental is to be paid to White Haven Borough by the owner of the vacation home in an amount of \$350.00. This amount may be adjusted by White Haven Borough Council by Resolution.

(o) An annual inspection of each Vacation Home Rental is to be performed by a White Haven Borough designee. Each inspection is to be paid for by the by the owner of the vacation home in an amount set by White Haven Borough by Resolution.

This Amendment shall take effect immediately following its adoption.

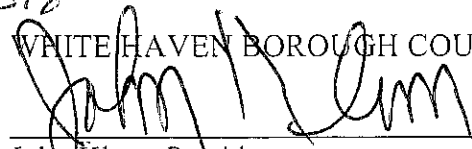
The remaining Articles and Sections of the White Haven Zoning Ordinance of 2012 shall remain the same and unchanged, except as amended.

NOW THEREFORE, this amendment to the White Haven Borough Zoning Ordinance shall become effective this ~~18th~~ day of ~~December, 2017~~ ^{21 May 2018}

ATTEST:


Linda Szoke, Manager

WHITE HAVEN BOROUGH COUNCIL:


John Klem, President

APPROVED BY:


Mayor

Part 9
Sign Regulations

§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.

ORDINANCE NO. 1 OF 2016
AMENDING THE WHITE HAVEN BOROUGH ZONING ORDINANCE
NO. 1 OF 2016

AN ORDINANCE OF THE BOROUGH OF WHITE HAVEN, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 29, ZONING, AS FOLLOWS:

White Haven Borough Council does hereby amend Section 908 of the Zoning Ordinance to read as follows:

§908. Prohibited Signs. The following signs are prohibited within the Borough:

(a) Signs shall not be constructed, placed or installed in such a manner so as to not obstruct or distract motorists, or pose a threat or cause harm to pedestrians, or vehicular travel.

(b) No signs shall be permitted that: (1) have spinners, reflectors, or similar materials displayed outside a building; (2) emit smoke, visible vapors, particles, sound, or odor; (3) are inflatable except those associated with holiday decorations; and (4) contain an open flame in a way to attract attention.

(c) Signs shall not contain moving parts or use flashing, sequential or intermittent illumination. The source of light shall be steady and stationary.

(d) No sign shall be constructed, placed, erected or maintained which either because of its illumination or location, poses a danger to vehicular or pedestrian traffic, or obstructs free ingress to or egress from any window, door, emergency exit, or fire escape.

(e) No sign other than an official traffic sign may be erected within the right-of-way line of any street, including sidewalks and walkways.

(f) Signs because of their design or location that may be confused with an official traffic sign or signal are prohibited.

(g) Off-premise advertising on an automobile, truck, or other vehicle is prohibited if that vehicle is parked for no other purpose than to advertise for a period of three or more consecutive days, or more than one day for any thirty day period per year, or the vehicle is otherwise being used primarily for displaying such sign.

NOW THEREFORE, this amendment to the White Haven Borough Zoning Ordinance shall become effective this 28th day of March, 2016.

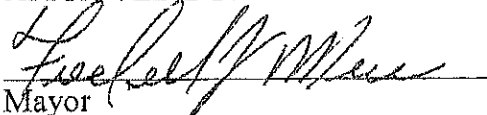
ATTEST:


Manager

WHITE HAVEN BOROUGH COUNCIL:


President

APPROVED BY:


Mayor

Part 10
Enforcement and Administration

§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.

§1003. Certificate of Zoning Compliance.

(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 Ordinances 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.

Other (explain): _____

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.

