

BENDERSVILLE BOROUGH

**EXISTING LAND USE
FUTURE LAND USE PLAN
ZONING ORDINANCE**

MAY 17, 1994

PREPARED BY

BENDERSVILLE PLANNING COMMISSION

ZONING ORDINANCE

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AN ORDINANCE

Permitting, prohibiting, regulating, restricting and determining the use of land, watercourses, size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; areas and dimensions of land to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; the density of population and intensity of use; and providing for repeal, and variances; for special exceptions, for the administration and enforcement of the Ordinance, and such other provisions as may be necessary to implement the purposes of this Ordinance.

ARTICLE I

TITLE, AUTHORITY, PROVISIONS, PURPOSE

Section 101. SHORT TITLE

This Ordinance shall be known as and may be cited as the "Borough of Bendersville Zoning Ordinance."

Section 102. AUTHORITY

This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, "The Pennsylvania Municipalities Planning Code", July 31, 1968, as amended.

Section 103. PROVISIONS

The following zoning ordinance provisions reflect the policy goals of the statement of the community development objectives required in Section 606 of the Pennsylvania Municipalities Planning Code, and give consideration to the character of the municipality, the needs of the citizens, and the suitabilities and special nature of particular parts of the municipality.

This ordinance may permit, prohibit, regulate, restrict and determine:

1. Uses of land, watercourses, and other bodies of water.
2. Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures.
3. Areas and dimensions of land bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.
4. Density of population and intensity of use.
5. Protection and preservation of natural resources and agricultural land and activities.
6. This ordinance may include provisions regulating the siting, density and design of residential, commercial, industrial and other developments in order to assure the availability of reliable, safe and adequate water supplies to the intended land uses within the capacity of available water resources.

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Section 104. PURPOSE

This ordinance is enacted for the following purposes:

1. To promote, protect and facilitate any or all of the following: the public health, safety, morals and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other damages.
3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
4. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

ARTICLE II

COMMUNITY DEVELOPMENT GOALS AND OBJECTIVES

Section 201. COMMUNITY DEVELOPMENT GOALS AND OBJECTIVES

1. AGRICULTURE

A. **GOAL: Conserve agricultural uses while allowing for limited residential development throughout the Borough of Bendersville.**

B. OBJECTIVES:

- (1) Design and implement residential development standards maximizing clustering of development to conserve the best agricultural and orchard areas and to promote harmony among non-agricultural uses by providing buffers or setbacks between such uses.
- (2) Adopt ordinances which would not unreasonably restrict agricultural structures and agricultural practices.
- (3) Encourage farmland owners to donate agricultural conservation easements to conservancies or governmental units while maintaining the agricultural use of the land.
- (4) Encourage the continued establishment of Agricultural Security Areas and promote active participation in the Pennsylvania Agricultural Conservation Easement Program.
- (5) Require notice to be entered in deeds of all parcels located in and immediately adjacent to areas planned for agriculture, stating that agriculture is the primary industry in that area and the landowners may be subject to inconvenience or discomfort arising from accepted agricultural practices.

2. GROWTH/DEVELOPMENT

A. **GOAL: Promote the sound construction of a variety of dwellings for all income groups throughout the Borough while maintaining the character of the Borough by appropriately locating commercial and industrial development that is mutually supportive and responsive to the needs of the community.**

B. OBJECTIVES:

- (1) Develop building code regulations to ensure sound and safe construction of dwellings.

- (2) Improve the housing stock in Bendersville Borough while maintaining the Village Character through the implementation of zoning and building codes.
- (3) Adopt mobile home park regulations which would ensure adequate site design, including dedicated street systems, curbs and sidewalks, the provision of necessary services, and buffering from non-compatible uses.
- (4) Promote the establishment of commercial or industrial uses which do not contribute to the degradation of the natural environment or that hinder the productiveness of the valuable orchards or agricultural lands which envelop the Borough.

3. VILLAGE AREA

A. **GOAL: Maintain and enhance the "Village" character of the Borough which adds charm and fosters Bendersville's reputation as a pleasant and attractive place to live.**

B. **OBJECTIVES:**

- (1) Establish standards which provide for the appropriate proportion, rhythm, scale, design and placement of village buildings through the mixing of appropriate residential, public and commercial uses that are mutually supportive and responsive to the needs of the community.
- (2) Adopt uniform sign standards to ensure maintenance of the "village" character of the Borough.
- (3) Protect the architectural character of historic buildings by considering the establishment of historic overlay and/or historic districts.
- (4) Regulate site location and duration of temporary uses through a Borough temporary permit program.
- (5) Establish conversion and adaptive reuse standards for existing structures thereby allowing for creative adaptive reuse and conversions while maintaining the integrity of the village, appropriate population density and the viability of the Village Area.
- (6) Maintain the Borough character while providing safe construction practices through the implementation of zoning and building codes.

4. HISTORIC PRESERVATION

A. **GOAL: Maintain the Bendersville's development history, agricultural heritage and "Village" character for the cognizance and enjoyment of current and future generations.**

B. OBJECTIVES:

- (1) Identify scattered historic sites of regional or local importance through a historic site inventory.
- (2) Protect identified historic sites through the application of an overlay zone which would be defined by a historic resources map, and documentation of the specific site characteristics that make each a significant part of Bendersville's heritage.
- (3) Develop and institute a special permitting system for the demolition of historic structures.

5. COMMUNITY FACILITIES

A. **GOAL: Maintain and/or improve current community facilities in a manner appropriate for the character of the community.**

B. OBJECTIVES:

- (1) Secure land for a common public area in Bendersville for the establishment of community facilities, including a borough hall, library, and park.
- (2) Develop and adopt a recreation plan as a prerequisite to mandatory land dedication.
- (3) Establish subdivision and land development provisions requiring mandatory land dedication or fee in lieu of dedication for park and recreation purposes.
- (4) Develop and enforce provisions contained within land use ordinances that require developers to accurately determine the water supply/sewer capacity needs generated by their development proposals.
- (5) Establish "timing of development" policies which would direct growth into areas equipped to support development.
- (6) Develop street lighting standards to be applied for all new street development or existing street improvements which are not obtrusive or brazen.

6. TRANSPORTATION

A. **GOAL: Maintain an appropriate hierarchy of streets, in accordance with Borough character, to ensure an adequate level of vehicular and pedestrian accessibility for existing and future development and to provide for the functional movement of people and goods.**

B. OBJECTIVES:

- (1) Provide for better traffic control at the Borough "square" intersection.
- (2) Establish a system for the demarcation of pedestrian crossings throughout the Borough.
- (3) Enforce provisions requiring adequate site access and upgrading of existing alleys to land-locked parcels in addition to requiring developers to properly assess and physically install street related improvements to satisfy the access and transportation demands generated by their developments.

7. ENVIRONMENTAL/NATURAL AMENITIES

A. **GOAL: Promote the conservation of environmentally sensitive areas and natural amenities thereby maintaining the balanced development pattern which makes Bendersville unique.**

B. OBJECTIVES:

- (1) Assure that development within the floodplain areas complies with provisions of the National Flood Insurance Program and the Pennsylvania Floodplain Management Act.
- (2) Promote regulation of residential and nonresidential activities to prevent such harmful effects as water pollution and excessive water runoff resulting from development and adopt and implement stormwater management regulations as part of the Borough's land use ordinances.
- (3) Promote greater public awareness and education of sensitive environmental issues and problems affecting the Borough.

ARTICLE III
DEFINITIONS

Section 301. GENERAL

The following words are defined in order to facilitate the interpretation of the Ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

Words used in the present tense include the future tense.

The singular includes the plural.

The word "person" includes any individual or group of individuals, a corporation, partnership, or any other similar entity.

The word "lot" includes the words "plot" or "parcel".

The term "shall" is always mandatory.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words, "intended, arranged or designed to be used or occupied."

Section 302. DEFINITIONS

ABANDONMENT. The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ACCESS DRIVE. A paved surface, other than a street, which provides vehicular access from a street or private road to a lot.

ACCESSORY BUILDING (STRUCTURE). A building (structure) subordinate to and detached from the principal building on the same lot and used for purposes customarily incidental to the principal building.

ACCESSORY USE. A use customarily incidental and subordinate to the principal use of the main building or land and located on the same lot with such principal use or main building.

ACT. Shall mean the Pennsylvania Municipalities Planning Code, Act 247, as amended.

ADULT DAY CARE CENTER. A facility providing counseling and rehabilitative services to functionally impaired adults, licensed by the Pennsylvania Department of Public Welfare.

AGRICULTURE. The cultivation of the soil and the raising and harvesting of the products of the soil including, but not limited to, nurseries, orchards, horticulture, forestry and the breeding and raising of customary domestic animals, excluding kennels as defined herein.

AIRPORT. Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon.

ALLEY. A public thoroughfare other than a minor street which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

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

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

AMENDMENT. A change in use in any district which includes revisions to the zoning text and/or the official zoning map; and the authority for any amendment lies solely with the Board of Supervisors.

ANIMAL HOSPITAL. A building used for the treatment, housing or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

ANTENNA. Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves, which is external to or attached to the exterior of any building.

ANTENNA, SATELLITE DISH. A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally-based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

APARTMENT. A dwelling unit within a multiple dwelling. This classification includes apartments in Apartment Houses, Bachelor Apartments, Studio Apartments and Kitchenette Apartments. Accessory Apartments and Conversion Apartments, as defined herein, shall not be included in the classification.

APARTMENT, ACCESSORY. An independent dwelling unit incorporated within an existing single-family detached dwelling without any substantial external modification.

APARTMENT, CONVERSION. An existing dwelling unit that is or was converted to a dwelling for more than one (1) family, without substantially altering the exterior of the building.

APARTMENT, GARDEN. A two (2) story multi-family dwelling, containing one (1) story dwelling units.

APARTMENT HOUSE. See definition DWELLING, MULTI-FAMILY.

APPLICATION FOR DEVELOPMENT. Every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development

including, but not limited to, an application for a building permit for the approval of a subdivision plat or plan or for the approval of a development plan.

AREA, BUILDING. See BUILDING AREA.

AREA, GROSS LAND. The gross land area of any development parcel including only the area contained within the property line and the ultimate right-of-way line. The area within the right-of-way is computed as part of the "gross land area".

AREA, LOT. The area contained within the property lines of a lot or as shown on a subdivision plan excluding space within any street, but including the area of any easement.

AREA, NET. The net land area of any development parcel including only the area contained within the property line and the ultimate right-of-way line. The area within the right-of-way (public or private) is not computed as part of the "net land area".

BAFFLE. A freestanding randomly located structure, fence-like in nature and construction materials, except that it is not normally attached to any building, does not particularly follow lot lines, nor enclose a particular area, but rather screens one (1) segment of one (1) property from another for the primary purpose of assuring privacy. A baffle or screen of this nature may also be utilized for the support of various types of living plant materials such as vines, climbing roses or espaliered trees and shrubs.

BASEMENT. That portion of a building that is partially or wholly below ground level. This portion is not a completed structure and serves as a substructure or foundation for a building. A basement shall be counted as a story for the purpose of height measurement, if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5') feet or is used for business or dwelling purposes, other than a game or recreation room.

BED AND BREAKFAST ESTABLISHMENT. A home occupation providing, for compensation, sleeping accommodations and breakfast for transient guests (See Home Occupation).

BILLBOARD. A sign displaying changeable advertising copy which pertains to a business, organization, event, person, place, service, or product not principally located or sold on the premises upon which said sign is located.

BLOCK. An area of land bounded by streets.

BOARDING HOUSE. A building arranged or used for the lodging, with or without meals, by either transient or permanent residents, for compensation. This definition includes rooming houses, lodging houses, and bed and breakfast establishments operated as a principal use.

BUFFER YARD. See YARD, BUFFER.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattels, including covered porches, decks and patios whether enclosed or unenclosed, sun parlors, bay windows, and chimneys, but does not include steps.

BUILDING AREA. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

BUILDING, DETACHED. A building surrounded by open space on the same lot.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE. A line parallel to the front, side, or rear lot line so as to provide the required yard.

BUILDING PERMIT. Written permission issued by the proper municipal authority for any construction, repair, alteration or addition to a structure.

BUILDING, PRINCIPAL. A building or, where the context so indicates, a group of buildings in or on which is conducted the principal use of the lot on which such building is located.

BUILDING SETBACK LINE. The line within a property defining the required minimum distance permitted between any enclosed structure and the adjacent right-of-way.

CAMPING GROUND. A parcel of land used by campers for seasonal, recreational, or other similar temporary living purposes, in buildings of a movable, temporary, or seasonal nature, such as cabins, tents, or shelters.

CARPORIT. A covered space, open on at least three (3) sides, for the storage of one (1) or more vehicles and accessory to a principal or accessory building.

CARTWAY. That portion of a street or alley which is improved, designed, or intended for vehicular use.

CELLAR. A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the maximum number of stories.

CEMETERY. Land used or intended to be used for the burial of the deceased, including, but not limited to, columbarium, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within its boundaries.

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

CLEAR-SIGHT TRIANGLE. An area of unobstructed vision at a street intersection(s) defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

CLUB AND/OR LODGE. A building and/or structure utilized as a private club offering food and/or drink privileges.

CLUSTER. A development technique that concentrates building in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CLUSTER SUBDIVISION/LAND DEVELOPMENT. A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots/units permitted under a conventional subdivision/land development and the resultant land area is devoted to open space.

COMMON OPEN SPACE. See OPEN SPACE, COMMON.

CONDOMINIUM. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONSTRUCTION. The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a structure, including the placement of mobile (manufactured) homes.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items, energy products and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

COURT. An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two (2) or more sides by the walls of such building.

COURT, INNER. A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable, and that the court does not extend to a street, alley, yard or other outer court.

COURT, OUTER. A court enclosed on not more than three (3) sides by exterior walls and lot lines on which walls are allowable, with one (1) side or end open to a street, driveway, alley or yard.

COVERAGE. That portion or percentage of the lot area covered by all impervious materials.

DAY CARE CENTER. A facility, not in a private residence, enrolling four (4) or more children no more than six (6) years of age and where tuition, fees, or other forms of compensation for the instruction and care of the children is charged. Such facility shall employ licensed personnel and shall be licensed by the Commonwealth of Pennsylvania.

DECK. A flat floored roofless area adjoining a dwelling unit.

DENSITY. A term used to express the allowable number of dwelling units per acre of land. Net Density is the number of dwelling units per net acre. Gross Density is the number of dwelling units per gross acre.

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

DEVELOPMENT. Any man-made change to improved or unimproved real estate including, but not limited, to buildings or other structures, filling, grading, paving, excavation, mining, dredging or drilling operations and the subdivision of land.

DEVELOPMENT PLAN. The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan" when used in this Ordinance, shall mean the written and graphic materials referred to in this definition.

DISPLAY AREA, OUTDOOR. An outdoor area of a tract utilized for purposes of displaying articles for sale as part of a retail establishment, such as the display of nursery stock, vehicular sales, and farm equipment sales. Display areas shall not include outdoor storage as defined herein.

DRIVE-IN USE. An establishment which by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

DUMP. A lot or land or part thereof used primarily for disposal by abandonment, dumping, burial, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof, or waste material of any kind.

DWELLING. A building or structure designed for living quarters for one (1) or more families, including industrialized housing and manufactured homes which are supported either by a foundation or are otherwise permanently attached to the land, but not including hotels, boarding/rooming houses or other accommodations used for transient occupancy.

DWELLING GROUP. A group of two (2) or more single-family, two-family, or multi-family dwellings occupying a lot in one (1) ownership.

DWELLING, INDUSTRIALIZED HOUSING. Any structure designed primarily for residential occupancy, except a manufactured home, which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation on the building site, in such a manner that all concealed parts or processes of manufacture cannot be inspected at the site without disassembly, damage or destruction.

DWELLING, MOBILE (MANUFACTURED) HOME. A transportable, single-family detached dwelling intended for permanent occupancy, contained in one unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. For Federal Emergency Management Agency (FEMA) flood plain management purposes, this definition includes park trailers, travel trailers, and other similar vehicles located on site for greater than 180 consecutive days.

DWELLING, MULTI-FAMILY. A building used by three (3) or more families living independently of each other and doing their own cooking, including apartment houses.

DWELLING, SINGLE FAMILY, DETACHED. A building used by one (1) family, having only one (1) dwelling unit and two (2) side yards.

DWELLING, SINGLE FAMILY, ATTACHED (TOWNHOUSE). A dwelling used for one (1) family and having two (2) party walls in common with other buildings (such as a rowhouse or townhouse).

DWELLING, SINGLE-FAMILY, SEMI-DETACHED. A dwelling used by one (1) family, having one (1) side yard and one (1) party wall common with another dwelling.

DWELLING, TWO FAMILY, DETACHED (DUPLEX). A building used by two (2) families, with one (1) dwelling unit arranged over the other, and having two (2) side yards.

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

DWELLING, ZERO LOT LINE. A single-family detached dwelling with the building positioned on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

EASEMENT. A grant of one (1) or more property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EATING ESTABLISHMENT. Any form of restaurant and/or tavern open to the public, dispensing food and drink.

ELECTRIC SUBSTATION. An assemblage of equipment for purposes other than generation or utilization, through which bulk electric energy is passed for the purpose of switching or modifying its characteristics to meet the needs of the general public. This definition includes Transformer Substations.

ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITIES. Electric public utilities transmission and distribution facilities including substations.

FAMILY. A single individual doing his/her own cooking and living upon the premises as a separate housekeeping unit, or no more than five (5) unrelated individuals doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, legal marriage, or other domestic bond. This definition does not include a collective body of persons occupying a hotel, dormitory, lodge, boarding/rooming house, family care/group care facility, commune, or institution.

FAMILY CARE FACILITY. A facility providing shelter, counseling, and other rehabilitative services in a family-like environment for four (4) to eight (8) residents, plus such minimum supervisory personnel, as may be required to meet standards of the licensing agency. Residents may not be legally related to the facility operators or supervisors and, by reason of mental or physical disability, chemical or alcohol dependency, or family or school adjustment problems, require a minimal level of supervision but do not require medical or nursing care or general supervision. A family care facility must be licensed and/or approved by the Pennsylvania Department of Public Welfare and may include uses such as foster homes, community residential alternative facilities, or home individual programs.

FAMILY DAY CARE HOME. A residence offering baby-sitting services and child care services for four (4) to six (6) children unrelated to the resident household and meeting all applicable licensing/registration requirements of the Pennsylvania Department of Public Welfare.

FARM. A tract of land, ten (10) acres or more in size, which is principally used for agricultural activities, such as the production of cash crops, livestock or poultry farming. Such farms may include a farm dwelling and accessory buildings and structures necessary to the operation of the farm.

FARM-RELATED BUSINESS. A business accessory to and operated on a farm in accordance with provisions as set forth in Section 1202.A.15. herein.

