

EXETER BOROUGH

**LUZERNE COUNTY
PENNSYLVANIA**

ZONING ORDINANCE

**DATE OF ENACTMENT:
OCTOBER 4, 2011**

Prepared By

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<p>EXETER BOROUGH</p> <p>ZONING ORDINANCE</p> <p>TABLE OF CONTENTS</p>

ARTICLE 1 - GENERAL PROVISIONS

<u>SECTION</u>	<u>PAGE</u>
101 – TITLE	1-1
102 – INTERPRETATION AND CONFLICT	1-1
103 – COMPLIANCE WITH ORDINANCE REQUIRED	1-1
104 – CONFLICTING REGULATIONS	1-1
105 – PURPOSE	1-2
106 – COMMUNITY DEVELOPMENT OBJECTIVES	1-2
105 – REPEALING PROVISION	1-6
106 – EFFECTIVE DATE	1-8

ARTICLE 2 - DEFINITIONS

<u>SECTION</u>	<u>PAGE</u>
201 – APPLICATION AND INTERPRETATION	2-1
202 – TERMS OR WORDS NOT DEFINED	2-1
203 – DEFINITIONS	2-1 to 2-36

ARTICLE 3 - GENERAL REGULATIONS

<u>SECTION</u>	<u>PAGE</u>
301 – ATTACHED ACCESSORY STRUCTURES	3-1
302 – UNATTACHED ACCESSORY STRUCTURES	3-1
303 – RESIDENTIAL ACCESSORY STRUCTURES IN A NONRESIDENTIAL ZONE	3-2
304 – CORNER LOT RESTRICTIONS	3-2
305 – NONCOMMERCIAL SATELLITE DISH ANTENNA	3-2
306 – PRIVATE NONCOMMERCIAL SWIMMING POOLS	3-3
307 – LOTS DIVIDED BY ZONING BOUNDARIES	3-4
308 – PROJECTIONS INTO REQUIRED YARDS	3-4
309 – LIMITED EXEMPTIONS FROM YARD REQUIREMENTS	3-4
310 – CERTAIN EQUIPMENT EXEMPT FROM ZONING APPROVAL	3-4
311 – SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS	3-5
312 – LAND DEVELOPMENT APPROVAL REQUIRED	3-5
313 – EXCEPTIONS TO HEIGHT REQUIREMENTS	3-5

<u>SECTION</u>	<u>PAGE</u>
314 – REQUIRED ACCESS	3-6
315 – VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS	3-6
316 – FENCES AND WALLS	3-6
317 – PUBLIC UTILITIES	3-7
318 – SEWAGE DISPOSAL	3-7
319 – MOBILE HOMES – PERMANENT FOUNDATIONS	3-8
320 – TEMPORARY STRUCTURES AND/OR TEMPORARY USES	3-8
321 – PROHIBITION OF GENERAL NUISANCES	3-9
322 – HIGHWAY OCCUPANCY PERMIT	3-9
323 – SOIL EROSION AND SEDIMENTATION PLAN	3-9
324 – STORMWATER MANGAEMENT	3-9
325 – RIPARIAN BUFFER	3-9
326 – USES NOT ADDRESSED WITHIN ORDINANCE	3-10
327 – SUPPLEMENTAL REQUIREMENTS	3-10

ARTICLE 4 - ZONING MAP AND ZONING DISTRICTS

<u>SECTION</u>	<u>PAGE</u>
401 – OFFICIAL ZONING MAP	4-1
402 – CHANGES TO OFFICIAL ZONING MAP	4-1
403 – INTERPRETATION OF BOUNDARIES	4-1
404 – CLASSES OF ZONING DISTRICTS	4-2

ARTICLE 5 - ZONING DISTRICT REGULATIONS

<u>SECTION</u>	<u>PAGE</u>
501 – C-1 CONSERVATION DISTRICT	5-1
502 – R-1 SINGLE FAMILY RESIDENTIAL DISTRICT	5-4
503 – R-2 TWO FAMILY RESIDENTIAL DISTRICT	5-6
504 – R-3 MULTIFAMILY RESIDENTIAL DISTRICT	5-9
505 – B-2 GENERAL BUSINESS DISTRICT	5-12
506 – B-3 HIGHWAY BUSINESS DISTRICT	5-16
507 – I-1 INDUSTRIAL DISTRICT	5-22