[illegible]

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

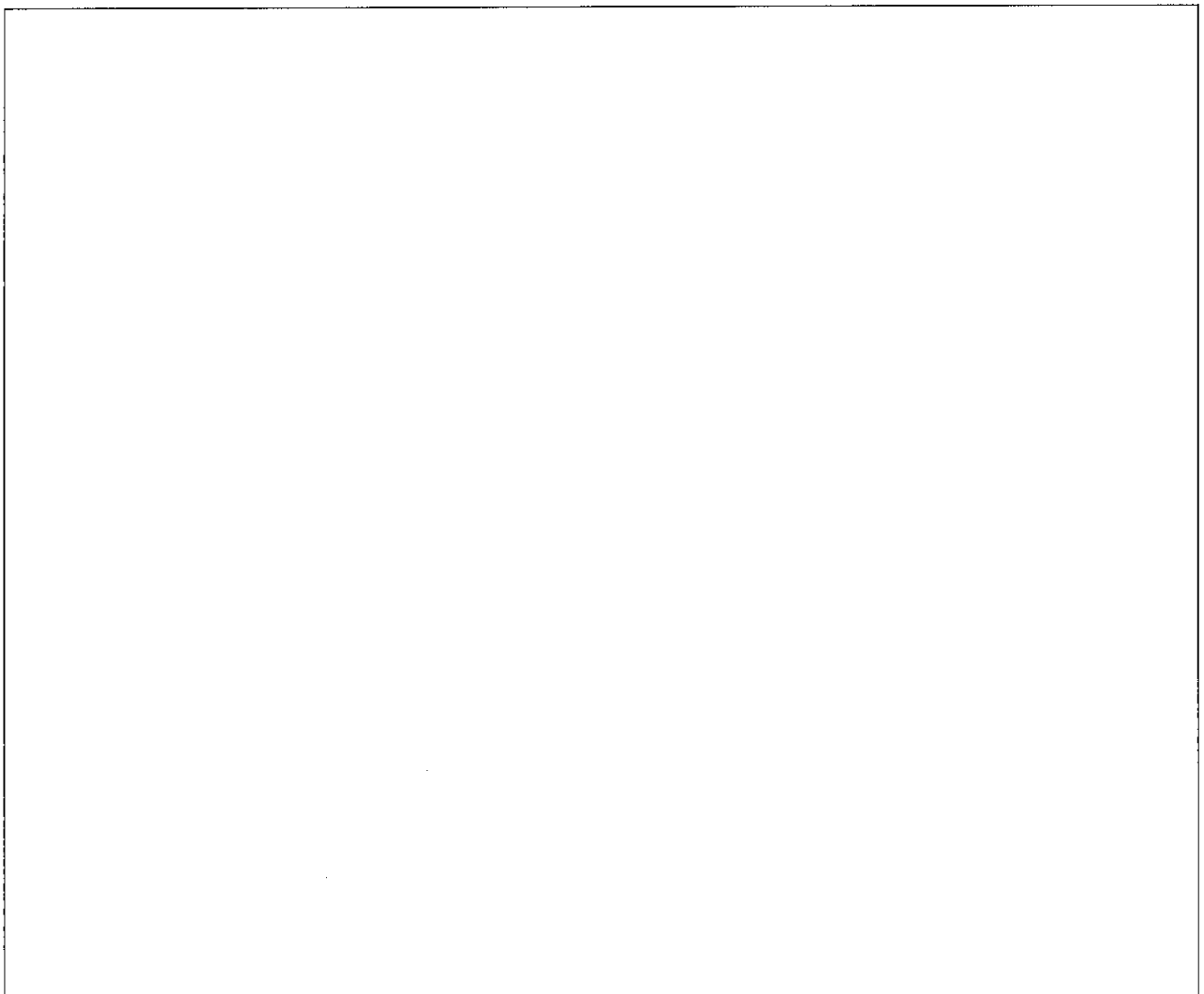
WHITE HAVEN BOROUGH SKETCH PLAN

Indicate North



The plan drawn to scale shall include:

- | | |
|---|---|
| (1) The actual dimensions and shape of the lot. | (4) The amount and location of parking or loading facilities (if applicable). |
| (2) The exact size and location of existing and proposed structures on the lot. | (5) The existing and proposed use of the property. |
| (3) The number and types of dwelling units (if applicable). | (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 STURCTURE.

APPLICANT'S NAME AND ADDRESS:

OWNER'S NAME AND ADDRESS:

ZONING PERMIT NUMBER: _____

DATE ISSUED: _____

BUIDLING 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