FENCE. Any freestanding and uninhabitable structure constructed of wood, glass, metal, plastic materials, wire, wire mesh, or masonry, singularly or in combination, erected for the purpose of screening or dividing one (1) property from another to assure privacy, or to protect the property so screened or divided, or to define and mark the property line, when such structure is erected on or within two (2') feet of any front, side or rear lot line; for the purpose of this ordinance, a freestanding masonry wall when so located is considered to be a fence; also for the purpose of this ordinance, when the term "lot line" is used in relation to fences, it shall be synonymous with "rear yard lot lines," "side yard lot lines" and "front yard lot lines."

FILL. Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade. The material used to make a fill.

FLOOD. A temporary inundation of normally dry land areas.

FLOOD BASE (ONE-HUNDRED YEAR FLOOD). A flood that, on the average is likely to occur once every 100 years (i.e. that has a one (1%) percent chance of occurring each year, although the flood may occur in any year).

FLOOD FRINGE. That portion of the flood plain outside the floodway.

FLOOD PLAIN. (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any surface.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to proposed or existing structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The designated area of a flood plain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one-hundred (100) year magnitude without increasing the water surface elevation more than one (1') foot at any point.

FLOOR AREA. The sum of the gross horizontal areas of the floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not used as primary living and sleeping quarters, but including the area of roofed porches and roofed terraces (Gross Floor Area). All dimensions shall be measured between exterior faces of walls.

FLOOR AREA, HABITABLE. The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one (1) window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7') feet and the floor area of that part of any room where the ceiling height is less than five (5') feet shall not be considered as part of the habitable floor area.

FLOOR AREA, NET RETAIL. All that space relegated to use by the customer and the retail employee to consummate retail sales, including display areas used to indicate the variety of goods available for the customer, but not to include office space, storage space and other general administrative areas.

GARAGE, PRIVATE. An enclosed or covered space for the storage of one (1) or more vehicles or vessels, provided that no business, occupation or service is conducted for profit therein, nor space herein for more than one (1) vehicle or vessel is leased to a nonresident of the premises.

GARAGE, PUBLIC. Any structure, other than a private garage, which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles for compensation.

GARBAGE. All table refuse, animal and vegetable matter, offal from meat, fish and fowl, vegetables and fruits and parts thereof, and all other articles and materials ordinarily used for food, for humans or domestic animals, and which have become unfit for such use or which are discarded for any reason.

GARDEN APARTMENT. See definition APARTMENT, GARDEN.

GARDEN STRUCTURES. Any accessory structure which may be occupied for other than sleeping or general housekeeping purposes, or which serves as a shelter primarily for human beings, except a permitted garage, porch or carport, which is located in any side or rear yard not closer than three (3') feet to any side or rear lot line; included, but not limited to, arbors, aviaries, gazebos, pergolas, trellises, barbecue shelters, bath houses, private greenhouses and freestanding screens or baffles and similar structures as however called. No such structure may be located in any required front yard between the building setback line and the street line. Such structures may be solidly roofed and walled or open to the sky and on the sides, but if solidly roofed or solidly walled on more than two (2) sides, they must be located within the building line of the lot and may not invade any required yard. Unscreened, unroofed, unwalled or unfenced patios, bird baths, ornamental pools and swimming pools are not considered as garden structures. Permitted structures may be attached to or be detached from a dwelling.

GARDENING. The cultivation of herbs, fruits, flowers or vegetables, excluding the keeping of livestock.

GOVERNING BODY. Shall mean the Bendersville Borough Board of Supervisors, Adams County, Pennsylvania.

GRADE, ESTABLISHED. The elevation of the center line of the streets, as officially established by the municipal authorities.

GRADE FINISHED. The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

GREENHOUSE: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUND FLOOR. The floor of a building nearest the mean grade of the front of the building.

GROUP CARE FACILITY. A facility providing shelter, counseling, and other rehabilitative services in a family-like environment for more than nine (9) but fewer than fifteen (15) residents, plus such minimum supervisory personnel, as may be required to meet standards of the licensing agency. Residents may not be legally related to the facility operators or supervisors and, by reason of mental or physical disability, chemical or alcohol dependency, or family or school adjustment problems, require a minimal level of supervision but do not require medical or nursing care or general supervision. A group care facility must be licensed and/or approved by the Pennsylvania Department of Public Welfare.

GROUP DAY CARE HOME. A residence offering baby-sitting services and child care services for seven (7) to eleven (11) children unrelated to the resident household and meeting all applicable licensing/registration requirements of the Pennsylvania Department of Public Welfare.

HALFWAY HOUSE. A residence for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such facility must be leased and operated by the Pennsylvania Department of Corrections for such services.

HAZARDOUS WASTE: Any garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- (1) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or
- (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

The term "Hazardous Waste" shall not include coal refuse as defined in the act of September 24, 1968 (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act." "Hazardous Waste" shall not include treatment sludge from coal mine drainage treatment plants, disposal of which is being carried on pursuant to the act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law;" solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1342), or source, special nuclear, or by-

product material as defined by the Atomic Energy Act of 1954 (42 U.S.C.A. Section 2011-2394).

HEIGHT OF BUILDING. See definition BUILDING HEIGHT.

HOME OCCUPATION. Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, and no more than one (1) employee; providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than signs as provided herein.

HOSPITAL. An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

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

IMPERVIOUS COVERAGE. See COVERAGE.

IMPERVIOUS MATERIAL. Any substance placed on a lot which covers the surface in such fashion as to prevent natural absorption of surface water by the earth so covered. The following items shall be deemed to be impervious material: buildings, concrete sidewalks, paved driveways and parking areas, swimming pools and other nonporous structures or materials.

INCINERATOR. An approved device in which combustible material, other than garbage, is burned to ashes.

INDOOR RECREATIONAL FACILITY. Any establishment which provides recreation, amusement or entertainment for the general public within a completely enclosed structure for a fee or admission charge, including but not limited to: theaters, dance halls, bowling alleys, billiard and pool halls, video and other coin-operated game arcades and spas or health clubs where the principal use includes a gymnasium, exercise room, swimming pool or other sports facility.

INDUSTRY. The manufacturing, compounding, processing, assembly or treatment of materials, articles, or merchandise.

INSTITUTION. A building or grounds, all or a portion of which is used by persons who occupy the buildings for a common purpose, including, but not limited to, hospitals, convents, school dormitories, college campuses, nursing homes; the education, administrative and/or recreational facilities of such organizations as the YMCA, YWCA, Boy Scouts, Girl Scouts and Boys Clubs. Not to include penal institutions and similar facilities.

JUNK. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

JUNKYARD. A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or reclaimable material, or for the collection, dismantling, storage, and salvaging of machinery or two (2) or more unregistered, inoperable motor vehicles or other types of junk. Two (2) or more unregistered and/or inoperable farm vehicles/equipment, utilized solely for on-site replacement parts by the owner of the farm shall not be considered a junkyard.

KENNEL. An establishment required to be licensed by the Commonwealth of Pennsylvania to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling animals is conducted as a business.

LAND DEVELOPMENT. Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - 1. a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - 2. the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Provisions for the exclusion of certain land development only when such land development involves:
 - 1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium; or
 - 2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

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

LANDSCAPE SCREEN: A completely planted visual barrier composed of evergreen plants and trees arranged to form both a low level and high level screen.

LANE. Private access to a single lot and/or a vehicular drive necessary to the reasonable function of a lot.

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

LIGHTING:

- A. Diffused: That form of lighting wherein the light passes from the source through a translucent cover or shade;
- B. Direct or Flood: That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated:
- C. Indirect: That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

LOADING BERTH/SPACE. An off-street area on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street or other appropriate means of access.

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

LOT, CORNER. A lot at the junction of and abutting on two (2) or more intersecting streets or at the point of abrupt change of a single street, where the interior angle is less than 135 degrees and the radius of the street line is less than 100 feet.

LOT, DEPTH OF. The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two (2) streets.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINES. The lines bounding a lot as defined herein.

LOT, MINIMUM WIDTH. The minimum lot width at the Building Setback Line.

LOT, NONCONFORMING. See NONCONFORMING LOT.

LOT OF RECORD. A lot which has been recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

LOT, REVERSE FRONTAGE. A lot extending between, and having frontage on an arterial street and a minor street, and with vehicular access solely from the latter.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MANUFACTURING. The processing and/or converting of raw unfinished or finished materials or products, or of any combination, into an article or substance of a different character, or for use for a different purpose; industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

MEDICAL CENTER. Establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other health care practitioners, medical and dental laboratories, out-patient care facilities, blood banks and oxygen and miscellaneous types of medical supplies and services.

MINERALS. Any aggregate or mass of mineral matter, whether or not coherent, that is extracted by surface mining. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay; but it does not include anthracite or bituminous coal or coal refuse, except as provided in Section 4 of the Noncoal Surface Mining Conservation and Reclamation Act, #1984-219, as amended, or peat.

MINOR REPAIR. The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MIXED USE. Occupancy of a building or land for more than one (1) use.

MOBILE (MANUFACTURED) HOME, DWELLING. See definition DWELLING, MOBILE (MANUFACTURED) HOME.

MOBILE (MANUFACTURED) HOME LOT. A parcel of land in a mobile (manufactured) home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile (manufactured) home.

MOBILE (MANUFACTURED) HOME PARK. A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile (manufactured) home lots for the placement thereon of mobile (manufactured) homes.

MOTEL. A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, with separate entrances and designed for year-round occupancy, primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, tourist cabins, motor lodges, and similar terms.

MUNICIPAL WASTE. This term includes garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities, and sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

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

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

NONCONFORMING USE. A use, whether of land or of structure, which does not comply with the applicable use provisions herein or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the application of this Ordinance or amendment to its location by reason of annexation.

NURSERY, HORTICULTURE. Any lot or parcel of land used to cultivate, propagate and grow trees, shrubs, vines and other plants including the buildings, structures and equipment customarily incidental and accessory to the primary use.

NURSING HOME/PERSONAL HEALTH CARE FACILITY. A building or buildings where persons are housed or lodged and furnished with meals and other services which is approved for nonprofit/profit corporation by the Department of Public Welfare for such use.

OBSTRUCTION. Any wall, dam, wharf, embankment, levee, dike, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse or other matter in, along, across, or projecting into any channel, watercourse, or flood plain which may impede, retard, or change the direction of the flow of water or collecting debris carried by such water or in any other way which may carry the same down stream to the damage of adjacent property.

OFFICE BUILDING. A building designed or used primarily for office purposes, no part of which is used for manufacturing.

OFFICE, PROFESSIONAL. A room or rooms used for the carrying on of a profession including, but not limited to, physicians, dentists, architects, engineers, accountants, attorneys, planners, real estate brokers, and insurance agents entitled to practice under the laws of the Commonwealth of Pennsylvania or similar type.

OPEN SPACE. The unoccupied space open to the sky on the same lot with the building, not including parking lots.

OPEN SPACE, COMMON. A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

PARKING LOT. Any lot, municipally or privately owned for off-street parking facilities, providing for the transient storage of automobiles or motor-driven vehicles. Such parking services may be provided as a free service or for a fee.

PARKING SPACE. The space within a building, or on a lot or parking lot, for the parking or storage of one (1) vehicle.

PARTY WALL: A common shared wall between two (2) separate structures, buildings, or dwelling units.

PATIO. A recreational area usually, but not limited to, being roofless, adjoining a dwelling unit.

PAVED AREA. When required herein, that amount of land required for the location of adequate parking spaces, driveways, or other access roads. In the computation of a paved area, the actual building area shall be excluded.

PERSON. Any individual or group of individuals, corporations, partnership, or any similar entity.

PERSONAL CARE BOARDING HOME. A building in which food, shelter and personal assistance or supervision are provided for a period exceeding forty-eight (48) consecutive hours for more than three (3) adults who are not relatives of the operator and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self-administration. Residents shall consist primarily of elderly persons, fifty-five (55) years of age or older.

PERSONAL SERVICE ESTABLISHMENT: Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

PLANNING COMMISSION. The Planning Commission of Bendersville Borough, Adams County, Pennsylvania.

PLAT. The map or plan of a subdivision or land development, whether preliminary or final.

PORCH. A covered area in excess of four (4') feet by five (5') feet or twenty (20) square feet in area at a front, side or rear door of a structure.

PREMISES. Any lot, parcel, or tract of land and any building constructed thereon.

PRIVATE. Not publicly owned, operated, or controlled.

PRIVATE DRIVE. See LANE.

PRIVATE ROAD. A legally established right-of-way, other than a public street, which provides the primary vehicular and/or pedestrian access to two (2) or more lots and/or principal uses.

PROFESSIONAL OCCUPATION. The practice of a profession by any professional, including, but not limited to, Attorney, Physician, Surgeon, Osteopath, Chiropractor, Dentist, Optician, Optometrist, Chiropodist, Engineer, Surveyor, Architect, Landscape Architect, Planner or similar type, entitled to practice under the laws of the Commonwealth of Pennsylvania.

PUBLIC. Owned, operated or controlled by a government agency (federal, state, or local), including a corporation and/or board created by law for the performance of certain specialized governmental functions.

PUBLIC GROUNDS. Public grounds include the following:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING. A formal meeting held pursuant to the authority of the Board of Supervisors or Planning Commission, intended to inform and consult with the public prior to taking action in accordance herein.

PUBLIC MEETING. A forum held pursuant to notice under the Act of July 3, 1993 (P.L. 1993, No. 84), known as the "Sunshine Act."

PUBLIC NOTICE. A notice published once each week in a newspaper of general circulation in the municipal area, stating the date, time and place of the hearing and the particular nature of the matter to be considered. The first publication shall not be more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

PUBLIC SEWERAGE SYSTEM. Any sanitary sewerage collection and treatment system, whether publicly or privately owned, and approved by the Department of Environmental Resources.

PUBLIC USE. Public and semi-public uses of land for the health, safety and welfare and the general interest of the community, but not limited to, hospitals, schools, parks, churches, cemeteries, day care centers, historical restorations, fire stations, municipal buildings, essential public utilities which require enclosure within a building, airports, fraternal clubs and homes, non-profit recreational facilities, easements for alleys, streets, and public utility rights-of-way, and radio and television transmission facilities.

PUBLIC UTILITY FACILITIES. Public utility transmission and distribution facilities including substations and the like.

PUBLIC WATER SYSTEM. A potable supply of water subject to either the Pennsylvania Public Utility Commission jurisdiction or other appropriate regulating agency.

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which has its own motor power or is mounted or drawn by another vehicle; having a body width of no more than eight (8') feet and a body length of no more than thirty-five (35') feet when factory equipped for the road, and licensed as such by the Commonwealth to include, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motorhomes.

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

RECYCLING CENTER. A facility employing a technology known as a process that separates or classifies municipal waste and creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. This term does not include such facilities as transfer stations, municipal waste landfills, composting facilities, resource recovery facilities, or junkyards.

REFUSE. All combustible refuse and incombustible refuse, referred to collectively.

A. Combustible Refuse: All paper, straw, excelsior, packaging materials, rags, rubber shoes and such other refuse as may result from ordinary housekeeping and commercial pursuits and which may be burned by fire.

B. Incombustible Refuse: All discarded articles or materials other than sewage, liquid waste, garbage and combustible refuse.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses; generally, the right of one to pass over the property of another.

RIGHT-OF-WAY STREET. A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, or however designated.

SATELLITE DISH. See definition ANTENNA, SATELLITE DISH.

SCHOOL. Any place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical governing body, person, partnership, or corporation meeting the requirements of the Commonwealth of Pennsylvania.

SCHOOL NURSERY. See definition DAY CARE CENTERS.

SCREEN PLANTING. A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

SIGHT DISTANCE. The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SIGN. Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

SINGLE AND SEPARATE OWNERSHIP. The ownership of a lot by one or more persons which ownership is separate and distinct from that of any adjoining property.

SITE DEVELOPMENT PLAN. A scaled graphical depiction of the proposed development of a lot, parcel or tract of land describing all covenants assigned, as well as, accurately depicting the use, location, and bulk of all buildings and structures, intensity of use or density of development, streets, driveways, rights-of-ways, easements, parking facilities, open space, public facilities and utilities, setbacks, height of buildings and structures, and

other such data necessary for municipal officials to determine compliance with this Ordinance and appropriate provisions of other such ordinances, as applicable.

SPECIAL EXCEPTION. A use permitted in a particular zoning district pursuant to the provisions of Articles XII and XVIII.

STORAGE FACILITY. A structure intended for lease for the sole purpose of storing household goods, motor vehicles, or recreational equipment.

STORAGE, OUTDOOR. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours, excluding display areas as defined herein.

STORY. That portion of a building located between the surface of any floor and the ceiling or roof above it.

STORY, HALF. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls, are not over three (3') feet above the finished floor of such story.

STREET. A public or private right-of-way which includes avenue, boulevard, road, alley, lane, highway, freeway, parkway, and viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STREET CENTERLINE. The center of the surveyed street right-of-way, or where not surveyed, the center of the traveled cartway.

STREET, CUL-DE-SAC. A street intersecting another street at one end and terminating at the other in a vehicular turnaround.

STREET GRADE. The officially established grade of the street upon which a lot fronts, or in its absence, the established grade of the other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STREET LINE. The street line is the right-of-way line of a public street or the cartway line of a private street.

STREET, MAJOR:

- (1) Arterial Street: A major street or highway with fast or heavy traffic of considerable continuity and used primarily as a traffic artery for intercommunications among large areas;
- (2) Collector Street: A major street or highway which carries traffic from minor streets to arterial streets including the principal entrance streets of a residential development and streets for circulation within such a development.

STREET, MARGINAL ACCESS. A minor street which is parallel and adjacent to a limited access highway or arterial street, which provides access to abutting properties and protection from through traffic. Also known as a service road.

STREET, MINOR. A street used primarily for access to abutting properties.

STREET WIDTH. The shortest distance between street lines measured at right angles to the center line of the street.

STRUCTURE. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

STRUCTURE, NONCONFORMING. See definition NONCONFORMING STRUCTURE.

STUDIO. A building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for radio or television broadcasting.

STUDIO, DANCING OR MUSIC. The use of a premises by a teacher of music or dancing where students are taught these arts for a fee. This term is synonymous with "Dancing School" and "Music School," and other similar expressions.

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

SUBSTANTIAL IMPROVEMENT. Is defined as any repair, alteration, reconstruction or improvement of a structure, and/or use, the cost of which equals or exceeds fifty (50%) percent of its market value either:

- A. before improvement is started, or
- B. if the structure has been damaged and was being restored before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration to a structure listed on the National Register of Historic Places.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18") inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty (30") inches, designed, used and maintained for swimming and bathing.

THEATER. A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

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

USE. The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE PERMIT. A certificate issued and enforced by the Zoning Officer upon completion of the construction of a new building or upon a change or conversion of the structure or use of a building, which certifies that all requirements and regulations as provided herein, as well as all other applicable requirements, have been satisfied.

USE, NONCONFORMING. See definition NONCONFORMING USE.

USE, PRINCIPAL. The primary or predominant use of any lot.