ARTICLE 6 – CONSERVATION DESIGN OVERLAY DISTRICT

<u>SECTION</u>	<u>PAGE</u>
601 – PURPOSE	6-1
602 – GENERAL REGULATIONS	6-2
603 – USE REGULATIONS	6-2
604 – DENSITY DETERMINATION AND DIMENSIONAL STANDARDS	6-3

<u>SECTION</u>	<u>PAGE</u>
605 – METHODS FOR DENSITY DETERMINATION FOR CONSERVATION SUBDIVISIONS	6-4
606 – DESIGN STANDARDS FOR CONSERVATION SUBDIVISIONS	6-7
607 – OPEN SPACE LAND USE AND DESIGN STANDARDS	6-8
608 – GREENWAY LAND: PERMANENT PROTECTION	6-10
609 – GREENWAY LAND: OWNERSHIP AND MAINTENANCE	6-12

ARTICLE 7 - SPECIAL EXCEPTIONS

<u>SECTION</u>	<u>PAGE</u>
701 – PURPOSE	7-1
702 – GENERAL PROVISIONS	7-1
703 – SITE PLAN	7-1
704 – IMPACT ANALYSIS	7-3

ARTICLE 8 - CONDITIONAL USES

<u>SECTION</u>	<u>PAGE</u>
801 – PURPOSE	8-1
802 – GENERAL PROVISIONS	8-1
803 – PLANS, INFORMATION AND PROCEDURES FOR CONDITIONAL USES	8-1
804 – GENERAL STANDARDS	8-3
805 – CLASSIFIED CONDITIONAL USES	8-4
806 – ENVIRONMENTAL IMPACT STATEMENT	8-7

ARTICLE 9 - SUPPLEMENTAL REGULATIONS

<u>SECTION</u>	<u>PAGE</u>
901 – PURPOSE AND INTENT	9-1
902 – USE REGULATIONS	9-1
902.01 – AFTER HOURS CLUB	9-1
902.02 – ANCILARY FACILITIES OF OIL AND GAS DEVELOPMENT	9-9
902.03 – ANIMAL HOSPITAL	9-9
902.04 – ANIMAL KENNELS	9-9
902.05 – AUTOMOBILE RELATED ACTIVITIES	9-11
902.06 – BANKS	9-11
902.07 – BED AND BREAKFAST	9-11
902.08 – BOARDING/ROOMING HOUSE	9-12
902.09 – BOTTLE CLUB	9-12
902.10 – BULK FUEL STORAGE	9-12
902.11 – CEMETERIES	9-13
902.12 – CLUBS/PRIVATE LODGE	9-13