USE, TEMPORARY. A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

VARIANCE. Relief granted pursuant to the provisions of Article XVIII. In granting a variance in designated Flood Plain Districts, additional criteria set forth in the Bendersville Borough Flood Plain Management Ordinance shall also apply.

VEGETATIVE COVER. Shall consist of trees, shrubs, flowers, grass, ground or bank cover or suitable pervious decorative substitute.

VEHICLE. Every device in or by which any person or property is or may be transported or drawn upon a highway.

VEHICULAR BODY SHOP. Any structure or any building or part thereof, that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles and other vehicles of conveyance.

VEHICULAR SALES ESTABLISHMENT. The use of any building, land area or the premise for the display, sale and leasing of new or used automobiles, trucks or vans, trailers, or recreational vehicles, including boats and motorcycles, and including any warranty repair work and other repair service conducted as an accessory use.

VEHICULAR GARAGE. A building on a lot designed and/or used primarily for mechanical and/or body repairs, storage, rental, servicing, or supplying of gasoline or oil to automobiles, trucks, or similar motor vehicles.

VEHICULAR SERVICE ESTABLISHMENT. A building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles at retail cost, directly from pumps and storage tanks and which may include accessory facilities for rendering services, such as lubrication, washing, and minor repairs.

VEHICLE WASHING (CAR WASH). A building on a lot, designed and used primarily for the washing and polishing of vehicles and which may provide accessory services set forth herein for Vehicular Service Stations.

VEHICLE WRECKING. The dismantling or wrecking of used automobiles, trailers, or similar vehicles, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

YARD. An unoccupied space, outside the building setback lines, other than a court, open to the sky, on the same lot with a building or structure.

YARD, BUFFER. A strip of required yard space adjacent to the boundary of a property or district, not less than the width designated in this Ordinance, and on which is placed (planted) year-round shrubbery, hedges, evergreens, or other suitable plantings of sufficient height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district and may include a wall, as provided for in this Ordinance.

YARD, EXTERIOR. An open, unoccupied space between the buildings of a dwelling group or its accessory building and the property boundary or street line.

YARD, FRONT. An open unoccupied space on the same lot with a main building or structure, extending the full width of the lot and situated between the street line and the building front setback line projected to the side lines of the lot. The depth of the front yard shall be measured between the front building setback line and the street line.

YARD, INTERIOR. An open, unoccupied space between the buildings of a dwelling group or its accessory buildings, not a front, side, or rear yard.

YARD, REAR. An open unoccupied space on the same lot with a main building or structure, extending the full width of the lot and situated between the rear line of the lot and the rear building setback line projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear building setback line.

YARD, SIDE. An open unoccupied space on the same lot with the main building or structure situated between the side building setback line and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

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

ZONING MAP. The map setting forth the boundaries of the Zoning Districts of the Borough which shall be a part of this Ordinance.

ZONING PERMIT. A permit, stating that the purpose for which a building and/or structure or land is to be used, is in conformity with the uses permitted and all other requirements under this Ordinance for the district in which it is or will be located.

ZONING OFFICER. The duly constituted municipal official designated to administer and enforce this Ordinance in accordance with its literal terms.

ARTICLE IV

DESIGNATION OF DISTRICTS

Section 401. ZONING DISTRICTS

For the purpose of this Zoning Ordinance, the Borough is hereby divided into districts which shall be designated as follows:

(VV)	Village Viewshed
(R-MF)	Residential Multi-Family
(V)	Village
(B)	Business

Section 402. ZONING MAP

- A. The boundaries of VV, R-MF, V, and B Districts shall be as shown, upon the map attached to and made a part of this Ordinance which shall be designated "Zoning Map". The said map and all the notations, reference and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described herein.
- B. The boundaries of the Floodway and Flood Fringe shall serve as overlays to the underlying Districts as shown on the Official Zoning Map, and as specifically described in the Floodway Data Table and 100 year flood delineation in the Flood Insurance Study (FIS) prepared for the Borough by the Flood Insurance Administration (FIA) dated February 1, 1978. The said study and accompanying maps, all notations, reference and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described herein.

Section 403. DISTRICT BOUNDARIES

- A. The boundaries between these districts are, unless otherwise indicated, either the center lines of streets, alleys, rights-of-way, lot lines, or such lines extended, or lines parallel thereto.
- B. Where figures are shown on the Zoning Map between a street, alley, right-of-way, or lot line, and a district boundary line, such figures indicate that the district boundary line runs parallel to that line at a distance therefrom equivalent to the number of feet so indicated.
- C. Where district boundaries are not clearly fixed by the above methods, such boundaries shall be determined by the use of the scale of the Zoning Map.
- D. Should any other uncertainty exist, the Zoning Hearing Board shall interpret the intent of the Zoning Ordinance and Map as to the exact location of district boundaries.
- E. When a District boundary line divides a lot held in single and separate ownership at the effective date of this Ordinance, the regulations of either abutting district may be construed by the owner to be applicable to the portion of such lot in the other abutting district for a distance of not more than fifty (50') feet beyond the district boundary line.

ARTICLE V
VILLAGE VIEWSHED (VV)
DISTRICT

Section 501. INTENDED PURPOSE

The purpose of the Village Viewshed (VV) District is to encourage preservation of existing orchard lands while providing for orderly limited residential development. Such development should occur as an extension of the developed Village area.

Section 502. PERMITTED USES

1. Agricultural and horticultural uses and structures.
2. Single-family detached dwellings (less than ten acres and/or 5 lots, cumulative)
3. Residential cluster subdivision/land development.
4. Municipal uses.
5. Public parks, playgrounds and municipal recreation areas.
6. Public utility and communication uses where operation requirements necessitate locating within the District.
7. Signs, when erected and maintained in accordance with Article XII herein.
8. Uses and buildings customarily accessory and incidental to any permitted use.

Section 503. SPECIAL EXCEPTIONS

The following special exceptions may be permitted by the Zoning Hearing Board, following review and comment by the Planning Commission, pursuant to standards and criteria as set forth in Articles IX and XIV herein.

1. Single-family detached dwellings, conventional lot layout (over 10 acres and/or greater than 5 lots, cumulative).
2. Churches or similar places of worship, parish house, convents.
3. Home occupations.
4. Public and private schools.
5. Family day care facilities.
6. Family care facilities.
7. Radio and television antennas.

Section 504. HEIGHT REGULATIONS

1. The height of a building shall not exceed thirty-five (35') feet.
2. The height of an accessory building shall not exceed twenty (20') feet.

Section 505. CONVENTIONAL LOT AREA, LOT WIDTH AND IMPERVIOUS COVERAGE REGULATIONS

Lot area, lot width and impervious coverage requirements shall be provided for each structure or use hereafter erected, established or altered for any use permitted within this District as follows, unless otherwise specified herein:

1. Minimum Lot Area:
 - A. Single-family detached dwelling: 22,000 square feet.
 - B. Nonresidential uses: Lot area shall be based upon required setbacks, coverage, parking and loading/unloading standards, and any other applicable standards.
2. Lot Width:
 - A. Minimum lot width: One hundred (100') feet at the building setback line.
3. Impervious Coverage:
 - A. Single-family detached dwellings: Maximum of thirty-five (35%) percent.
 - B. Nonresidential uses: Maximum of forty (40%) percent.
 - C. At least twenty (20%) percent of the lot area shall be maintained in a vegetative cover.

Section 506. CONVENTIONAL SETBACK REGULATIONS

The following setback regulations apply to all uses permitted within this district unless otherwise specified herein:

1. Front yard: Twenty-five (25') feet.

Exception: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be provided in accordance with Section 905 herein.
2. Side yards: Ten (10') feet.
3. Rear yard: Twenty (20') feet.
4. Where required, buffer yards/screening shall be provided in accordance with Section 906 herein.
5. For permitted yard reductions refer to Section 905 herein.

Section 507. LOT AREA, LOT WIDTH AND IMPERVIOUS COVERAGE/SETBACK REGULATIONS FOR CLUSTER DEVELOPMENT

In order to promote the more efficient development of land while providing more open space, a cluster development option is provided as the preferred development alternative. Cluster development within this Viewshed District shall be developed in accordance with the following minimum/maximum area and bulk regulations in addition to general provisions contained within Section 901.10 herein. Cluster development within the Viewshed District shall be limited to detached single-family dwellings.

1. Minimum Site Area: Ten (10) acres.
2. Maximum Density (Gross): 3 dwelling units/acre.
3. Minimum Lot Area: 7,500 square feet.
4. Minimum Lot Width: Fifty (50') feet.
5. Maximum Impervious Coverage (for entire tract): Thirty (30%) percent.
6. Minimum Yards and Distances: Minimum yards and distance between structure requirements are as follows:
 - A. Tract perimeter yard: Fifty (50') feet.
 - B. Front yard setback: Twenty-five (25') feet.
 - C. Rear-to-rear, rear-to-side: Fifty (50') feet between structures.
 - D. Other distances between structures (side-to-side, corner-to-corner):
 - (1) Single-family detached dwellings: Twenty (20') feet.
 - (2) Semi-detached dwellings: Twenty (20') feet.
 - (3) Attached dwellings: Fifty (50') feet.
 - (4) Single-family or semi-detached dwellings and attached dwellings: Thirty-five (35') feet.
 - (5) Principal and accessory structures: Five (5') feet.
 - (6) Nonresidential principal structure and residential principal structure: Fifty (50') feet.

Section 508. OFF-STREET PARKING/ACCESS/INTERNAL STREET DESIGN

1. Off-street parking/access shall be provided in accordance with Article XI herein.
2. An internal grid street design connecting and consistent with the existing street pattern of Bendersville Borough is preferred.

Section 509. FLOODPLAIN DEVELOPMENT RESTRICTIONS

All permitted uses and uses permitted by special exception located within the Floodway (FW) and Flood Fringe (FF) Districts, as identified by the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA), must comply with provisions as set forth in the Bendersville Borough Flood Management Ordinance.

ARTICLE VI

RESIDENTIAL MULTI-FAMILY (R-MF)
DISTRICT

Section 601. INTENDED PURPOSE

The purpose of the Residential Multi-Family (R-MF) District is to provide for the orderly development of wider range of higher density dwellings while maintaining the character and quality of existing development in such areas.

Section 602. PERMITTED USES

1. Single-family detached dwelling.
2. Single-family semi-detached dwelling.
3. Two-family detached dwelling (duplex dwelling).
4. Single-family attached dwelling (rowhouse, townhouse and multiplex dwellings).
5. Accessory apartments.
6. Apartment dwelling (garden apartment, apartment house).
7. Cluster subdivision/land development in accordance with Sections 407 and 901.10 herein.
8. Family care facility.
9. Family day care facility.
10. Public and private parks, playgrounds and municipal recreation areas.
11. Municipal uses.
12. Public utility and communication uses where operation requirements necessitate locating within the District.
13. Signs, when erected and maintained in accordance with Article XII herein.
14. Uses and buildings customarily accessory and incidental to any permitted uses.

Section 603. SPECIAL EXCEPTIONS

The following special exceptions may be permitted by the Zoning Hearing Board, following review and comment by the Planning Commission, pursuant to standards and criteria as set forth in Articles IX and XIV herein.

1. Home occupation.
2. Churches or similar places of worship, parish house, convents.

3. Public and private schools.
4. Group day care facility.
5. Group care facility.
6. Nursing home.
7. Funeral home.
8. Mobile home park.
9. Radio and television antennas.

Section 604. HEIGHT REGULATIONS

1. The height of a building shall not exceed thirty-five (35') feet.
2. The height of an accessory building shall not exceed twenty (20') feet.

Section 605. LOT AREA, WIDTH AND COVERAGE REGULATIONS

1. Residential Uses

- A. The minimum lot area per dwelling unit, minimum lot width and maximum impervious coverage shall be not less than that indicated below:

DWELLING TYPE	LOT AREA PER DWELLING UNIT (square feet)	LOT WIDTH (feet)	IMPERVIOUS COVERAGE (%)
Single-family detached	7500	50	40
Single-family semi-detached	4000	30	40
Single-family attached	2500	20	50
Two-family detached	4500	50	50
Apartment dwellings	3000	--	50
Accessory apartments per building	2500	50	50

2. Nonresidential Uses

- A. For a permitted nonresidential use, the lot area shall be based upon required setbacks, coverage, parking and loading/unloading standards, and any other applicable standards.
 - B. Minimum lot width: Fifty (50') feet.
 - C. Unless otherwise specified within Article IX herein, impervious coverage for permitted nonresidential uses shall not exceed fifty (50%) percent.
3. At least twenty (20%) percent of the lot area shall be maintained with a vegetative cover.

Section 606. SETBACK REGULATIONS

The following setback regulations apply to all uses permitted within this district unless otherwise specified herein:

- 1. Front yard: Twenty-five (25') feet.

Exception: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be provided in accordance with Section 905 herein.
- 2. Side yards: (Excluding apartments and/or attached dwellings.) Eight (8') feet.
- 3. Rear yard: (Excluding apartments and/or attached dwellings.) Twenty (20') feet.
- 4. For apartment and/or attached dwellings of one or two stories, there shall be a front yard, two (2) side yards and a rear yard each of not less than twenty-five (25') feet. For each story over two (2), five (5') feet of width or depth shall be added to each yard.
- 5. Where required, buffer yards/screening shall be provided in accordance with Section 906 herein.
- 6. For permitted yard reductions refer to Section 905 herein.

Section 607. OFF-STREET PARKING/ACCESS

Parking and access shall be provided in accordance with Article XI herein.

ARTICLE VII
VILLAGE (V) DISTRICT

Section 701. INTENDED PURPOSE

The purpose of the Village (V) District is to provide a mechanism for the continuation of the Village character of the Borough of Bendersville. The Village District shall provide for the compatible development of mixed residential and commercial establishments.

Section 702. PERMITTED USES

1. General farming and horticultural uses.
2. Single family detached dwellings.
3. Single-family semi-detached dwellings.
4. Multi-family dwellings (townhouses, apartments).
5. Conversion of single family to multifamily provided that there are no more than five (5) dwelling units within any one (1) lot.
6. Accessory apartments.
7. Churches or similar places of worship, parish houses, and convents.
8. Bed and breakfast establishment.
9. Village oriented retail shop less than 3000 square feet.
10. Family care facilities.
11. Funeral homes.
12. Office use no greater than 3000 square feet in size.
13. Service establishment no greater than 3000 square feet in size.
14. Financial establishment, excluding drive-ins.
15. Eating establishment, excluding drive-ins.
16. Home occupations.
17. Municipal uses.
18. Public parks, playgrounds and municipal recreational uses.
19. Public utility and communication uses where operation requirements necessitate locating within District.

20. Signs when erected and maintained in accordance with Article XII herein.
21. Uses and buildings customarily accessory and incidental to the above permitted uses.

Section 703. SPECIAL EXCEPTIONS

The following special exceptions may be permitted by the Zoning Hearing Board, following review and comment by the Planning Commission, pursuant to standards and criteria set forth in Articles IX and XIV herein.

1. Family and group day care homes.
2. Child and adult day care centers.
3. Public or private schools.
4. Lodging facilities other than bed and breakfast establishments.
5. Confectionery or bakery for production of articles to be sold at retail only on the premises.
6. Repair shops.
7. Woodworking shops.
8. Drive-in establishments.
9. Amusement arcades.
10. Club, lodge, or other fraternal organization.
11. Radio and television antennas.
12. Personal care homes.

Section 704. HEIGHT REGULATIONS

1. The height of a principal building or structure shall not exceed thirty-five (35') feet.
2. The height of an accessory building or structure shall not exceed twenty (20') feet.

Section 705. LOT AREA, WIDTH AND IMPERVIOUS COVERAGE REGULATIONS

1. Residential Uses
 - A. The minimum lot area per dwelling unit, minimum lot width and maximum impervious coverage shall be not less than that indicated below:

DWELLING TYPE	LOT AREA PER DWELLING UNIT (square feet)	LOT WIDTH (feet)	IMPERVIOUS COVERAGE (%)
Single-family detached	4500	35	40
Single-family semi-detached	3000	30	40
Single-family attached	2500	20	50
Apartment dwellings	3000	--	50
Accessory apartments per building	2500	50 ¹	50

2. Nonresidential Uses

- A. For a permitted nonresidential use, the lot area shall be based upon required setbacks, coverage, parking and loading/unloading standards, and any other applicable standards.
- B. Minimum lot width: Fifty (50') feet.
- C. Unless otherwise specified within Article IX herein, impervious coverage for permitted nonresidential uses shall not exceed fifty (50%) percent.

3. At least twenty (20%) percent of the lot area shall be maintained with a vegetative cover.

Section 706. SETBACK REGULATIONS

The following setback regulations apply to all uses permitted within this District unless otherwise specified herein.

1. Front Yard:

- A. The minimum front yard shall be not less than the smaller of the front yards of the two (2) buildings immediately adjacent (on either side) of the proposed building/use, or ten (10') feet from the dedicated right-of-way of the street, whichever is greater.
- B. For corner lots, a front yard shall be required on each street, equal to the front yard of the adjacent building on each street frontage, or twenty-five (25') feet, whichever is greater, to ensure adequate visibility at intersections.

2. Side Yards: Eight (8') feet.
3. Rear Yard: Twenty (20') feet.
4. Maximum Building Dimension: In no instance shall the greatest dimension of a building exceed 100 feet, measured parallel to exterior building walls.
5. Minimum Distance Between Buildings: The minimum distance between any two (2) buildings, or portions, thereof, shall be sixteen (16') feet.
6. Buffer Yard Requirements:
 - A. A buffer yard of twenty-five (25') feet shall be provided along side or rear property lines abutting all other districts. Such buffer shall be maintained in vegetative planting.
 - B. A buffer yard of five (5') feet shall be provided for parking areas serving a nonresidential or multifamily use where adjacent to a residential use. Such yard may be a part of the required side and/or rear yard or buffer yard as required by Section 706.6A above, and shall be planted and maintained as follows:
 - (1) All evergreen vegetation to be installed shall not be less than five (5') feet in height at the time of planting and shall be of such species that expected height at maturity shall be not less than fifteen (15') feet.
 - (2) All deciduous material to be installed shall not be less than eight (8') feet in height and two-inch caliper.
 - (3) All plant material shall be maintained and replaced as needed.
 - (4) Wherever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography.

Section 707. OFF-STREET PARKING/ACCESS

Off-street parking and access shall be provided in accordance with Article XI herein.

Section 708. USE STANDARDS

The above specified uses shall be permitted only under the following conditions:

1. Such uses, operations or products are not obnoxious or offensive by reason of the emission of gas, odor, dust, smoke, noise, vibration, refuse matter or other causes in accordance with Section 902 herein.
2. There shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store, and when all such products are sold on the premises.

3. Except in cases of public emergency, there shall be no demolition of any building within the Village District unless an application for a building permit for work to replace the building to be demolished has been filed with the Zoning Officer at least fifteen (15) days prior to the next Planning Commission meeting date. *Provided*, however, the applicant may instead post a bond with the Borough Council to secure compliance with said provisions. The amount of such bond shall be in the amount of 110% of estimated cost for required improvements as accepted by the Borough Engineer.
4. Every owner of any vacant lot within the Village District shall keep the lot clean, free from garbage, litter, standing water, debris, motor vehicles, whether or not abandoned, and all things causing the property to be detrimental to the public health, safety, welfare or to the aesthetics of the Village District or adjacent properties.
5. Any lot within the Village District kept vacant for more than 180 days following the demolition of any buildings thereon shall be landscaped and thereafter maintained in good order. The landscaping shall be in accordance with a site plan approved by the Planning Commission and be appropriate to a pocket park or garden. The lot shall be fenced as appropriate for public safety and aesthetics. All plant material shown on the approved plan shall be watered, fertilized, pruned, kept clean from weeds and litter, and replaced if diseased, injured, or dead, consistent with good horticultural practices. Such lots shall not be used for storage.

ARTICLE VIII
BUSINESS (B) DISTRICT

Section 801. INTENDED PURPOSE

The intended purpose of the Business (B) District is primarily to provide for existing intensive commercial and industrial uses located in one area of the Borough.

Section 802. PERMITTED USES

1. Vehicular service stations.
2. Vehicular garages for the storage and repair of motor vehicles, including vehicular body shops.
3. Florists and nurseries provided that all incidental equipment and supplies, including fertilizers and empty cans, are kept within a building.
4. Any form of agriculture or horticulture and related processing facilities, with the exception of fish and meat products, sauerkraut, vinegar and the rendering of fats and oils.
5. Building materials storage and lumber yards.
6. Any manufacturing, wholesaling or distributing use which meets performance standards as set forth in Section 902 herein.
7. Business offices.
8. Repair shops.
9. Woodworking shops.
10. Municipal uses.
11. Public utility and communication uses where operation requirements necessitate locating within District.
12. Signs when erected and maintained in accordance with Article XII herein.
13. Uses and buildings customarily accessory and incidental to the above permitted uses.

Section 803. SPECIAL EXCEPTIONS

The following special exceptions may be permitted by the Zoning Hearing Board, following review and comment by the Planning Commission, pursuant to standards and criteria as set forth in Articles IX and XIV herein.

1. Animal hospital/kennel.

2. Blacksmith and machine shop.
3. Outside storage and display when accessory to a permitted use, provided that the following provisions are met:
 - A. Outside storage or display shall not occupy any part of the street right-of-way and no other area intended or designed for pedestrian use, required parking areas, nor required front yard.
 - B. Outside storage and display area shall not occupy an area of less than one-half the existing building coverage. In no case shall more than twenty-five (25%) percent of the lot area be used in outdoor storage or display.
 - C. Outside storage areas shall be shielded from view of public streets and adjacent residential uses.
4. Radio and television antennas.

Section 804. PERFORMANCE STANDARDS

1. All such uses shall be conducted in accordance with performance standards as set forth in Section 902 herein.

Section 805. HEIGHT REGULATIONS

1. The height of a principal building or structure shall not exceed forty (40') feet.
2. The height of an accessory building or structure shall not exceed twenty (20') feet.

Section 806. LOT AREA, WIDTH AND IMPERVIOUS COVERAGE REGULATIONS

1. Except as otherwise required by Article IX herein, minimum lot area and width shall be based upon required setbacks, coverage, parking, loading/unloading and other applicable standards.
2. Maximum impervious coverage: Sixty (60%) percent.
3. At least ten (10%) percent shall be maintained in vegetative cover.

Section 807. SETBACK REGULATIONS

The following setback regulations apply to all uses permitted within this District unless otherwise specified in Article IX herein.

1. Front Yard: Thirty (30') feet.

Exception: Where buildings exist in the same block on either side of the street, the setback line of the building to be constructed shall be provided in accordance with Section 905 herein.

2. Side Yards: Fifteen (15') feet.

3. Rear Yard: Ten (10') feet.
4. Minimum Distance Between Buildings: The minimum distance between any two (2) buildings, or portions, thereof, shall be sixteen (16') feet.
5. Buffer Yard Requirements: Buffer yards and screen plantings shall be provided in accordance with Section 906 herein.

Section 808. OFF-STREET PARKING/ACCESS AND LOADING/UNLOADING

Off-street parking, access and loading and unloading requirements shall be provided in accordance with Article XI herein.

ARTICLE IX

GENERAL PROVISIONS

Section 901. USE REGULATIONS

The following regulations shall qualify or supplement the district regulations appearing elsewhere in this Ordinance:

1. ADULT DAY CARE

Where permitted, or permitted as a special exception, adult day care facilities may be established subject to the following conditions:

- A. Lot area shall be determined on the basis of building size, yard requirements, parking and access requirements and other applicable standards of this Ordinance.
- B. Off-street parking shall be provided in accordance with Article XI herein. In addition, at least two (2) parking spaces, or (5%) percent of all parking spaces shall be designated as handicapped parking.
- C. The facility shall be conducted and operated in accordance with applicable Commonwealth laws and regulations in addition to other applicable provisions herein.

2. AMUSEMENT ARCADE

Where permitted as a special exception, amusement arcades may be established in accordance with the following provisions:

- A. Amusement arcades shall be located at least one thousand (1,000') feet from school buildings, school playgrounds, and church buildings.
- B. The facility shall be located in a separate room, separate from other uses on the premises and from pedestrian circulation to and from such other uses.
- C. Readily visible signs shall be installed, with their location, size and text shown in plans submitted to the Planning Commission, prohibiting the use of amusement devices by persons under sixteen (16) years of age during normal school hours, and, where the premises are used primarily for the serving or consumption of alcohol, prohibiting the use of such amusements by persons under twenty-one (21) years of age at all times.
- D. Off-street parking shall be provided in accordance with Article XI herein.

3. ANTENNAS, RADIO AND TELEVISION

A. Satellite Dish Antennas

Satellite dish antennas shall be permitted by special exception as accessory structures provided that:

- (1) No such antenna shall be located in any front yard.
- (2) No more than one (1) antenna shall be located on any one (1) lot in a Residential or Village District.
- (3) The maximum diameter of any antenna shall be eight (8') feet.
- (4) The maximum height of any freestanding antenna shall be fifteen (15') feet.
- (5) No part of any freestanding antenna shall be located any closer than ten (10') feet to any property line.
- (6) No such antenna shall be located on the roof of any accessory building such as detached garages or sheds.
- (7) Roof-mounted antennas shall not be permitted in residential or village zoning districts nor located on the front roof line, unless a variance is granted by the Zoning Hearing Board upon presentation of evidence that a roof-mounted antenna is the only feasible method of obtaining reception due to physical characteristics of the property and the location of existing structures.
- (8) Roof-mounted antennas shall be constructed of a wire mesh material or its equivalent and shall not exceed twelve (12') feet in height.

B. Other Radio and Television Antennas

Other radio and television antennas, subject to licensing and/or regulation by the Federal Communications Commission, shall be permitted by special exception as accessory structures provided that:

- (1) Any freestanding antenna shall be located at least fifteen (15') feet from any dwelling unit or principal structure on the lot.
- (2) Antennas and associated structures which do not exceed thirty (30') feet in height shall be located at least fifteen (15') feet from any property line. Antennas which exceed thirty (30') feet in height shall provide an additional one (1') foot of clearance for every one (1') foot of height in excess of thirty (30') feet.
- (3) Antennas shall not be permitted in any front yard.
- (4) The antenna and associated structures shall be securely anchored in a fixed position on the ground and the applicant shall provide qualified evidence that the proposed structure will withstand wind and other forces.
- (5) The antenna and its associated supports, such as guy wires, or the yard area containing the structure, shall be protected and secured to guarantee the safety of the general public. Associated

supports and guy wires shall not be located any closer than five (5') feet to any property line.

- (6) In granting the use, the Zoning Hearing Board may attach reasonable conditions warranted to protect the public health, safety and welfare, including, but not limited to, fencing, screening and increased setbacks.

C. General Development Standards

All antennas are subject to the following provisions:

- (1) Antennas shall meet all manufacturer's specifications. The mast or tower shall be of noncombustible and corrosive-resistant material. The miscellaneous hardware, such as brackets, turnbuckles, clips and similar type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by a galvanizing or similar process after forming. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.
- (2) Whenever it is necessary to install an antenna near power lines, or where damage would be caused by its falling, a separate safety wire must be attached to the antenna mast or tower and secured in a direction away from the hazard. Antennas and guy wires must be kept at least four (4') feet clear of telephone or electric wires.
- (3) Every antenna must be adequately grounded for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be of the type approved for grounding masts and lightning arresters, and shall be installed in a mechanical manner with as few bends as possible, maintaining a clearance of at least two (2") inches from combustible materials. Lightning arresters, approved by the Underwriters' Laboratories, Inc., shall be used. Both sides of the line must be adequately protected with proper arresters to remove static charges accumulated on the line. When lead-in conductors of polyethylene ribbon-type are used, lightning arresters must be installed in each conductor.

When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arresters by grounding the exterior metal sheath.

- (4) The antenna including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. Antennas shall be screened through the addition of architectural features and/or landscaping that harmonize with the elements and characteristics of the property. Screening material shall be of a height necessary to conceal the antenna without reception being obstructed. Screening shall not exceed six (6') feet in height. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish or reflective.

- (5) A building permit shall be required for the installation of an antenna in accordance with the Bendersville Borough Building Permit Ordinance, as amended.
- (6) All antennas shall be maintained in good condition and in accordance with all requirements of this Section.
- (7) All antennas shall be subject to periodic reinspection. No addition, changes, or modifications shall be made to an antenna, unless the addition, change, or modification is in conformity with Borough Building Codes and the Special Exception Permit.

4. APARTMENT, ACCESSORY

Where permitted, or permitted as a special exception, an accessory apartment may be created in a single-family detached dwelling existing as of the effective date of this Ordinance, provided that:

- A. The apartment will be a separate and separate housekeeping unit that can be isolated from the original structure.
- B. Only one (1) apartment will be created in a single-family detached dwelling unit.
- C. The owner(s) of the residence in which the accessory unit is created shall occupy at least one (1) of the dwelling units on the premises, except for bona fide temporary absences.
- D. The accessory apartment shall be designed so that, to the degree feasible, the appearance of the building shall be that of a single-family detached building. In general, any new addition shall be on the side or in the rear of the building, and shall not increase the square footage of the original structure by more than ten (10%) percent.
- E. The design and size of the apartment conforms to all applicable State and Borough standards/codes including, but not limited to, Pennsylvania Department of Labor and Industry regulations.
- F. Additions and alterations carried out in the last three (3) years prior to application, which add more than the permissible ten (10%) percent to the previous floor area of the existing single-family detached dwelling shall not be considered in determining adequate space.
- G. Under no circumstances shall the apartment be greater than thirty (30%) percent of the structure's total floor area nor greater than eight hundred (800) square feet.
- H. A minimum of three hundred (300) square feet of floor area shall be required.
- I. Off-street parking shall be provided in accordance with Article XI herein.

5. APARTMENT, CONVERSION

Where permitted, or permitted by special exception, any building existing at the effective date of this Ordinance may be converted to a dwelling for more than one (1) family, provided that:

- A. The proposed conversion shall conform to the regulations for the district in which it is located. The minimum habitable floor area of such converted dwelling unit shall be provided in accordance with Section 912.
- B. There is no exterior evidence of change in the building except as required by state or local building or housing codes or regulations.
- C. Fire escapes, where required, shall be in the rear of the building and shall not be located on any wall facing a street.
- D. Off-street parking shall be provided in accordance with the provisions of Article XI.
- E. The plans for the conversion of said building shall be submitted to the Zoning Officer/Planning Commission for review as a permitted use or special exception and forwarded to the Borough Council or Zoning Hearing Board, respectively, for approval.

6. APARTMENTS, GARDEN

Where permitted, or permitted as a special exception, all garden apartments shall comply with the following:

- A. There shall be not more than eight (8) dwelling units per building.
- B. No garden apartment building shall be in excess of two (2) stories in height.
- C. A visual structural break shall be provided between every four (4) dwelling units.
- D. Lot area per dwelling unit shall not be less than the area required by the applicable district.
- E. All other applicable provisions of this Ordinance.

7. BOARDING HOMES (includes Rooming/Lodging Houses and Beds and Breakfast Establishments as a principal use)

Where permitted as a special exception, boarding homes may be established subject to the following conditions:

- A. Accommodations shall be limited to no more than ten (10) guest rooms for rent.

- B. Meals for compensation shall be provided only to boarding home guests. No cooking facilities shall be provided or permitted in the individual guest rooms.
- C. Guest rooms shall contain a minimum of two hundred (200) square feet of habitable floor area per person.
- D. The minimum front, side, and rear yard setbacks shall be no less than twenty-five (25') feet.
- E. Off-street parking shall be provided in accordance with Article XI herein.

8. CHURCHES, SCHOOLS, AND OTHER PUBLIC BUILDINGS

In districts where permitted, or permitted as a special exception, these uses shall meet the following requirements:

- A. Lot coverage shall not be greater than that required within the respective district.
- B. The lot width at the front building setback line shall be based on the building size and yard requirements, but in no case shall be less than one hundred (100') feet in width.
- C. A buffer yard/screen planting of no less than ten (10') feet in depth shall be maintained along all property lines and shall be placed in accordance with Section 906 herein.
- D. Off-street parking shall be provided in accordance with the provisions of Article XI herein.

9. CLUBS, LODGES, AND FRATERNAL ORGANIZATIONS

In districts where permitted as a special exception, these and similar uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members; provided that no permanent sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located. A buffer yard/screen planting of no less than five (5') feet in depth shall be maintained along all property lines abutting a residential use.

10. CLUSTER SUBDIVISION/LAND DEVELOPMENT

Where permitted, a cluster subdivision and/or land development may be established in accordance with the following intent and regulations:

A. Intent

The intent the cluster-type development is to permit a procedure for development which will:

- (1) Promote more economic and aesthetically pleasing site design:
- (2) Encourage ingenuity and originality in total subdivision and individual site design:
- (3) Preserve open space to serve recreational, scenic, and public service purposes, and preserve environmentally sensitive resources and areas in accordance with Section 901.25 herein.

B. Specifications

A cluster subdivision/land development shall meet the following minimum specifications:

- (1) Minimum developable tract size shall be ten (10) contiguous acres for development. The following shall not be considered in calculating developable tract size:
 - a. Fifty (50%) percent of all lands situated in the regulatory floodplain and identified wetlands; and
 - b. Fifty (50%) percent of all lands with slopes exceeding fifteen (15%) percent.
- (2) Maximum density shall be as follows:
 - a. VV District: 3 dwelling units per acre.
 - b. R-MF District: 6 dwelling units per acre.Density shall be based upon gross acreage (total land area) of tract.
- (3) Lot size shall not be reduced by more than twenty-five (25%) percent of minimum lot sizes by type of residential unit as provided for within the applicable District.
- (4) Yards and distances between structures shall be provided in accordance with Section 407 herein.
- (5) Separate garages with entrances fronting an alley or street shall be located not less than ten (10') feet from the alley or street.
- (6) Dwelling units shall not exceed thirty-five (35') feet in height. All other buildings shall not exceed forty (40') feet in height.
- (7) Off-street parking and access shall be provided in accordance with Article XI, herein and the Bendersville Borough Subdivision and Land Development Ordinance, as amended.
- (8) Open space areas shall be provided in accordance with Section 901.25 herein.

11. DAY CARE CENTERS

Where permitted as a special exception, day care centers may be established subject to the following:

- A. Operators are responsible for compliance with all Pennsylvania Department of Public Welfare licensing/registration requirements and any other local, state or federal regulations.
- B. Outdoor play area shall be located in the rear yard and be surrounded by a safety fence or natural barrier.
- C. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
- D. No day care center shall be located within five hundred (500') feet from another day care center or group day care facility.
- E. Off-street parking shall be provided in accordance with Article XI herein.

12. DRIVE-IN USES (See VEHICULAR SERVICE STATION AND OTHER DRIVE-IN TYPE USES)

13. FAMILY CARE FACILITY

Where permitted or permitted as a special exception, family care facilities may be established subject to the following conditions:

- A. Lot area, width, and yard regulations shall be in compliance with applicable district requirements.
- B. Off-street parking shall be provided in accordance with Article XI herein.
- C. All other applicable provisions of this Ordinance.

14. FAMILY DAY CARE HOMES/GROUP DAY CARE HOMES

Where permitted or permitted as a special exception, family day care and group day care homes may be established subject to the following conditions:

- A. A minimum of 100 square feet of usable outdoor play space and forty (40') feet of usable indoor space must be provided for each child present at the facility, including resident children.
- B. Outside play shall be limited to the rear yard of such facility and the hours between 8:00 a.m. and 7:00 p.m.
- C. A buffer yard of no less than (10') feet in depth shall be established along rear and side lot lines in accordance with Section 906 herein. Said buffer yard shall be provided in addition to required side and rear yards and shall not be included in determining usable outdoor play area.

D. Operators are responsible for compliance with all Pennsylvania Department of Public Welfare licensing/registration requirements and any other local, state or federal regulations.

E. Off-street parking shall be provided in accordance with Article XI herein.

15. FUNERAL HOMES

Where permitted or permitted as a special exception, funeral homes may be established subject to the following conditions:

A. Minimum front, side, and rear yard setbacks shall be fifteen (15') feet.

B. Lot width shall be determined by the size of the building and setbacks.

C. A buffer yard/screen planting of no less than five (5') feet in depth shall be maintained along rear and side lot lines abutting a residential use.

16. GROUP CARE FACILITY (Including HALFWAY HOMES)

Where permitted as a special exception, group care facilities may be established subject to the following:

A. The minimum front, side, and rear yard setbacks shall be no less than twenty-five (25') feet.

B. Off-street parking shall be provided in accordance with Article XI herein.

C. All other applicable provisions of this Ordinance.

17. GROUP DAY CARE HOME (See FAMILY DAY CARE HOME/GROUP DAY CARE HOME).

18. HOME OCCUPATION

Where permitted or permitted as a special exception, home occupations may be established subject to the following conditions:

A. The home occupation shall be carried on completely within the dwelling unit or accessory building.

B. No more than two (2) home occupation per lot shall be permitted.

C. Not more than one (1) full-time person or its equivalent other than the occupants of the dwelling unit shall be employed.

D. Not more than twenty-five (25%) percent of the floor area of the dwelling unit shall be devoted to a home occupation.

E. Articles sold or offered for sale shall be limited to those produced on the premises, sold as part of a home party sales operation, for food served as part of a bed and breakfast establishment, or for a licensed distributorship conducted by the resident.