<u>SECTION</u>	<u>PAGE</u>
902.13 – COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BULIDING OR STRUCTURE	9-13
902.14 – COMMERCIAL COMMUNICATION ANTENNAS CO-LOCATONS	9-14
902.15 – COMMERCIAL COMMUNICATION FACILITY	9-14
902.16 – CONTRACTORS’ STORAGE YARDS	9-17
902.17 – DAYCARE FACILITIES	9-17
902.18 – DWELLING OVER OR ATTACHED TO A BUSINESS	9-18
902.19 – ENTERTAINMENT FACILITIES	9-18
902.20 – EXCAVATION AND EXTRACTION OF MINERALS, EXCLUDING OIL AND GAS	9-19
902.21 – FOOD PROCESSING	9-20
902.22 – FORESTRY ACTIVITIES (TIMBER HARVESTING)	9-20
902.23 – FUNERAL HOME	9-21
902.24 – GARDEN APARTMENTS	9-21
902.25 – GROUP RESIDENCE	9-22
902.26 – HOME OCCUPATION	9-22
902.27 – HYRAULLIC FRACTURING WATER WITHDRAWL FACILITY	9-23
902.28 – HYRAULLIC WASTEWATER TREATMENT FACILITY	9-29
902.29 – INDUSTRIAL ACTIVITIES	9-36
902.30 – JUNK YARDS AND/OR AUTOMOTIVE WRECKING YARDS	9-36
902.31 – LARGE RETAIL ESTABLISHMENTS	9-37
902.32 – MOTELS AND HOTELS	9-48
902.33 – NO IMPACT HOME BASED BUSINESS	9-49
902.34 – OIL AND GAS PIPELINES	9-50
902.35 – OIL AND GAS WELLS	9-55
902.36 – OUTDOOR WOOD-FIRE BOILER	9-64
902.37 – OUTDOOR STORAGE (COMMERICIAL)	9-65
902.38 – PLACE OF WORSHIP	9-65
902.39 – PUBLIC RECREATIONAL FACILITIES – (OUTDOORS)	9-66
902.40 – PUBLIC USES AND QUASI-PUBLIC USES	9-66
902.41 – PUBLIC UTILITY BUILDINGS AND STRUCTURES	9-66
902.42 – RESTAURANTS AND TAVERNS	9-67
902.43 – RESTAURANT, FAST FOOD	9-67
902.44 – RIPARIAN BUFFER	9-67
902.45 – SEXUALLY ORIENTED BUSINESS	9-67
902.46 – SINGLE RESIDENTIAL STRUCTURES WITH MULTIFAMILY DWELLINGS	9-68
902.47 – SMALL WIND ENERGY CONVERSION SYSTEM	9-68
902.48 – TOWNHOUSES	9-70
902.49 – WAREHOUSE AND DISTRIBUTION FACILITIES	9-71
902.50 – WAREHOUSE (SELF STORAGE)	9-71
902.51 – WIND ENERGY FACILITY	9-72

ARTICLE 10 - NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

<u>SECTION</u>	<u>PAGE</u>
1001 – NONCONFORMITY-TYPES	10-1
1002 – CONTINUATION	10-1
1003 – REGISTRATION OF NONCONFORMING USES AND STRUCTURES	10-2
1004 – AREA AND BULK REQUIREMENTS COMPLIANCE	10-2
1005 – CHANGES OF NONCONFORMING USE AND STRUCTURE	10-2
1006 – ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES	10-3
1007 – REPAIR AND REHABILITATION	10-3
1008 – RESTORATION OF USE AND/OR STRUCTURE	10-3
1009 – TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE	10-4

ARTICLE 11 - SIGN REGULATIONS

<u>SECTION</u>	<u>PAGE</u>
1101 – PERMITS REQUIRED	11-1
1102 – SIGNS	11-1
1103 – DESIGN AND CONSTRUCTION FEATURES OF SIGNS	11-2
1104 – PERMITTED SIGNS BY ZONING DISTRICT	11-3
1105 – AREA, HEIGHT AND SETBACK REQUIREMENTS	11-4
1106 – HEIGHT RESTRICTIONS FOR FREESTANDING SIGNS	11-5
1107 – SETBACK FOR FREESTANDING SIGNS	11-6
1108 – SIGNS RELATED TO NONCONFORMING USES	11-6
1109 – AREA COMPUTATION OF SIGNS	11-6
1110 – VERTICAL CLEARANCE	11-7
1111 – ILLUMINATED SIGNS	11-7
1112 – PROHIBITED SIGNS	11-7

ARTICLE 12 - OFF-STREET PARKING AND LOADING

<u>SECTION</u>	<u>PAGE</u>
1201 – PURPOSE	12-1
1202 – SIZE OF OFF-STREET PARKING SPACES	12-1
1203 – DIMENSIONS AND DESIGN	12-1
1204 – SIZE OF OFF-STREET LOADING SPACES	12-1
1205 – ACCESS TO OFF-STREET PARKING OR LOADING AREAS	12-2
1206 – LOCATION OF OFF-STREET PARKING AREAS	12-2
1207 – DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS	12-2
1208 – SCREENING AND LANDSCAPING	12-3