- F. No more than one article offered for sale in accordance with Subsection E above, shall be permitted to be displayed, exterior of the structure.
- G. There shall be no exterior sign (except as permitted in the regulation of signs in this ordinance), no exterior storage of materials, and no other exterior indication of the home occupation or variation of the residential character of the main building, with the exception of Subsection F above.
- H. No offensive noise, vibration, smoke or other particulate matter, heat, humidity, glare or other objectionable effects shall be produced.
- I. A home occupation may include, but is not limited to art studios; dressmaking or millinery; barbershop; beauty parlor; teaching, music or dance instruction limited to a single pupil at a time; real estate or insurance office; the professional office of a dentist, physician, lawyer, engineer, planner, accountant, architect; bed and breakfast establishments; or any other activities of a similar nature.
- J. A home occupation shall, under no circumstances, be interpreted to include a commercial stable or a kennel.
- K. Off-street parking shall be provided in accordance with the provisions of Article XI herein.
- L. Bed and breakfast establishments as a home occupation shall meet the following additional requirements:
 - (1) Sleeping accommodations shall be located only within the dwelling and shall be limited to no more than five (5) rooms for rent with a total size not to exceed thirty-five (35%) percent, or 1,250 square feet, of the dwelling, whichever is less.
 - (2) Not more than ten (10) adult guests may be accommodated at any one time. The length of stay per guest shall be limited to fifteen (15) days.
 - (3) Off-street parking shall be provided in accordance with Article XI herein.
 - (4) Meals for compensation shall be provided only to guests of the bed and breakfast establishments.
 - (5) No more than one bed and breakfast establishment is permitted per lot.

19. KENNELS

Where permitted as a special exception, an animal kennel may be established in accordance with the following provisions:

- A. All kennels shall be licensed by the Commonwealth of Pennsylvania.

- B. All buildings in which animals are housed and all runs shall be located at least two hundred (200') feet from all lot lines. Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot be perceived at the lot line.
- C. Outdoor runs may be provided if buffering and screening are provided in accordance with Sections 906 and 907 herein. No animal shall be permitted to use the outdoor runs from 8:00 p.m. to 8:00 a.m.

20. MANUFACTURED/MOBILE HOME PARKS/SUBDIVISIONS

Where permitted, manufactured/mobile home parks and subdivisions shall be subject to the following provisions:

- A. A manufactured mobile home park/subdivision shall be developed and approved in accordance with regulations as set forth in the Bendersville Borough Subdivision and Land Development Ordinance as amended.
- B. Minimum tract size shall be not less than five (5) acres.

21. MEDICAL CENTERS

Where permitted as a special exception, a building for use as a medical center may be erected and used provided that:

- A. The building shall be occupied and used only by persons licensed to practice the healing arts in Commonwealth of Pennsylvania, and their staffs.
- B. The minimum front, side and rear yard setbacks shall be no less than twenty-five (25') feet.
- C. A buffer yard/screen planting shall be provided in accordance with Sections 906 and 907 herein.
- D. Off-street parking shall be provided in accordance with the provisions of Article XI herein.

22. MIXED USES

When two (2) or more principal uses occupy the same lot but not the same building, all parking, lot area, lot width, building setbacks, height, and building area requirements shall be provided so that the requirements pertaining to each use will be met in full.

23. MUNICIPAL USES

In any district, a building may be erected, altered or extended and land may be developed which is arranged, intended or designed for municipal uses, including municipal recreation uses.

24. NURSING HOMES

Where permitted, or permitted as a special exception, a building for such use may be erected and used subject to the following:

- A. *The facility shall be constructed and operated in accordance with applicable Commonwealth laws and regulations.*
- B. The minimum lot area and lot width shall be determined by building size, yards and off-street parking requirements, but in case shall the lot area be less than seven thousand five hundred (7500) square feet plus five hundred (500) square feet for each patient over eight (8).
- C. The minimum front, side, and rear yard setbacks shall be no less than twenty-five (25') feet.
- D. A buffer yard/screen planting shall be provided in accordance with Sections 906 and 907 herein.

25. OPEN SPACE REQUIREMENTS

Common open space areas shall be provided as follows:

- A. A minimum of twenty (20%) percent of the gross acreage shall be reserved for common open space. Where phased development is utilized, at no time shall the total area of dedicated (or reserved) open space be less than twenty (20%) percent of phased development.
- B. Open space areas shall be developed to complement and enhance the man-made environment. In the selection of the location of such area, consideration shall be given to the preservation of natural and man-made features which will enhance the attractiveness and value of the remainder of the property to be subdivided or developed, including flood plains, streams and ponds, slopes equal to or greater than fifteen (15%) percent, natural permanent vegetation, historical amenities and other community assets. Common open space shall also include active and passive recreational areas.
- C. The area shall be so located and designed that it is easily accessible to all residents. Safe and easy access to common open space areas shall be provided either by adjoining road frontage, easements and/or paths.
- D. Whenever possible, common open space areas shall be designed as a continuous system of usable area, which are interspersed among groupings of residential buildings.
- E. Such areas specifically designed for open space shall be fully usable and suitable for that purpose and shall be set aside by deed restriction.
- F. Accessways to the site shall be of a sufficient width so that maintenance equipment shall have reasonable convenient access to such areas. In all instances, such open space areas shall be maintained in a careful and prudent manner.

- G. The Borough may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the Borough need not require, as a condition of the approval of a development, that land proposed to be set aside for common open space be dedicated or made available to public use.
- H. The landowner shall provide for and establish an organization for the ownership and maintenance of the common open space, and such organization shall not be dissolved nor shall it dispose of the common open space by sale or otherwise (except to an organization conceived and established to own and maintain the common open space) without first offering to dedicate same to the public.
- I. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Borough may serve written notice upon such organization and upon the residents of the development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof. The notice shall also state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected. If the deficiencies set forth in the original notice or in the modification thereof are not corrected within thirty (30) days or any extension thereof, the Borough, in order to preserve the taxable values of the property within the development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for a period of one (1) year. Such maintenance by the Borough shall not constitute a taking of the common open space, nor vest in the public any rights to use the same. Before the expiration of the year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the development, to be held by Bendersville Borough Council or Planning Commission, at which hearing such organization or the residents of the development shall show cause why such maintenance by the Borough shall not, at the option of the Borough, continue for a succeeding year. If the Bendersville Borough Council or Planning Commission determines that such organization is not ready and able to maintain the common open space in a reasonable condition, the Borough may, at its discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Borough Council or Planning Commission shall be subject to appeal to the court in the same manner, and within the same time limitation, as provided for by this Zoning Ordinance.

- J. The cost of such maintenance by the Borough shall be assessed rateably against the properties within the development that have a right of enjoyment of the common open space, and shall become a lien on such properties. The Borough at the time of entering upon the common open space for the purpose of maintenance shall file a notice of lien in the Office of the Prothonotary of the Court of Common Pleas of Adams County, Pennsylvania, upon the properties affected by the lien within the development.

26. PERSONAL CARE HOME

Where permitted as a special exception, personal care boarding homes may be established in accordance with the following provisions:

- A. The facility shall be constructed, licensed and operated in accordance with applicable Commonwealth laws and regulations.
- B. No more than two (2) persons at a time shall reside in any room designated for overnight visits.
- C. The minimum front, side and rear yard setbacks shall be not less than twenty-five (25') feet.
- D. A buffer yard of no less than ten (10') feet in width shall be established along rear and side yards abutting residential uses.
- E. Off-street parking shall be provided in accordance with Article XI herein.

27. PROHIBITED USES

- A. Dwellings in the Business District other than that provided for as a permitted use.
- B. Primary living and sleeping quarters of dwelling units shall not be permitted in cellars.
- C. The following uses are prohibited in all districts throughout the Borough:
 - (1) The incineration, reduction or storage of garbage, offal, animals, fish or refuse, unless by the authority of or under the supervision of the Borough.
 - (2) Dumps and dumping of any kind, unless by the authority of or under the supervision of the Borough.
 - (3) The stripping of topsoil for sale, exclusive of the process of grading a lot preparatory to the construction of a building for which a building permit has been issued.
 - (4) Junkyards.

28. PUBLIC AND PRIVATE NURSERY SCHOOLS (SEE DAY CARE CENTERS)

29. PUBLIC UTILITY FACILITIES

Public utility facilities shall be permitted in any district without regard to the use and area regulations; provided, however, that buildings or structures erected for these utilities shall be subject to the following regulations:

- A. Front, side and rear yards shall be provided in accordance with the regulations of the district in which the facility is located.
- B. Height restrictions shall be as required by the district regulations.
- C. Unhoused equipment shall be enclosed within a chain link fence six (6') feet in height topped with barbed wire.
- D. When equipment is totally enclosed within a building, no fence or screen planting shall be required and the yards shall be maintained in accordance with the district in which the facility is located.
- E. If adjacent to a residential or village district, screen plantings shall be required within side and rear yards in accordance with Section 907 herein.
- F. The external design of the building shall be in character with existing buildings in the respective district.

30. SOLAR COLLECTORS AND RELATED EQUIPMENT

- A. Solar collectors and related equipment shall be permitted in any district as an appurtenance to a building or as an accessory structure.
- B. When a solar energy collection system is installed on a lot, accessory structures or vegetation on an abutting lot shall not be located so as to block the solar collector's access to solar energy. The protected portion of the solar collector shall be that portion which:
 - (1) is located so as not to be shaded between the hours of 10:00 a.m. and 3:00 p.m. by a hypothetical twelve (12') foot obstruction located on the lot line; and
 - (2) has an area of not greater than one-half of the largest floor area of the structure served.
- C. This section does not apply to accessory structures or vegetation existing on an abutting lot at the time of installation of the collection system, or on the effective date of this Ordinance, whichever is later. This section controls any accessory structure erected on, or vegetation planted in, abutting lots after the installation of the solar energy collection system.
- D. A statement that a solar energy collection system is to be installed on a lot shall be filed with the Borough Zoning Officer on the date said Zoning Permit is issued, with the date of installation being the date of recordation. The solar facility must be completed and the Zoning Officer notified of completion, within one (1) year from the date of permit issuance.

31. SOLID WASTE STORAGE FACILITIES

All multifamily and nonresidential buildings or uses shall include adequate facilities on site for the proper storage of solid wastes in accordance with the provisions of the Borough/County refuse collection regulations and as hereinafter provided:

- A. Storage areas shall have hardened, stabilized surfaces with outdoor areas constructed to prevent accumulation of rainfall.
- B. Storage areas shall be located such that collection vehicles will not obstruct the public street or otherwise violate Borough regulations while parked for collection of refuse and shall be provided with accessways facilitating ready deposit and collection of refuse.
- C. Storage areas shall be of sufficient size to accommodate the container capacity required to store the refuse accumulation between collections, but shall not be less than four by eight (4' x 8') feet in size or of other dimensions providing an approved equal space.
- D. Storage areas shall be screened from public view in accordance with Section 907 herein.

32. STEEP SLOPE PROVISIONS

In all districts, development or earth moving activities occurring on tracts of eight (8%) percent or greater slope shall be required to meet the following additional standards, as approved by the Bendersville Borough Council:

- A. A map showing slope intervals of 8% to 15%, 15% to 25%, and over 25% shall be submitted.
- B. Slopes Exceeding:
 - (1) 8% to 15%: No more than forty (40%) percent of such tracts shall be altered, regraded, cleared, or built upon.
 - (2) 15% to 25%: No more than thirty (30%) percent of such tracts shall be altered, regraded, cleared, or built upon.
 - (3) Over 25%: No more than fifteen (15%) percent of such tracts shall be altered, regraded, cleared, or built upon.
- C. Calculating Average Slope:

The following formula shall be used in conjunction with a contour map to determine the average slope of a tract:

$$S = \frac{.0023 \times I \times L}{A}$$

S = Average slope of subject parcel.

- .0023 = Conversion factor of square feet to acres.
- I = Contour interval (distance between contour lines on the map).
- L = Total length of the contour lines within the subject parcel.
- A = Area in acres of subject parcel (excluding areas with slopes greater than 25% or more).

33. SWIMMING POOLS

Swimming pools shall be a permitted as an accessory use in any district and shall comply with the following conditions and requirements:

- A. The pool is intended, and is to be used, solely for the enjoyment of the occupants of the principal use of the property on which it is located, including guests.
- B. Hot tubs, whirlpool baths and tubs, and jacuzzi-type tubs or baths shall not be considered swimming pools if located outdoors or designed to be located outdoors, and are provided with permanent outdoor water plumbing.
- C. Above-ground pools provided with permanent outdoor water plumbing shall be included in the swimming pool definition.
- D. It may not be located, including any walks or paved areas or accessory structures adjacent thereto closer than five (5') feet to any property line, nor shall it be nearer to any street line upon which the residence abuts than the existing setback line of the residence. In no case shall it be any closer than twenty (20') feet from any street line.
- E. All permanent swimming pools now existing or hereafter constructed, installed, established or maintained, shall be enclosed by a permanent fence of durable material at least four (4') feet but not more than six (6') feet in height, with the exception of atrium houses, and shall be so constructed as not to have openings, mesh or gaps larger than four (4) square inches in any direction. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4") inches. All gates used in conjunction with the fence shall meet the same specifications as to the fence itself and shall be equipped with approved locking devices and shall be locked at all times when the swimming pool is not in use.
- F. A dwelling unit, excluding atrium dwellings, or an accessory building may be used as part of such enclosure. However, height requirements for a fence shall not apply to the building.
- G. The provisions regulating fencing shall not apply to pools having sides extending four (4') feet above grade, provided that the stairs, or other means of access to the pool, are removed or locked in such a position as to make it readily inaccessible when not in use.

- H. All materials used in the construction of pools shall be waterproof and so designed and constructed as to facilitate emptying and cleaning and shall be maintained and operating in such a manner as to be clean and sanitary at all times.
- I. Water may not be discharged from a swimming pool unless discharged directly into a storm sewer facility and, in so doing, does not flow onto adjacent properties or right-of-way.
- J. Enclosed indoor pools must comply with applicable regulations pertaining to accessory structures.
- K. Outdoor lighting, if any, shall be shielded and/or reflected away from adjoining properties so that no beam of light, only diffused or reflected light, enters adjoining properties.

34. TOWNHOUSES

Where permitted, all townhouses shall comply with the following:

- A. There shall be not more than six (6) attached units in a row.
- B. A visual structural break shall be provided between every other dwelling unit.
- C. All other applicable provisions of this Ordinance.

35. USES NOT PROVIDED FOR

- A. Uses of the same general character as the uses permitted by right, conditional use or special exception in the District shall be allowed if determined by the Zoning Hearing Board that the impact of the use on the environment and adjacent streets and properties is equal to or less than any use specifically listed in the District.
- B. Such use shall comply with all applicable area and bulk regulations and other applicable standards for comparable uses specifically listed in the District.

36. VEHICULAR BODY SHOP

Where permitted, vehicular body shops may be established in accordance with the following:

- A. All repair and paint work shall be performed within a structure.
- B. Buffer yard/screen plantings shall be provided in accordance with Sections 906 and 907 herein.
- C. Vehicles stored at a vehicular body shop due to an accident shall remain no longer than sixty (60) days from the date of arrival unless respective parts are documented to be unavailable within such time period. Said documentation shall be provided to the Zoning Officer for approval.

37. VEHICULAR SERVICE STATIONS AND OTHER DRIVE-IN TYPE USES

Such uses, where permitted, or permitted by special exception, shall comply with the following:

- A. No equipment above ground for the service of motor vehicles shall be closer than twenty-five (25') feet to any side or rear property line.
- B. Canopies shall be located no less than ten (10') feet from the right-of-way line.
- C. Fuel pumps shall be located at least twenty-five (25') feet from any public right-of-way or fifty (50') feet from the street centerline, whichever is greater.
- D. Vehicles stored at a service station due to an accident shall remain no longer than sixty (60) days from the date of arrival unless respective parts are documented to be unavailable within such time period. Said documentation shall be provided to the Zoning Officer for approval.
- E. The width of any entrance driveway leading from the public street to such service station or other drive-in use shall not exceed thirty (30') feet at its intersection with the curb line or edge of pavement.
- F. No two (2) driveways leading from a public street to such service station or other drive-in use shall be within fifteen (15') feet of each other at their intersection with the curb or street line.
- G. Parking and vehicle access shall be so arranged that there will be no need for the motorists to back over sidewalks or into streets.

Section 902. PERFORMANCE STANDARDS

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

1. Vibration

Vibrations detectable without instruments on neighboring properties in any district shall be prohibited, with the exception of temporary vibrations associated with new construction.

2. Air Pollution

No pollution of air by flyash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property or can cause soiling or property.

3. Fire and Explosives Protection

Fire protection and fire fighting equipment, acceptable to the Board of Fire Underwriters, shall be readily available for any activity involving the handling or storage of flammable or explosive materials.

4. Glare and Heat

A. Lighting devices which produce objectionable direct or indirect glare on adjoining properties or thoroughfares shall not be permitted.

(1) Direct glare is defined for purposes of this Ordinance as illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent, or arc lighting, or from such high temperature processes as welding, petroleum or metallurgical refining. No such direct glare shall be permitted with the exceptions that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle or the cone of direct illumination shall be sixty (60) degrees drawn perpendicular to the ground, with the exception that such angle may be increased to ninety (90) degrees if the luminary is less than four (4') feet above the ground. Such luminaries shall be placed not more than sixteen (16') feet above ground level.

(2) Indirect glare is defined for the purposes of this Ordinance as illumination beyond property lines caused by diffuse reflection from a surface such as a wall or roof of a structure.

(3) Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.

B. There shall be no emission or transmission of heat or heated air that is discernible at the lot line.

5. Non-Radioactive Liquid or Solid Wastes

There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground of any liquid or solid materials except in accordance with the laws and regulations of the United States, Commonwealth of Pennsylvania, Adams County and Borough of Bendersville.

6. Radioactivity or Electrical Disturbances

No activity shall emit radioactivity at any point or cause electrical disturbance adversely affecting the operation of radio or other equipment in the vicinity.

7. Noise

Noise which is determined to be objectionable due to volume, frequency or beat shall be muffled or otherwise controlled, with the exception of fire sirens and related apparatus used solely for public purposes. Noise in excess of ninety (90) decibels, as measured on a decibel or sound level meter of standard quality and design

operated on the A-weighted scale at a distance of twenty-five (25') feet from any property line of the property from which the noise source is located, shall not be permitted.

8. Odors

No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property with the exception of such odors associated with common farming practices.

9. Smoke

The maximum amount of smoke emission permitted shall be determined by the use of the Standard Ringlemann Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 shall be permitted.

10. Erosion

No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties. Any earth disturbance activity shall be conducted in accordance with the Bendersville Borough Subdivision and Land Development Ordinance, as amended.

11. Water Pollution

Water pollution shall be subject to the standards established by the Pennsylvania Department of Environmental Resources.

Section 903. HEIGHT REGULATIONS

1. Unless otherwise provided, the height of any building may exceed the maximum permitted height by one (1') foot for each additional foot by which the width of front, rear, and side yards exceeds the minimum yard regulation for the district in which the building is located. Total height shall not exceed the maximum permitted height by more than fifteen (15%) percent.
2. For all residential uses, accessory buildings shall not exceed twenty (20') feet in height.
3. Height regulations shall not apply to spires, belfries, cupolas, or domes not used for human occupancy; not to chimneys, ventilators, skylights, water tanks, utility poles or towers, solar collectors, and ornamental or necessary appurtenances.

Section 904. AREA REGULATIONS

1. Unless the regulations of the district in which they are located require greater lot areas or lot widths, the following regulations shall apply:
 - A. On a lot held in single and separate ownership from adjacent land, which does not fulfill the regulations for the minimum area and yard dimensions for the district in which it is located, a building may be erected, altered, and used thereon providing the yard space is not less than the minimum

specified in Section 905 herein, and further that the proposed public sanitary sewer system and water system is approved by the Pennsylvania Department of Environmental Resources.

- B. The area, width, and depth of lots shall provide adequate open space for off-street loading, unloading, and/or parking space.

Section 905. YARD REGULATIONS

1. Where the street or streets upon which the lot abuts are less than fifty (50') feet in width, the front yard depth and the width of the side yard abutting the street shall be measured from a line parallel to twenty-five (25') feet from the center line of the street.
2. Front Yards
 - A. An accessory building shall not be erected or substantially altered within any front yard.
 - B. Parking shall not be permitted in front yards in residential and village districts except on paved driveways. Turnarounds shall not be considered as part of a driveway.
 - C. Where buildings exist in the same block on either side, the setback line of the building to be constructed shall be at least the average of buildings constructed within the same block. In measuring to determine said building line, open porches shall not be construed as part of the building.
3. Side Yards
 - A. On corner lots, the side yard abutting the street shall have a width equal to the depth of the front yard required in the district and shall be subject to all front yard requirements of this Ordinance.
 - B. On a lot in a residential or village district held in single and separate ownership from adjacent land at the effective date of this Ordinance with a lot width less than required for the Zoning District, only one (1) single-family detached dwelling may be erected, and side yards shall be provided in accordance with the following requirements:
 - (1) On interior lots with a width of fifty (50') feet or more, two (2) side yards shall be provided as required by the district regulations.
 - (2) On corner lots with a width of fifty (50') feet or more, two (2) side yards shall be provided. The exterior side yard may be reduced by the number of feet by which the lot width is less than the district requires, but may not be reduced to less than that required for the interior side yard. The interior side yard shall be provided as required by the district regulations.

- (3) On lots less than fifty (50') feet but not less than twenty-seven (27') feet in width, two (2) side yards shall be provided, each equalling twenty (20%) percent of the lot width.
 - (4) On lots less than twenty-seven (27') feet but not less than twenty (20') feet in width, the building shall be sixteen (16') feet in width and only one (1) side yard shall be provided, equalling in width the difference between the lot width and sixteen (16') feet. One (1) side wall of the building shall be constructed abutting the lot line without openings but shall not be constructed as a party wall.
 - (5) On lots less than twenty (20') feet in width, a building shall be constructed the full width of the lot. Side walls abutting the lot lines shall have no openings and shall not be constructed as party walls. For such dwellings constructed to a depth of more than two (2) rooms, a court not less than six (6') feet in width shall be provided, abutting the side wall for all rooms beyond the second room.
- C. On a lot, in a business district, held in single and separate ownership from adjacent land at the effective date of this Ordinance, with a lot width less than that required for the zoning district, the required side yards shall be determined by the Zoning Hearing Board upon application for a variance based on the same criteria as listed under Subsection B. above for residential structures.
- D. Any accessory building may be erected within one of the side yards or within the rear yard provided:
- (1) Buildings and/or structures accessory to a residential use shall be located within the rear yard of the principal building or structure no less than three (3') feet to any rear or side lot line. Where such side or rear yard is along an alley, the accessory building shall be located not less than five (5') feet from the alley. Private garages with entrances fronting an alley shall be located not less than ten (10') feet from the alley.
 - (2) On a corner lot in any residential or village district, an accessory building shall not be erected within the required building setback line of the exterior side lot line (street line). Provided, however, that when the main buildings exist on both the corner lot and the lot abutting the rear of the corner lot, an accessory building may be erected at the average distance from the street line, established by the existing main buildings.
 - (3) Buildings and/or structures accessory to a nonresidential use shall not be located within the required front yard and shall be located no less than fifteen (15') feet to any lot line.
 - (4) No side yard setback shall be required where two (2) garages are designed to abut in semi-detached dwellings.

- E. A carport, open on at least three (3) sides, may be erected within one of the side yards when attached to a main building existing at the effective date of this Ordinance, provided the carport shall be not less than five (5') feet from the side lot line.

4. Interior Yards (open space between structures)

- A. When front to front, rear to rear, or front to rear, parallel structures shall have fifty (50') feet between faces for one (1) story in height, plus five (5') feet for each additional story. If the front or rear faces are obliquely aligned, the above distances may be decreased by as much as ten (10') feet at one end if increased by similar or greater distances at the other end. Where service drives or bank grade changes or collector walks are introduced in this space, the distance between structures shall be at least fifty (50') feet.
- B. End to end, a distance of twenty-five (25') feet between structures for a one (1) story structure plus five (5') additional feet for each story in excess of one.
- C. End to front, or end to rear, a distance of thirty (30') feet between structures for each one (1) story structure plus five (5') feet additional for each story in excess of one.
- D. When adjacent structures differ in the number of stories, the required distance between structures shall be calculated on the taller of the structures.

Section 906. BUFFER YARDS AND SCREEN PLANTINGS

1. Buffer Yards

- A. Unless otherwise provided, where a commercial or industrial use located within a Business District, adjoins a residential district, a buffer yard of not less than fifteen (15') feet in width shall be provided along the lot lines in addition to the yard required for the district in which it is located.
- B. If a front yard is provided, the buffer yard may coincide with the front yard.
- C. All buffer yard areas shall be planted and maintained with a vegetative material, and where required for multi-family, commercial and industrial uses, a screen planting shall be planted and maintained to the full length of side and rear lot lines which do not abut streets.
- D. All buffer yards shall be planted with grass or ground cover, and where required, a dense screen planting. Buffer yards shall be maintained and kept free of all debris and rubbish.

- E. No structure, manufacturing or processing activity, or storage of materials shall be permitted in buffer yards. However, access roads, service drives, and utility easements not more than thirty-five (35') feet in width are permitted to cross a buffer yard provided that the angle of the centerline of the road, drive, or easement crosses the buffer yard at an angle not less than sixty (60) degrees.
- F. No parking shall be permitted in buffer yards.
- G. Prior to the issuance of a building permit, plans for buffer yards shall be submitted for review and approval to the Zoning Officer. Said plans shall show the arrangements of all of the buffer yards and the placement, species, and size of all plant materials to be placed in such buffer yard. Said plan must be reviewed by the Planning Commission and approved by the Zoning Officer before a building permit may be issued.

2. Screen Plantings

Where required, screen plantings shall be located in the exterior portion of the required buffer yards and shall be in accordance with the following requirements:

- A. Plant materials used in screen planting shall be at least six (6') feet in height when planted, and be of suitable vegetation in order to produce, within three (3) years, a complete year-round visual screen of at least six (6') feet in height and within fifteen (15') feet of the property line.
- B. The screen planting shall be maintained permanently and any plant material which does not live shall be replaced within one (1) year.
- C. The screen planting shall be so placed that at maturity it will be not closer than three (3') feet from any ultimate right-of-way or property line.
- D. A clear sight triangle shall be maintained at all street intersections and at all points where vehicular accessways intersect public streets.
- E. The screen planting shall be broken only at points of vehicular or pedestrian access.
- F. Trees that shall not be used in planting of buffer yards are:
 - (1) Poplars - all varieties
 - (2) Willows - all varieties
 - (3) White or Silver Maple (Acer Saccharinum)
 - (4) Aspen - all varieties
 - (5) Common Black Locust

- G. Wherever possible, natural vegetation shall be maintained as the required screening material. Natural earth berming of at least six (6') feet in height may be included as part of the screening requirement.
- H. Screen plantings shall be provided between the property line and any off-street parking area and any outdoor solid waste storage area for any multifamily, townhouse, commercial or manufacturing use where the parking or solid waste disposal area abuts a residential zoning district or a lot occupied by a residential use.
- I. Any existing multi-family, commercial or industrial use shall not be required to comply with the screening requirements except in case of enlargement or exterior alteration of same.

Section 907. PROJECTIONS IN YARDS

Unenclosed ground-story terraces, patios and porches may project into any required yard not more than one-half its required dimension and not more than ten (10') feet in any case. Chimneys, flues, columns, sills and ornamental architectural features may project not more than two (2') feet into a required yard.

Section 908. OBSTRUCTION TO VISION

- 1. Walls, fences, signs or other structures shall not be erected or altered, and hedges, trees or other growth shall not be planted or maintained, which may cause danger to traffic on a street or road by obstructing the view.
- 2. A clear sight triangle of twenty-five (25') feet, measured along the street lines of intersecting streets, shall be maintained; within which such structures or planting shall be limited to a height of not more than three (3') feet or less than ten (10') feet above the street grade, excepting the trunks of street trees or other ornamental trees whose foliage is kept trimmed to a height of ten (10') feet above the street grade.

Section 909. FENCES AND WALLS

- 1. Fences and walls may be erected, altered and maintained within the yards, excluding required buffer yards, provided that any such fence or wall in the front yard shall not exceed three and one-half (3 1/2') feet in height; and any fence or wall in the side or rear yard may be a maximum of eight (8') feet in height. Furthermore, any fence or wall exceeding six (6') feet in height shall contain openings therein equal to fifty (50%) percent of the area of that portion of the wall or fence exceeding six (6') feet. Retaining walls, constructed to hold back or support an earthen berm, shall be exempted from said height standards.
- 2. All yards used for the storage of any material needed for the operation or conduct of a manufacturing or commercial enterprise shall be enclosed by a solid wall, uniformly painted board fence, chain link fence in conjunction with a screen planting or screen planting on all sides which face upon a street or face upon a lot in any district.

Section 910. SPACE REGULATIONS

No yard or other space provided about any building or structure for the purpose complying with this Ordinance shall be considered as a yard or other open space for another building or structure.

Section 911. COURTS

Courts shall conform to the following requirements:

1. An open space in the form of an inner court or outer court shall be provided in connection with any building in any district wherever any room therein in which a person or persons live, work, sleep or congregate cannot be adequately lighted and ventilated from the street or yard. Such court shall be adjacent to such room, the windows of which shall open onto such court. This provision shall not apply to specialized commercial and/or manufacturing processes where controlled light and/or ventilation are required.
2. Outer Court
 - A. The width of any outer court upon which windows open from a living room, bedroom or dining room shall be not less than the height of any wall opposite such windows. However, when the depth of such court is less than six (6') feet, the minimum width shall be twice the depth.
 - B. The depth of an outer court formed by walls on three (3) sides shall be not greater than one and one-half (1 1/2) times the width.
3. Inner Court
 - A. The least dimension of an inner court shall be not less than the full height of the walls enclosing such court, but not less than fifty (50') feet for apartment buildings and not less than ten (10') feet for two-family dwellings.
 - B. An open and unobstructed passageway shall be provided for each inner court. Such passageway shall have sufficient cross-section area and headroom for the passage of firefighting equipment and shall be continuous from the inner court to a yard or an unobstructed open area with adequate access to a street.

Section 912. HABITABLE FLOOR AREA

1. The minimum habitable floor area of a dwelling unit hereafter established, with the exception of mobile homes constructed in accordance with the Federal Manufactured Home Construction and Safety Standards, effective June 15, 1976, shall be as follows:
 - A. Rooming Unit (designed for one (1) person) 250 square feet
 - B. Efficiency Unit 500 square feet

C.	One Bedroom	600 square feet
D.	Two Bedrooms	750 square feet
E.	Three Bedrooms	900 square feet
F.	Four Bedrooms	1,050 square feet
G.	For five or more bedrooms, an additional 150 square feet per bedroom.	

2. The minimum habitable floor area for units within lodging establishments for transients shall be two hundred (200) square feet for each room used for sleeping purposes.

Section 913. CONTROL OF TRAFFIC AND PROTECTION OF PUBLIC SAFETY

The application for a permit for any and all uses shall be accompanied by a site plan showing building location, service and parking areas and access to highways. Where a driveway or access road gives access to a State road or highway, approval by the Pennsylvania Department of Transportation shall be required.

Section 914. REDUCTION OF LOT DIMENSIONS

The area, width, or depth of any lot shall not be reduced by subdivision, sale, or development so that the lot width, lot area, lot area per dwelling unit, courts and yards, or other spaces are smaller, or so that the coverage is greater than prescribed herein.

ARTICLE X

NONCONFORMING BUILDINGS AND USES

Section 1001. GENERAL

All lawful or previously nonconforming uses of land or of a building, sign, or other structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such use may not conform to the use, height, area, yard, and other regulations of the district in which it is located, provided such nonconforming conditions shall comply with the following:

Section 1002. CONTINUATION

The Zoning Officer shall identify and register all of the premises occupied by a lawful nonconforming use or building existing at the effective date of this Ordinance and issue a Certificate of Nonconformance which shall be for the purpose of insuring the owner's the right to continue a nonconforming building or use for a period of one (1) year from the date of certificate issuance.

Section 1003. ALTERATIONS

Repairs and structural alterations may be made to a nonconforming building or a building occupied by a nonconforming use; providing such alterations and repairs are in conformance with the regulations as set forth in this Ordinance and other applicable codes and ordinances adopted by the Borough.

Section 1004. EXTENSIONS OR ENLARGEMENTS

1. The types of extensions and enlargements listed below are permitted for nonconforming uses and buildings existing on the effective date of this Ordinance:
 - A. The extension of a nonconforming use of land upon a lot occupied by such use.
 - B. The extension or enlargement of a conforming building occupied by a nonconforming use.
 - C. The extension or enlargement of a nonconforming building occupied by a nonconforming use.
 - D. The extension or enlargement of a nonconforming building occupied by a conforming use.
2. The foregoing extensions or enlargements of such nonconforming buildings or uses shall be subject to the following conditions:
 - A. The extension or enlargement shall conform to the height, area, yard, and coverage regulations of the district in which it is located. Where a structure is nonconforming as to a required side yard or rear yard setback, the established nonconforming setback may be continued, so long as the proposed extension or enlargement does not project further into any yard, whether front, side or rear yard, than the original building line extended.

Extension or enlargement of the nonconforming use and/or building shall not exceed thirty-three and one-third (33 1/3%) percent of the existing floor area or use.

- B. The entire building or use shall be provided with off-street parking and loading spaces as required by Article XI herein.
- C. The extension or enlargement does not replace a conforming use.
- D. The extension or enlargement of a building used for a nonconforming use shall not be permitted to extend into vacant parcels of land adjacent to the initial parcel of land existing and occupied on the effective date of this Ordinance, where such vacant parcels have been recorded separately or acquired following the effective date of this Ordinance.
- E. Any lawful nonconforming use of a building or land may be changed to another nonconforming use of substantially the same character upon approval by Special Exception by the Zoning Hearing Board. The applicant shall satisfactorily prove to the Zoning Hearing Board that the proposed change in nonconforming use will not increase the need for off-street parking, produce any noise, glare, heat, dust, traffic vibration, or illumination in excess of the existing nonconforming use.

Section 1005. RECONSTRUCTION/RESTORATION

- 1. A nonconforming building or use which is damaged by fire, explosion, windstorm or other natural or criminal acts, may be reconstructed and used for the same purposes, provided:
 - A. The reconstruction and/or restoration of the building is commenced within two (2) years from the date of occurrence of the damage and is carried to completion without undue delay; and,
 - B. The reconstructed building or occupied area does not exceed the height, area, and volume of the original structure and occupied use.
- 2. In the event that any nonconforming building and/or use, as defined in Article II, is destroyed or partially destroyed and the owner of such has determined reconstruction/restoration infeasible, the owner will be responsible for the complete removal of the structure and debris as well as the filling of any excavated areas.

Section 1006. DISCONTINUANCE

If a nonconforming use or building ceases operations for a continuous period of more than eighteen (18) months, then such use and any subsequent use or building shall conform to the regulations of this Ordinance.

Section 1007. NONCONFORMING LOTS

Any lot held in single and separate ownership at the effective date of this Ordinance which does not conform to one or more of the applicable area regulations in the district in which it is located shall be considered nonconforming. A building may be erected upon any vacant nonconforming lot provided a Special Exception is authorized by the Zoning Hearing

Board, and further provided that the applicant does not own or control other adjoining property sufficient to comply with the provisions of this Ordinance. Such development shall comply with the following provisions:

1. The proposed use is permitted within the district in which it is located.
2. Proposed building shall comply with all applicable district regulations, as well as, Area and Yard Requirements as set forth in Sections 904 and 905 herein, respectively.

ARTICLE XI

OFF-STREET PARKING

Section 1101. GENERAL PARKING REGULATIONS

1. Off-street parking facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking space located off the public right-of-way.
2. All parking spaces shall be ample in size for the vehicles for which use is intended. The net parking space per vehicle shall be not less than ten (10') feet wide and twenty (20') feet long. Parking spaces and the approaches thereto shall be paved surfaces or stabilized surface subject to approval by the Borough Engineer. For purposes of this Ordinance, stabilized surface is hereby defined as an approved all-weather, dustless surface. Outdoor parking spaces are deemed to be part of the open space of the lot on which it is located and be fully accessible.
3. A garage or carport may be located wholly or partly inside the walls of the principal building, or attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory building requirements. A garage may be constructed under a yard provided that the level of such yard shall conform to the general level of the other yards on the lot. The space above such an underground garage shall be deemed to be part of the open space of the lot on which it is located.
4. All multi-family, and nonresidential uses shall provide handicapped parking spaces as follows:

<u>Total Parking Spaces</u>	<u>Required Accessible Spaces</u>
1-25	1
26-50	2
51-75	3
76-over	2% of Total

5. Design of handicapped accessible spaces shall be completed in accordance with the Americans with Disabilities Act Architectural Guidelines and include the following:
 - A. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible structure. In parking facilities not serving a particular structure, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking entrance.
 - B. Accessible parking spaces shall be at least eight (8') feet wide.

- C. One (1) parking access aisle of no less than five (5') feet in width shall be provided for each accessible parking space and shall be a part of the accessible route of no less than three (3') feet in width to the building or facility entrance. A parking access aisle may be shared between two accessible parking spaces.
- D. Parking spaces and access aisles shall be level with surface slopes not exceeding two (2%) percent in all directions.
- E. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Such signs shall be located so as not to be obscured by a vehicle parked in the space.

Section 1102. OFF-STREET PARKING FACILITIES REQUIREMENTS

Any of the following facilities hereafter erected or enlarged and any facility hereafter converted into one (1) of the following facilities and any open area hereafter used shall be provided with not less than the minimum parking spaces as set forth below, together with adequate accessways, driveways or other means of circulation and access to and from a street.