<u>SECTION</u>	<u>PAGE</u>
1209 – LIGHTING	12-3
1210 – DRIVEWAYS	12-4
1211 – PARKING IN YARD AREAS	12-4
1212 – EXISTING STRUCTURES AND USES	12-4
1213 – CHANGES OF STRUCTURES OR USES	12-4
1214 – FRACTIONAL SPACE	12-4
1215 – MULTIPLE ACTIVITIES OR USES	12-4
1216 – OFF-STREET PARKING REQUIREMENTS	12-5
1217 – PARKING FOR OTHER COMMERCIAL USES	12-7
1218 – OFF-STREET LOADING REQUIREMENTS	12-8
1219 – PROVISION OF HANDICAPPED PARKING SPACES	12-8
1220 – DESIGN FEATURES FOR HANDICAPPED PARKING SPACES	12-8
1221 – SIGNAGE FOR HANDICAPPED PARKING	12-9
1222 – MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES	12-9

ARTICLE 13 - FLOOD PLAIN MANAGEMENT

<u>SECTION</u>	<u>PAGE</u>
1301 – STATUTORY AUTHORIZATION	13-1
1302 – INTENT	13-1
1303 – APPLICABILITY	13-1
1304 – ABROGATION AND GREATER RESTRICTIONS	13-1
1305 – SEVERABILITY	13-1
1306 – WARNING AND DISCLAIMER OF LIABILITY	13-1
1307 – DEFINITIONS	13-2
1308 – DESIGNATION OF THE FLOODPLAIN ADMINSTRATOR	13-6
1309 – PERMITS RQUIREED	13-6
1310 – DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINSTRATOR	13-7
1311 – APPLICATION PROCEDURE AND REQUIREMENTS	13-8
1312 – REVIEW BY COUNTY CONSERVATION DISTRICT	13-10
1313 – REVIEW OF APPLICATION BY OTHERS	13-10
1314 – CHANGES	13-11
1315 – PLACARDS	13-11
1316 – START OF CONSTRUCTION	13-11
1317 – ENFORCEMENT	13-11
1318 – APPEALS	13-12
1319 – IDENTIFICATION OF FLOODPLAIN AREAS	13-12
1320 – DESCRITION AND SPECIAL REQUIREMENTS OF IDENTIFIED FLOODPLAIN AREAS	13-13
1321 – CHANGES IN IDENTIFICATION OF AREAS	13-14
1322 – BOUNDARY DISPUTES	13-14
1323 – TECHNICAL PROVISIONS	13-14
1324 – ELEVATION AND FLOOD PROOFING REQUIREMENTS	13-16
1325 – DESIGN AND CONSTRUCTION	13-18

<u>SECTION</u>	<u>PAGE</u>
1326 – DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE	13-21
1327 – SPECIAL REQUIREMENTS FOR SUBDIVISIONS	13-22
1328 – SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES	13-22
1329 – SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES	13-23
1330 – PROHIBITED USES	13-23
1331 – EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS	13-24
1332 VARIANCES	13-24

ARTICLE 14 - ENFORCEMENT AND ADMINISTRATION

<u>SECTION</u>	<u>PAGE</u>
1401 – ZONING OFFICER	14-1
1402 – ZONING PERMIT	14-2
1403 – CERTIFICATE OF ZONING COMPLIANCE	14-4
1404 – ENFORCEMENT PROCEDURES	14-4
1405 – SCHEDULE OF FEES, CHARGES AND EXPENSES	14-6

ARTICLE 15 - AMENDMENTS

1501 – AMENDMENT PROCEDURE	15-1
1502 – APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP	15-2
1503 – CURATIVE AMENDMENTS	15-3
1504 – ENACTMENT OF AMENDMENTS	15-5
1505 – NOTIFICATION TO COUNTY	15-5

ARTICLE 16 - ZONING HEARING BOARD

<u>SECTION</u>	<u>PAGE</u>
1601 – MEMBERSHIP OF BOARD	16-1
1602 – ALTERNATES TO ZONING HEARING BOARD	16-1
1603 – REMOVAL OF MEMBERS	16-1
1604 – ORGANIZATION OF BOARD	16-1
1605 – EXPENDITURES OF SERVICES	16-2
1606 – HEARINGS	16-2
1607 – MEDIATION OPTION	16-5
1608 – JURISDICTION OF ZONING HEARING BOARD	16-6
1609 – VARIANCES	16-7
1610 – SPECIAL EXCEPTIONS	16-8
1611 – PARTIES APPELLANT BEFORE THE BOARD	16-9
1612 – TIME LIMITATIONS	16-9
1613 – STAY OF PROCEEDINGS	16-10

**ARTICLE 1
GENERAL PROVISIONS**

SECTION 101 TITLE

The official title of this Ordinance is: The Zoning Ordinance of Exeter Borough.