1. Specific Parking Space Requirements

<u>Uses</u>	<u>Required Parking Spaces</u> (Gross Floor Area: GFA)
A. Automotive Parts Sales/ Service Garages	3 per bay, plus 1 space for every 300 square feet of retail parts sales area.
B. Automobile Sales	1 per 400 square feet indoor GFA plus 1 per 2,500 square feet of outdoor sales/rental lot area, plus 2 per service bay.
C. Automobile Wash	5 per washing lane.
D. Banks/Financial Institutions	1 per 300 square feet GFA. Each drive-up window shall have sufficient stacking room for 4 cars, and a bypass lane shall be provided.
E. Convenience Stores	4 per 1000 square feet GFA.
F. Dance Halls, Swimming Pools, Roller Rinks, Clubs, Lodges, and other similar uses	1 per 100 sq. ft. GFA or surface water area in swimming pool.

G.	Day Care Centers (Nursery Schools)	1 per employee plus 1 safe passenger off-street loading/unloading space per 5 children.
H.	Family Care and Group Care Facilities	1 per 4 residents plus 1 per employee in the maximum working shift.
I.	Family Day Care and Group Day Care Facilities	1 per nonresident employee plus 1 safe passenger off-street loading/unloading space per 4 nonresident children.
J.	Funeral Homes/ Mortuaries	1 per 100 square feet GFA used for memorial services, viewing area, business office and products display.
K.	Furniture or Appliance Stores	1 per 1000 square feet GFA.
L.	Home Occupations	1 per 300 square feet GFA utilized for the home occupation, plus 1 per nonresident employee, in addition to the requirement for the dwelling unit.
M.	Laundries	1 per 2 washing machines plus 1 per employee on maximum working shift.
N.	Hotels, Motels, Boarding and Lodging/ Rooming Houses, Bed and Breakfast Establishments	1 per sleeping room plus 1 per 200 square feet GFA non-room areas.
O.	Industrial Uses (manufacturing or assembly plants)	1 per 800 square feet GFA.
P.	Medical Centers	1 per 250 square feet GFA.
Q.	Nursing and Convalescent Homes	1 per 3 beds, plus 1 space per 2 employees in the maximum working shift plus 1 per staff doctor.
R.	Offices	1 per 250 square feet GFA.

- S. Places of public or private assembly (churches, community centers, theaters, or similar meeting and assembly uses) 1 per 5 seats or 1 per 100 square feet where no seats are provided.
- T. Residential Uses
 - (1) Single-Family 2 per dwelling unit.
 - (2) Multiple Dwellings (Including Conversion and Accessory Apts.)
 - a. Elderly Apartments .5 per dwelling unit
 - b. Efficiency/Studio 1 per dwelling unit
 - c. 1 Bedroom 1.5 per dwelling unit
 - d. 2 Bedrooms or More 2 per dwelling unit
 - e. Visitor Parking 1 per 3 dwelling units
- U. Restaurants, Tea Rooms, Nightclubs, Bars and Taverns 1 per 3 seats.
 - (1) Fast-Food Establishments 1 per 30 square feet GFA.
- V. Retail Stores and Shops 1 per 200 square feet GFA.
- W. Schools
 - (1) Elementary 2 per classroom, but not less than 1 per teacher and staff.
 - (2) Intermediate 1.5 per classroom, but not less than 1 per teacher and staff.
 - (3) Secondary 2.5 per classroom, but less than 1 per teacher and staff.
- X. Shopping Centers 4.5 per 1000 square feet GFA.
- Y. Utility or Communication Station 1 per vehicle normally required to service such facility.

2. All Other Uses Not Provided For Herein

For all other uses not provided for herein, required parking spaces shall be determined by a study to be prepared by the developer and approved by the Borough Engineer. The study shall include the following:

- A. Type of use and estimated number of total trips generated during peak conditions (inbound and outbound).
- B. Estimated parking duration per vehicle trip (turnover rate).

- C. Based on estimated number of trips generated and average parking duration per trip, calculate number of spaces required; and
- D. Estimated number of employees; one space to be provided for every two employees working maximum shift.

Section 1103. LOCATION AND MANAGEMENT REQUIREMENTS

1. Existing Parking

Structures and uses existing on the effective date of this Ordinance shall not be subject to the requirements of this Article so long as the type or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced below such requirements.

2. Changes In Requirements

Whenever there is an alteration of a structure or a change or extension of a use which increases the parking requirements according to the standards, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of that section.

3. Conflict With Other Uses

No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

4. Continuing Obligation

All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision. Reasonable precautions are to be taken by the owner or sponsor of particular uses to assure the availability of required facilities for the employees or other persons whom the facilities are designed to serve. They shall at no time constitute a nuisance, hazard or unreasonable impediment to traffic.

5. Drainage, Surfacing and Maintenance

Drainage, surfacing and maintenance of off-street parking areas, including driveways and access drives, shall be completed in accordance with the Bendersville Borough Subdivision and Land Development Ordinance.

6. Shared Parking

Two or more uses may provide for required parking in a common parking lot, if the total space provided is not less than the sum of the spaces required for each use individually. However, the number of spaces required in a common parking facility may be reduced below this total only as a special exception, if it can be demonstrated to the Zoning Hearing Board that the hours or days of peak parking needed for the uses are so different that a lower total will adequately provide for all uses served by the facility.

7. Computation of Spaces

Where the computation of required parking spaces result in a fractional number, any fraction shall be counted as one.

8. Location of Spaces

- A. Single and two-family residential off-street parking spaces shall be provided on the same lot or premises with the use served.
- B. In no case, shall parking areas be permitted within the front yard in Residential-Multi-Family, Village Viewshed and Village Districts.
- C. Parking spaces for multiple dwelling buildings, and nonresidential uses shall be readily accessible to the buildings served thereby. Such spaces shall be in the same zoning district, as the principal building, or open area, and conform to the following regulations:
 - (1) The required parking spaces shall be located within six hundred (600) feet of the principal building or open space in question measured from the edge of the structure to the edge of the parking lot closest to said structure.
 - (2) The applicant for a use or building permit shall submit, with his application, an instrument duly executed and acknowledged which subjects such parcels of land to parking uses in connection with the principal use to which it is accessory. Upon issuance of a permit, the Zoning Officer shall cause such instrument to be recorded in the office of the Recorder of Deeds.

9. Lighting

- A. All public parking areas shall be adequately lighted during afterdark operating hours. All light standards shall be located on raised parking islands and not on the parking surface.
- B. Any lighting used to illuminate off-street parking or loading areas shall be shielded from any street or residential use and shall be provided for in accordance with Section 902 herein.

Section 1104. DESIGN STANDARDS

1. Parking Facilities

The minimum dimensions of parking facilities to be provided shall be as follows:

Angle of Parking	Parking		Aisle-Width	
	Stall Width	Stall Depth*	One-Way	Two-Way
90 degrees	10'	20'	24'	24'
60 degrees	10'	22'	18'	20'

Angle of Parking	Parking		Aisle-Width	
	Stall Width	Stall Depth*	One-Way	Two-Way
45 degrees	10'	21'	15'	20'
30 degrees	10'	19'	12'	20'
Parallel	8'	22'	12'	20'

*Depth of stall is the perpendicular measurement from curb or edge of the parking lot toward the interior portion of the lot to be occupied by the parking vehicles and not including any part of the drive.

- A. All dead end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.
 - B. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.
2. Setback for parking areas shall be provided as follows:
- A. All parking spaces and access drives shall be at least ten (10') feet from any multiple dwelling building, industrial, or commercial building on the lot.
 - B. All parking spaces and access drives shall be at least five (5') feet from any exterior lot line, except where buffer yards are required in which case such parking spaces and access drives may not encroach on the buffer yard area.
 - C. No parking area shall be located within a public right-of-way.
3. Separation
- A. Except at entrance and exit drives, parking area shall be physically separated from any public and/or private streets by a minimum five (5') foot planting strip.
 - B. In no case shall parking areas be designed to require or encourage cars to back into a public or private street in order to leave the parking areas. When adjacent to a public or private street, a grassed buffer yard of at least ten (10') feet shall be provided and maintained.
 - C. All paved off-street parking spaces shall be marked so as to indicate their location.
4. Landscaping
- A. Buffer yards and screening shall be required for parking lots containing ten (10) or more vehicles. Said buffer yard and screening shall be in accordance with buffer yard standards set forth in Sections 906 and 907 of this Ordinance.

- B. Five (5%) percent of the off-street parking and access area, exclusive of other required landscaped areas, shall be landscaped.
- C. Parking lots containing ten (10) or more parking spaces shall be planted with a minimum of one (1) tree for every eight (8) parking spaces. Each tree shall be surrounded by a planting island consisting of no less than fifty (50) square feet of permeable and unpaved surface.
- D. Planting islands shall be bounded by a concrete curb having a minimum height of six (6) inches.

5. Curb Radius

No less than a five (5') foot radius of curvature shall be permitted for all curb lines in all parking lots.

Section 1105. OFF-STREET LOADING AND UNLOADING

1. Required Spaces

- A. For all nonresidential uses requiring delivery or pick up of materials, a minimum number of off-street loading and unloading spaces shall be provided as follows:

<u>Gross Floor Area</u>	<u>Required # Of Loading Spaces</u>
6,000 sq. ft. or less	1 loading/unloading space
6,001 - 20,000 sq. ft.	2 loading/unloading spaces.
Above 20,000 sq. ft.	2 loading/unloading spaces, plus 1 additional space for each additional 50,000 sq. ft. of gross floor area.

- B. Hotels shall have at least one loading space.
- C. All off-street loading spaces shall be provided and maintained so long as the use exists which the facilities were designed to serve.

2. Design Standards

Off-street loading facilities shall be designed to conform to the following specifications:

- A. Each required space shall be not less than twelve (12') feet in width, forty-five (45') feet in length and fourteen and one half (14.5') feet in height, exclusive of drives and maneuvering space and located entirely on the lot being served.

- B. There shall be appropriate means of access to a street or alley, as well as adequate maneuvering space.
- C. The maximum width of driveways openings measured at the street lot line shall be forty (40') feet; the minimum width shall be twenty (20') feet.
- D. All accessory driveways and entrance ways shall be graded, surfaced and drained in accordance with applicable Borough ordinances and codes.

Section 1106. MOTOR VEHICLE ACCESS

Motor vehicle access to lots shall be provided in accordance with provisions contained in the Bendersville Borough Subdivision and Land Development Ordinance.

ARTICLE XII

SIGNS

Section 1201. GENERAL

Signs may be erected and maintained only when in compliance with the provisions of this Article and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices.

Section 1202. GENERAL REGULATIONS

1. No sign shall be erected, enlarged or relocated until a permit for doing so has been issued by the Zoning Officer, with the exception of such signs as listed in Section 1205 herein, provided use of such signs is in accordance with other provisions of this Ordinance. Applications shall be on forms prescribed by the Borough. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems, and location on land or buildings, with all relevant measurements.
2. Street banners are prohibited, except in the case of civic or charitable nonprofit organizations.
3. No sign, except for traffic, regulatory or informational signs, shall use the words "stop," "caution," or "danger," or shall incorporate red, amber, or green lights resembling traffic signals, or shall resemble "stop," or "yield" signs in shape or color.
4. In addition to the other requirements of this Article, every sign must be constructed of durable materials, kept in good repair, and remain in compliance with other applicable State and local codes and ordinances.
5. If the Zoning Officer finds that any sign is unsafe, insecure, is a menace to the public or had been constructed, erected or is being maintained in violation of the provisions of this Ordinance, he shall give written notice to the owner thereof. If the owner fails to remove or alter the sign so as to comply with the standards herein set forth within ten (10) days after such notice, a fine shall be levied in accordance with Section 1410 herein.

Section 1203. PLACEMENT STANDARDS

1. No sign shall be affixed to a fence, utility pole or structure, or tree, shrub, rock, or natural object.
2. Signs shall not be mounted on roofs or extend above the roof line (unless mounted on an extended wall above the roof line, in which case the sign may not extend above the top of said wall).
3. No projecting sign except those of a duly constituted governmental body, including traffic signs and similar regulatory notices, shall be allowed within the street area.

4. No sign shall be placed in such a position that it will cause danger on a street by obscuring view and, in no case, except official traffic and street signs, shall signs be placed within the required clear sight triangle.
5. No sign together with any supporting framework shall extend to a height above the maximum building height allowed in a district.

Section 1204. SAFETY STANDARDS

1. No sign may be erected which is:
 - A. Structurally unsafe;
 - B. Constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment;
 - C. Obstructs free entrance or exit from a required door, window, or fire escape;
 - D. Obstructs light or air or interferes with proper functioning of the building; or,
 - E. Is capable of causing electrical shock.

Section 1205. EXCEPTIONS

1. For purposes of this Ordinance, the term "sign" shall not include:
 - A. Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, bylaw, or other regulation.
 - B. A bulletin board or similar sign not exceeding twenty (20) square feet in display area, in connection with any church, museum, library, school, or similar public or semi-public structure, provided that the top of such sign shall not be more than eight (8') feet above ground level, and provided that it complies with all other provisions of this Ordinance.
 - C. Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, and where display area does not exceed three (3) square feet or extend higher than four (4') feet above ground level. Such sign will comply with all other provisions of this Ordinance.
 - D. Signs relating to trespassing and hunting, not exceeding two (2) square feet in area.
 - E. Holiday decorations displayed for recognized holidays except as they may interfere with traffic safety or in any other way become a public safety hazard.

Section 1206. COMPUTATION OF SIGN AREA AND HEIGHT

1. The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing incidental to the display itself.
2. Where the sign consists of individual letters or symbols attached to a building, wall or window, the area shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.
3. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two (2) faces are placed back to back and are at no point more than two (2') feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.
4. The height of any sign shall be measured from the surface of the road up to the highest point of the sign. In situations where a sign is intended to be visible from two (2) roads of different elevations, measurement shall be from the surface of the lowest roadway.

Section 1207. ILLUMINATION STANDARDS

1. No sign may be erected which flashes, rotates, or has motorized moving parts.
2. Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the signs without causing glare.
3. Illuminated signs shall not be permitted to shine onto residential properties and public rights-of-way.
4. No sign may be erected with exposed electrical wires.
5. Strings of bulbs are not permitted, except as part of a holiday celebration.
6. No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. unless the premises on which the sign is located is open for business.
7. Neon window signs may be permitted in cases where they are custom designed to be compatible with the building's historic and/or architectural character and exterior color.

Section 1208. GENERAL STANDARDS FOR SPECIFIC SIGN TYPES

1. Address
 - A. Definition: One sign displaying the street number or name of the occupant of the premises, or both.
 - B. Such sign may include identification of an on-premise professional office or customary home occupation.

- C. Such sign may be attached to the building or may be on a post not more than four (4') feet high and setback at least three (3') feet from the street.
- D. Such sign shall not exceed two (2) square feet in area.
- E. Such signs shall be permitted in all districts.

2. Awning

- A. Definition: A sign painted on or attached to the cover of a movable metallic hinged, roll or folding frame.
- B. Such sign shall be limited to establishment name, logo, and street number.
- C. Such sign must be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.
- D. Letters shall not exceed ten (10") inches in height.
- E. A minimum of eight (8') feet above sidewalk level must be allowed for pedestrian clearance.
- F. Such signs shall be permitted in the Village, Village Viewshed and Business Districts.

3. Billboard Signs

- A. Definition: A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
- B. Billboards may be erected and maintained in the Business District.
- C. Billboards shall be spaced at intervals of not less than five hundred (500') feet along the same side of any street or highway. No such structure shall contain more than two (2) advertising sign faces, either back-to-back or side-by-side.
- D. Billboards shall not exceed a total of three hundred (300) square feet in surface area per face and a total height of thirty-five (35').
- E. No billboard sign shall be permitted to be erected within fifty (50') feet of an adjoining Residential District if visible from and designed to face into such a District.

4. Construction

- A. Definition: An on-premise sign identifying the contractor(s), architect, landscape architect, and/or engineer's name, address and other pertinent information.

- B. Such signs shall not exceed twelve (12) square feet in area and shall be setback at least ten (10') feet from the legal right-of-way, or one-half of the building setback line, whichever is less.
- C. Such a sign may be maintained on the building or property for the interim of construction, and not more than thirty (30) days following the completion of said construction.
- D. Such a sign shall not require a sign permit and shall be permitted in all Districts.

5. For Sale/Rent/Lease

- A. Definition: An on-premise sign advertising the property being sold, or rented/leased.
- B. Such signs shall not exceed six (6) square feet in area.
- C. Such signs shall advertise only the property on which the sign is located.
- D. No more than two (2) signs may be maintained on any property being sold or rented/leased.
- E. All signs shall be removed by the owner/agent within thirty (30) days of sale, or rent/lease.
- F. Such a sign shall not require a sign permit and shall be permitted in all Districts.

6. Freestanding

- A. Definition: A self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include portable or trailer-type signs.
- B. Dimensional standards for freestanding signs for each district are as follows:

	R-MF	V	VV	B
	Multi	Village	Village	Business
	Family		Viewshed	

Free-Standing Pole Signs

Height (max. ft.)	8	12	12	12
Area (max. sq. ft.)	2	10	10	12
Ground Clearance	4	8	8	8

Other Free-Standing Signs

Height (max. ft.)	4	4	4	4
Area (max. sq. ft.)	6	16	16	20
Ground Clearance	0	0	0	0

- C. Freestanding signs over six (6') feet in height may have no more than two (2) sides; those less than six (6') feet in height may have up to four (4) sides.
- D. No more than one (1) freestanding sign per lot shall be permitted.

7. Multiple Signs

- A. Definition: A group of signs clustered together in a single structure or compositional unit. Multiple signs are used to advertise several occupants of the same building or building complex.
- B. The display board shall be of an integrated and uniform design.
- C. Total sign area shall not exceed sixteen (16) square feet with a maximum of two (2) square feet for each business located within the building/building complex.
- D. No more than one (1) multiple sign shall be permitted per building/building complex.
- E. Such signs shall be permitted in the Village and Business Districts.

8. Off-Premise Signs

- A. Informational and directional signs containing no advertising are permitted to direct traffic flow, indicate parking areas, identify points of interest, locate businesses, or provide other essential information to guide vehicular or pedestrian traffic flow.
- B. Off-premise signs shall not be larger than one (1) square foot in size.
- C. No more than two (2) off-premise signs shall be permitted per establishment.
- D. Off-premise directory boards containing small identification signs conforming to the above requirements may be permitted in special situations where visibility prohibits the placement of individual signs.
- E. Such signs shall be permitted in all Districts.

9. Political Signs

- A. Definition: A sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, or other local election.

B. Such signs shall be stationary, unlighted and temporary in nature.

C. Such signs shall be displayed for a period not to exceed twenty (20) days prior to the date of the election day, and shall be removed within five (5) days of the election.

D. Such signs shall not exceed four (4) square feet in area.

E. A maximum of two (2) signs per lot shall be permitted.

F. Such signs shall not require a sign permit and shall be permitted in all Districts.

10. Portable Signs

A. Definition: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

B. Portable signs shall be permitted as a temporary sign with a display period not to exceed seven (7) continuous days and an annual cumulative total of fifty-six (56) days.