SECTION 102 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals, and general welfare of the residents of the Exeter Borough. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

A. PUBLIC PROVISIONS

The regulations of this Ordinance, are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of Exeter Borough, the provisions of this Ordinance shall apply.

B. PRIVATE PROVISIONS

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Exeter Borough shall not however be held responsible for knowledge and/or enforcement of any private deed restriction, private covenant or other form of private agreement which may be inconsistent with the provisions of this Ordinance and/or beyond the scope of regulations contained within this Ordinance.

SECTION 103 COMPLIANCE WITH ORDINANCE REQUIRED

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, altered or moved except in conformity with the regulations herein specified for the zoning district in which it is located.

SECTION 104 CONFLICTING REGULATIONS

In the event that any provisions within this Ordinance are found to be in conflict with another provision of this Ordinance, and/or any other ordinance, law, or regulation of the Borough, State or United States Government, the most restrictive shall apply.

SECTION 105 PURPOSE:

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The provisions of this Ordinance are designed to achieve the following:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as reservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. 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 the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. 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.

SECTION 106 COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving and promoting the following goals and objectives of Exeter Borough which includes but is not limited to the following:

LAND USE OBJECTIVES

- To adopt appropriate land use plans and zoning regulations to encourage new mixed use.
- To bring about gradual conformity of land use and to minimize, to an extent consistent with this objective, conflicts involving present and future use of land.

- To maintain existing patterns of density development to preserve the small town character of the Borough while allowing for new growth and development.
- To promote proximity and connectivity of new to existing development.
- To provide for orderly growth of for an economically balanced and socially viable community.
- To encourage careful aesthetic consideration and planning in private and public construction with visual compatibility between the scale of existing and new development.
- Within the wooded and undeveloped areas of the Borough, discourage conventional large-lot residential development by encouraging clustered conservation design as “by-right” land use.
- To encourage careful aesthetic consideration and planning in private and public construction.
- Incorporate Growing Greener – Conservation by Design standards into the Borough’s Subdivision and Land Development Ordinance and Zoning Ordinance.
- Promote land use regulations that protect new and existing development within the Hicks Creek Watershed in coordination with County Stormwater Management Plans.

HOUSING OBJECTIVES

- To provide housing opportunities in appropriate areas to meet the needs of all residents, regardless of household size, age and/or income.
- To encourage, through the design of new residential construction and the rehabilitation of existing residential structures, a wide range of housing types, priced suitably for those working and living in the area.
- To work to encourage affordable housing, especially for young families and senior citizens; at varied densities.
- To exclude activities from residential areas, which may not be compatible with residential development and/or stability.
- To maintain standards of construction which protect the health, safety and welfare of Borough residents.
- Stabilize existing residential areas in older neighborhoods through effective Code enforcement and the preservation of the housing stock.
- Provide a full-range of independent and assisted living housing options for

senior residents that will allow them to stay in the region as their life styles and housing needs change.

ECONOMIC DEVELOPMENT OBJECTIVES

- To encourage economic growth on a scale consistent with the Borough's basic character as a small town-based community.
- To encourage sufficient commercial enterprise to satisfy community needs and afford a broad range of enough employment opportunities to ensure fiscal health.
- To maintain the economic viability of existing commercial districts.
- To promote the most desirable use of land and development in accord with a well-considered plan, to promote stability of commercial development that will strengthen the economic base of the Borough and protect the character of commercial districts.
- To provide for a commercial/residential mix along Wyoming Ave
- To avoid commercial uses incompatible with pedestrian environment; to minimize traffic congestion on the streets, provide for public conveniences, and fulfill the other broad purposes of the Ordinance.
- To develop, maintain and upgrade commercial districts through emphasis on proper access, adequate parking and loading facilities; to promote greater efficiency and improved appearances in commercial uses through careful application of design standards.
- Invest in streetscape improvements and adopt commercial development design guidelines that will, over time, enhance the appearance of existing commercial areas and encourage attractive new commercial development.
- To provide for the retention and addition of light industrial uses in the Borough, maintaining high standards of design and construction with buffer areas as needed.
- To insure availability of land most suitable for industrial and related activities that protects residential neighborhoods from industrial encroachment.
- To ensure that industries are reasonably free from offensive noise, vibration, smoke, odor, glare, hazards or fire, or other objectionable effects.
- To promote and encourage the adaptive reuse of industrial sites with flexibility to add commercial activities.

TRANSPORTATION OBJECTIVES

- To provide for a safe and efficient multi-modal transportation system at a publicly acceptable cost that supports the current and future needs of residents and that strengthens preferred land use patterns, protects the environment, preserves and enhances the quality of life.
- To aid in bringing about the most beneficial relationship between land use and circulation throughout the Borough, with particular regard to vehicular traffic and the avoidance of congestion in the streets, and provision of safe and convenient access appropriate to the various uses.
- Maintain and manage existing transportation facilities and services to optimize efficiency.
- Focus transportation investments to encourage smart-growth land use patterns that maximize use of the transportation investments.
- Offer mobility options that expand transportation capacity.
- Provide needed pedestrian and bicycle facilities to use as a safe and healthy alternative to automobile travel. Support the role of walking and bicycling in promoting reducing energy consumption and reducing greenhouse gases.
- Provide needed pedestrian and bicycle facilities to use as a safe and healthy alternative to automobile travel. Support the role of walking and bicycling through street design and walkway standards which can safely accommodate the elderly, handicapped persons and children
- To inject long-range considerations into the determination of short-range actions.
- To bring professional and technical knowledge to bear on the decision making process concerning the physical development of the community.
- To protect the appearance of visually prominent areas within the Borough.

OPEN SPACE/ ENVIRONMENTAL OBJECTIVES

- Promote and encourage sustainable development practices.
- Maximize preservation/conservation of open space and natural resources throughout the Borough while supporting economic growth.
- Encourage open space and recreational areas in areas such as riparian areas, along creek, wetlands areas, steep slopes and floodplains less suitable for building in order to maintain for public welfare, the natural watersheds and drainage system in the Borough.

- To develop and maintain recreational programs primarily through the maintenance and upgrade of existing parks and recreational facilities.
- Protect priority watersheds and headwater streams from encroachment and land development practices that degrade the quality of these systems.
- Implement stormwater Best Management Practices.
- Provide a balance of active and passive outdoor recreational facilities readily accessible for all residents within the Borough.
- Encourage the use of renewable energy sources including wind and solar power.
- Provide for green roofs for large scale developments to conserve energy, water, to reduce stormwater runoff and to help mitigate urban heat island effect.
- Minimize the negative impact of automobile off-street parking through the use of maximum permitted spaces, shared parking facilities and design mitigation measures, including required landscaping standards and the use of porous pavement, bio-swale and rain gardens.
- To develop and maintain recreational programs primarily through the maintenance and upgrade of existing parks and recreational facilities.

GOVERNMENTAL OBJECTIVES

- To inject long-range considerations into the determination of short-range actions.
- To bring professional and technical knowledge to bear on the decision making process concerning the physical development of the community.
- To continue to cooperate with other adjoining municipalities on intergovernmental issues of mutual concern.
- To coordinate Borough plans and programs with County, State and Federal plans, policies and programs with the intent of seeking such governmental funding when applicable to the Borough's plans.
- To continue to conduct Borough affairs in an open, efficient, economical and fair manner for the welfare of all citizens.

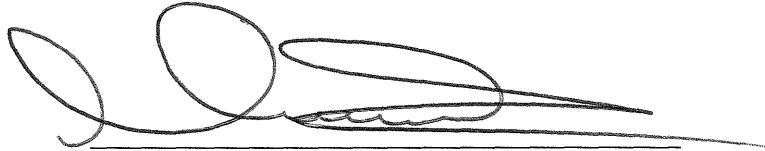
SECTION 107 REPEALING PROVISION

All Ordinances, or any parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 108 EFFECTIVE DATE

This Ordinance shall become effective from the date of its approval and adoption.