C. Portable signs shall not be located within a street or obstruct public sidewalk areas.

D. Such signs shall be permitted in the Village and Business Districts.

11. Projecting Signs

A. Definition: A wall-mounted sign perpendicular to the building surface.

B. Each face shall not exceed ten (10) square feet.

C. The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine (9) square feet.

D. The supporting framework shall be in proportion to the size of such sign.

E. No sign shall project over a street or alley.

- F. Projecting signs shall have a minimum clearance of eight (8') feet above grade when located adjacent to or projecting over a sidewalk.
- G. Such signs shall be permitted in the Village, Village Viewshed and Business Districts.

12. Public Service Signs

- A. Definition: A sign located for the purpose of providing directions towards or indication of use not readily visible from the street (e.g. restrooms, telephone, etc.)
- B. Such signs necessary for public safety and convenience shall not exceed two (2) square feet.
- C. Such signs shall bear no advertising.
- D. Such signs are not included in computing total sign area permitted.
- E. Such signs shall not require a sign permit and shall be permitted in all districts.

13. Temporary Signs

- A. Definition: Any sign that is used only temporarily and is not permanently mounted.
- B. A temporary sign shall be permitted for no more than thirty (30) days during one (1) calendar year.
- C. Temporary signs shall not include portable signs.
- D. Size of sign shall be dependent upon specific type in accordance with types of signs defined within this Article.
- E. A temporary sign shall require a sign permit and shall be permitted in Districts by type of sign.

14. Wall Signs

- A. Definition: A sign which is attached parallel to or painted on the exterior surface of a building or structure.
- B. Such sign shall not project more than fifteen (15") inches from the building surface.
- C. Such sign shall not extend above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.

- D. Such signs shall have an aggregate area not exceeding 1.5 square feet for each linear foot of building face parallel to front building setback line, or ten (10%) percent of the wall area to which it is attached or painted, whichever is less. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.
- E. Where two (2) or more wall signs are affixed to or painted on one wall, the gross display area shall be the sum total area of all signs.
- F. The size of wall signs may be increased in area (over allowable size) by twenty-five (25%) percent for every 100 feet of additional building setback. This increase may be prorated in accordance to the actual setback distance.
- G. Such signs shall be permitted in the Village, Village Viewshed and Business Districts.

15. Window Signs

- A. Definition: Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or street.
- B. Window signs shall not exceed more than thirty (30%) percent of the window area in which they are displayed.
- C. No more than one window sign shall be permitted per structure unless such structure is located on a corner lot, in which case no more than one window sign per side facing a street shall be permitted.
- D. Such signs shall be permitted in all Districts.

Section 1209. SPECIAL DISTRICT REGULATIONS

In addition to the above regulations by sign type, the following special provisions for certain districts shall apply:

1. Village District

The goal in this district is to ensure visual compatibility with existing scale and character of the surrounding area. The signage must also be readable by pedestrians and people in slow-moving vehicles.

- A. Number: There shall be no more than three (3) types of signs employed per building, regardless of number of occupancies per building. (e.g., wall, awning, window).

Each ground floor occupant may display two (2) signs. Each occupant in an upper floor may display one (1) sign.

- B. Materials: The use of wood and metal signs is strongly encouraged.
- C. Location: Signs should be concentrated near the pedestrian level, and not obscure important architecture features, such as transoms, windows, moldings and cornices.

Wall signs shall be placed as a band immediately above the storefront and should be no more than two (2') feet in height.

Signs on adjacent storefronts within the same building shall be coordinated in height and proportion and should be encouraged to use the same signing format.
- D. Colors: Colors should be chosen to complement the facade color of the structure. Dark background with light-colored lettering is strongly encouraged. "Day-glow" colors are prohibited.
- E. Size: Not more than one and one-half (1.5) square feet of total signage area will be permitted per linear foot of storefront.
- F. Preferred Sign Types: Wall, window, projecting, awning, and landmark signs are preferred in this district.

2. Village Viewshed District

The goal in this district is to ensure visual compatibility with the existing scale and character of the surrounding area. The signage should not detract from the rural landscape. Signs must be at a scale that is not obtrusive and shall be directly related to the use.

- A. Number: There shall be no more than two (2) types of signs employed per building, regardless of number of occupancies per building. (e.g., wall, awning, window).

Each structure or complex may display one (1) free-standing sign.
- B. Materials: The use of wood and metal signs is strongly encouraged.
- C. Location: Signs shall be placed in clear view of traffic to minimize their required size.

Signs on adjacent storefronts within the same structure or complex shall be coordinated in height, proportion and color and should be encouraged to use the same signing format.

Wall signs shall be placed as a band immediately above the storefront and should be no more than two (2') feet in height.

Signs on adjacent storefronts within the same building shall be coordinated in height and proportion and should be encouraged to use the same signing format.

- D. Colors: Colors should be chosen to complement the facade color of the structure. Dark background with light-colored lettering is strongly encouraged. "Day-glow" colors are prohibited. The number of colors should be limited to three (3) unless used in illustration.
- E. Size: Not more than one and one-half (1.5) square feet of total signage area will be permitted per linear foot of storefront.
- F. Preferred Sign Types: Free-standing, wall, awning, and landmark signs are preferred in this district.

Section 1210. NONCONFORMING SIGN STANDARDS

Any sign lawfully existing at the time of the passage of this Ordinance that does not conform with the regulations of the district in which such sign is located shall be considered nonconforming and may continue in their present location until replacement or rebuilding becomes necessary, at which time a zoning permit will be required and the sign brought into conformity with the Ordinance.

Section 1211. ABANDONED SIGNS

A sign shall be considered abandon:

1. When the sign is associated with an abandoned use.
2. When the sign remains after the termination of a business. A business is considered to have ceased operations if it is closed to the public for at least ninety consecutive days. Seasonal business are exempt from this determination.
3. Abandonment shall be determined by Borough Zoning Officer after a public hearing. Upon determination that the sign is abandon, the right to maintain and use such sign shall terminate immediately and the Zoning Officer shall issue the sign to be removed within thirty days.

ARTICLE XIII
AMENDMENTS

Section 1301. PROCEDURE

The Borough Council may, from time to time, amend, supplement or repeal any of the regulations and provisions of this Ordinance after public notice and hearing. Before the public hearing, each proposed amendment, except those coming from the Borough Planning Commission, must be referred to the Borough Planning Commission for its recommendations at least thirty (30) days prior to the hearing on such amendment. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment. At least thirty (30) days prior to the hearing on the Ordinance amendment by the Borough Council, the Borough Planning Commission shall submit the proposed ordinance or amendments to the Adams County Office of Planning and Development for recommendations. Amendment procedures shall be in compliance with Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Section 1302. PROCEDURE FOR CURATIVE AMENDMENTS

The procedure for curative amendments shall be in accordance with the requirements of the Pennsylvania Municipalities Planning Code, Act 247, as amended, Section 609.1 and Section 609.2.

Section 1303. PUBLICATION, ADVERTISEMENT, AND AVAILABILITY OF ORDINANCE

- A. Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this Section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
1. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.
 2. An attested copy of the proposed ordinance shall be filed in the Adams County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
- B. In the event that substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one newspaper of general circulation

in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

Section 1304. ZONING AMENDMENT APPLICATION REQUIREMENTS

The Borough Council shall have the power to enact, by resolution, zoning change application requirements for those requesting a zoning change of a land area in the Borough from one zoning classification to another zoning classification.

ARTICLE XIV

ADMINISTRATION AND ENFORCEMENT

Section 1401. APPOINTMENT AND POWERS OF ZONING OFFICER

For the administration of this Zoning Ordinance, a zoning officer, who may not hold any elective office in the Borough, shall be appointed. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance.

Section 1402. ENFORCEMENT

It shall be the duty of the Zoning Officer, and he is hereby given the power and authority, to enforce the provisions of this Ordinance. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the Borough Council may require. Permits for construction and uses which are a special exception, or a variance to requirements of this Ordinance shall be issued only upon approval by the Zoning Hearing Board.

Section 1403. PERMITS

A. Requirements of Permits

A building and/or zoning permit shall be required prior to the erection, addition, or alteration of any building or portion thereof; prior to the use or change in use of a building or land; and prior to the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or for a change in land use, until a permit has been duly issued therefore. No such building permit or zoning permit shall be required in case of normal maintenance activities, minor repairs, and alterations which do not structurally change a building or structure.

B. Application for Permits

All applications for permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate and such information as may be necessary to determine compliance with this Ordinance and all other codes and ordinances. One (1) copy of such plans shall be returned to the owner when such plans have been reviewed and acted upon by the Zoning Officer. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

C. Issuance of Permits

1. No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration, complies with all the provisions of this Ordinance, as well as the provisions of all other applicable codes and ordinances.
2. Zoning Officer shall act upon request within thirty (30) days following application.
3. A permit issued hereunder shall become void twelve (12) months after issuance date, unless a request for extension has been submitted to and approved by the Zoning Officer. Such request shall be filed with the Zoning Officer at least thirty (30) days prior to the permit expiration date.

4. Temporary Permits

A temporary permit may be authorized by the Zoning Officer for a structure or use which it deems necessary to promote the proper development of the community, provided that such structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permits shall be issued for a specified period of time not to exceed one (1) year, and may be renewed annually for an aggregate period not exceeding two (2) years.

Section 1404. INSPECTION BY THE ZONING OFFICER

It shall be the duty of the Zoning Officer, or his duly appointed representative, to make the following minimum number of inspections of property for which a permit has been issued:

1. At the Beginning of Construction

A record shall be made indicating the time and date of inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the approved permit application.

- a. If the actual construction does not conform to the application, a written notice of violation shall be issued by the Zoning Officer, and such construction shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.

2. At the Completion of Construction

A record shall be made indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance to this Ordinance, and the opinion of the Zoning Officer in regard to the issuance of a Certificate of Use Permit.

Section 1405. FEES

- A. The Borough Council shall establish a schedule of fees, charges and expenses, as well as a collection procedure for zoning permits, certificates of use, appeals,

variances, special exceptions, amendments, bonds and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer, and may be amended only by Borough Council.

- B. Such fees shall be payable to the Borough and until all applicable fees, charges and expenses have been paid in full, the application shall be considered incomplete and no action shall be taken on any applications or appeal.

Section 1406. CERTIFICATE OF USE

- A. A Certificate of Use shall be a statement issued by the Zoning Officer setting forth that a building, structure, parcel, or use of land complies with the provisions of this Ordinance.
- B. No vacant land shall be occupied or used, and no structure or part of a structure hereafter erected, substantially altered or changed in use shall be occupied or used until a Certificate of Use shall have been issued by the Zoning Officer.
- C. A Certificate of Use for the use or occupancy of vacant land or for a change in the use of land, or for a change in the use of an existing building, either for whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building or zoning permit, and shall be issued or denied within fifteen (15) days after a final inspection by the Zoning Officer.
- D. A Certificate of Use for changing or extending a non-conforming use, existing at the time of the passage of this Ordinance or of an amendment thereto, shall be applied for and issued before any such nonconforming use shall be changed or extended. Such Certificate shall be issued within fifteen (15) days after a final inspection and approval by the Zoning Officer.
- E. A record of all Certificates of Use shall be kept on file in the office of the Zoning Officer.

Section 1407. CERTIFICATE OF NONCONFORMANCE

A Certificate of Nonconformance shall be issued by the Zoning Officer to the owner of any property which, at the time of the effective date of this Ordinance, is identified as containing a nonconforming use or structure. The owner's property and the issuance date of such certificate shall be registered in the records of the Borough as follows:

- A. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of said property.
- B. A copy of the Certificate of Nonconformance shall be retained and filed by the Zoning Officer.
- C. The Certificate shall be for the purposes of insuring the owner the right to continue a nonconforming use in accordance with the regulations of this Ordinance.

Section 1408. SPECIAL EXCEPTIONS

Applications for any special exception permitted by this Ordinance shall be made to the Zoning Hearing Board through the Zoning Officer. The Zoning Hearing Board shall refer the matter to the Planning Commission for report thereon as to its effect on the Goals and Objectives of Bendersville Borough, pursuant to Section 1411, herein.

Section 1409. APPEALS AND APPLICATIONS

An appeal, or application for an amendment, special exception, or variance from the terms of this Ordinance shall be filed with the Zoning Officer, and shall contain:

- A. The name and address of the applicant.
- B. The name and address of the owner of the real estate to be affected by such proposal.
- C. A brief description and location of the real estate to be affected by such proposal.
- D. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
- E. A statement of the Section of this Ordinance under which the appeal or application requested may be allowed, and reasons why it should be granted; or a statement of the Section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed, and reasons for the appeal.
- F. An accurate description of the present improvements and the additions intended to be made under this application, indicating the size and use of such proposed improvements and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, as required to accompany applications for permits, indicating the location and size of the lot and location of improvements now erected, and proposed to be erected thereon.
- G. Any other pertinent data required by the Zoning Hearing Board, Borough Council, and/or Zoning Officer, as appropriate to their individual authorities set forth in this Article.

Section 1410. VIOLATIONS

Failure to comply with any provision of this Ordinance, failure to secure a permit, Zoning Hearing Board Certification, when required, or failure to secure a Certificate of Use, shall be violations of this Ordinance.

- A. Notice of Violation:
 - 1. When written notice of a violation of any of the provisions of this Ordinance has been served by the Zoning Officer on the owner, agent or occupant, or contractor, such violation shall be discontinued immediately.

2. All appeals from determinations by the Zoning Officer under this Section shall be made to the Zoning Hearing Board within thirty (30) days of the date of the determination.

B. Causes of Action:

1. In case any building, structure, landscaping of land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping of land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

C. Enforcement Remedies:

1. Any person, partnership or corporation, who or which has violated or permitted the violation of the provisions of this Ordinance, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgement of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or 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 determining that there has been a violation further determines that there was a good faith basis for person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one 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 shall be paid over to the Borough of Bendersville.
2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.
3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

Section 1411. ZONING HEARING BOARD

The Zoning Hearing Board shall continue, with three (3) members appointed by the Borough Council, and have such powers and authority as set forth in the Pennsylvania Municipalities Planning Code (Act 247), as amended. The duly established Zoning Hearing Board shall have the following functions:

A. Hearings

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the Pennsylvania Municipalities Planning Code (Act 247), as amended. Notice shall be given to the public, the applicant, the landowner, the Zoning Officer, such other persons as the Zoning Hearing Board shall designate and any person who has made timely request for the same. Notices shall be given at such time and in such manner prescribed by the adopted Rules of the Zoning Hearing Board. The Borough Council may establish reasonable fees, based on costs, to be paid by the applicant and persons requesting any notice or materials not required by ordinance.

B. Jurisdiction

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters, as set forth in the Pennsylvania Municipalities Planning Code.

1. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1(a)(2) of the Code.
2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after effective date of said ordinance.
3. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
4. Appeals from a determination by the Borough Engineer or Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
5. Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code.
6. Applications for special exceptions under the zoning ordinance or flood plain ordinance or such provisions within a land use ordinance, pursuant to Section 912.1 of the Pennsylvania Municipalities Planning Code.

7. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of the Zoning Ordinance.
8. Appeals from the Zoning Officer's determination under Section 916.2, Procedure to Obtain Preliminary Opinion, of the Code.
9. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Article V or VII of the Pennsylvania Municipalities Planning Code.

C. Variances

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may by rule prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Ordinance in the district 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 therefor 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 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 represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

D. Special Exceptions

In this Ordinance, Special Exceptions may be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria contained in this Ordinance. The Zoning Hearing Board shall hear and decide requests for such

Special Exceptions in accordance with such standards and criteria and prescribe the application form to be used. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Ordinance. The Zoning Hearing Board shall pursue the following procedure:

1. The Zoning Hearing Board's decision to grant a permit for Special Exception use shall be made only after public notice and public hearing. Such permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions shall be subject to review and public hearing by the Zoning Hearing Board as a Special Exception.
2. No application for a permit shall be granted by the Zoning Hearing Board for any Special Exception use until said Board has first received and considered an advisory report thereon from the Planning Commission with respect to the location of such use in relation to the needs and growth pattern of the Borough of Bendersville, where appropriate, with reference to the adequacy of the site area and the arrangement of buildings, driveways, parking areas, off-street loading and unloading spaces, and other pertinent features of the proposal.
3. The Planning Commission shall have thirty (30) days from the date of its receipt of the application within which to file its report thereon. In the event that the Planning Commission shall fail to file its report within thirty (30) days, such application shall be deemed to have been approved by the Planning Commission. The Planning Commission may have representation at the public hearing held by the Zoning Hearing Board on such application. After receipt of the report, the Zoning Hearing Board shall hear the application in the same manner and under the same procedure as it is empowered by law and ordinance to hear cases and make exceptions to the provisions of the Zoning Ordinance. The Zoning Hearing Board may thereafter direct the Zoning Officer to issue a permit if, in its judgement, the request will not be detrimental to the health, safety, and general welfare of the Borough of Bendersville.
4. A Special Exception use for which a permit is granted by the Zoning Hearing Board pursuant to the provisions of this Section shall be construed to be a conforming use.

E. Parties Appellant Before the Zoning Hearing Board

Appeals raising the substantive validity of any land use ordinance, except those to be brought before the Borough Council, pursuant to the Pennsylvania Municipalities Planning Code, procedural questions or alleged defects in the process or enactment or adoption of land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Borough Engineer or Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such

provisions within a land use ordinance; from the determination of the Zoning Officer or Borough Engineer in the reference to sedimentation and erosion control and storm water management insofar as the same relate to the development not involving subdivision and development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for Special Exception may be filed with the Zoning Hearing Board by any landowner or tenant with the permission of such landowner.

F. Time Limitations

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval has been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance, or an amendment hereto, or map, or an amendment thereto, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
2. No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Zoning Hearing Board later than thirty (30) days from the time such ordinance, map or amendment takes effect, unless the person raising such issues alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinances, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
3. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

G. Stay of Proceedings

1. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development,

preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondents to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 1412. INTERPRETATION, PURPOSE, AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances, provided that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are imposed by such other rules, easements, covenants, restrictions, regulations or ordinances, the provisions of this Ordinance shall control.

Section 1413. VALIDITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or of any other part thereof.

Section 1414. REPEALER

All ordinances or part of ordinances inconsistent herewith are hereby repealed.

Section 1415. EFFECTIVE DATE

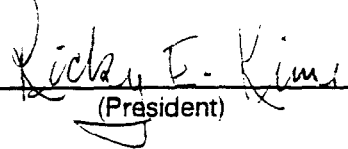
This Ordinance shall take effect on the 28th day of July, 1994

Section 1416. ENACTMENT

ENACTMENT AND ORDAINED INTO AN ORDINANCE THIS 28th DAY OF JUNE 1994

BENDERSVILLE BOROUGH

ATTEST: 
(Secretary)


(President)

(Municipal Seal)