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF EXETER ON THIS 4th DAY OF OCTOBER, 2011.**

A handwritten signature in black ink, consisting of several large, fluid loops and a long horizontal stroke extending to the right.

PRESIDENT OF COUNCIL

A handwritten signature in black ink, written in a cursive style, reading "Candia Coleman".

MAYOR

ATTEST:

A handwritten signature in black ink, written in a cursive style, appearing to read "Debra Sub".

BOROUGH SECRETARY

ARTICLE 2
DEFINITIONS

SECTION 201. APPLICATION AND INTERPRETATION:

The definition of words included herein are provided to facilitate the interpretation of this Ordinance for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of the Ordinance, the following shall apply:

1. Words used in the present tense shall include the future tense.
2. The word “person” shall include a profit or nonprofit corporation, company, partnership or individual.
3. The words “used” or “occupied,” as applied to any land or building, shall include the words “intended,” “arranged,” or “designed” to be used or occupied.
4. The word “building” shall include “part thereof” and “structure.”
5. The word “lot” shall include “plot” or “parcel.”
6. The word “shall” is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word “streets” shall include “roads,” “highways” and lanes.

SECTION 202 TERMS OR WORDS NOT DEFINED

When terms, phrases, or words are not defined, they shall have the meaning as defined in The Latest Illustrated Book of Development Definitions (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

SECTION 203 DEFINITION OF TERMS

ABANDONMENT:

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use of activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a zoning permit and/or building permit.

ABUTTING:

Having a common border with, or being separated from, such a common border by a right-of-way, alley, or easement.

ACCESS:

A way or means of approach to provide physical ingress and/or egress to a property.

ACCESSORY STRUCTURE:

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE:

A use incidental to, and on the same lot as, a principal use.

ACREAGE, GROSS:

The total area measured to the property lines of the parcel or lot.

ACREAGE, NET:

The total acreage of a lot, tract, or parcel of land contained within the limits of the legally described property lines bounding the lot, exclusive of any street or railroad rights-of-way, common open space, easements for the purposes of access, utility, or stormwater management, prohibitively steep slopes, land within the delineated boundaries of a One Hundred (100) Year Flood Plain, surface waters, and wetlands as defined by this Ordinance.

ANCILLARY FACILITIES OF OIL OR GAS DEVELOPMENT:

Ancillary Facilities of Oil or Gas Development shall include Compressors, Oil or Gas Compressor Stations, Oil or Gas Metering Stations and Oil or Gas Processing Facilities.

ADJOINING PROPERTY:

A property having a contiguous property boundary with a separate property, including properties with any amount of opposite front, rear or sideyard areas that are separated by a right-of-way, alley, or easement.

ADULT DAY-CARE CENTER:

A facility providing supervised care and assistance care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. This use shall not include a “Personal-Care Home”, a “Skilled Nursing Facility” and/or an “Intermediate Care Facility.”

AFTER HOURS CLUB:

An establishment with the hours of operation from 2 a.m. to 6 a.m. offering entertainment which may include music and dancing that is operated for profit or pecuniary gain which has a capacity for the assemblage of 20 or more persons which does not serve or allow the consumption of any alcoholic beverages upon the premises. Said Club shall not be operated in a manner in which it could also be classified as either a Bottle Club or a Sexual Oriented Business as so defined by this Ordinance.

AGRICULTURE:

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The above uses shall not include concentrated animal feeding operations, commercial hog farms, fur farms, fertilizer plants or animal kennels. The keeping of more than two pieces of livestock upon a property, including but not limited to horses, cows, goats, sheep and similar types of animals shall be deemed to constitute an agricultural use.

ALLEY:

A public right-of-way intended and/or used as a secondary means of access to abutting property.

ALTERATION:

Any change, addition, or modification in construction or occupancy of an existing structure.

ALTERATION, STRUCTURAL:

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

AMENDMENT:

A change in the regulations and provisions of the Exeter Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

ANIMAL KENNEL:

Any structure or premises in which five (5) or more dogs or cats or any combination thereof, at least six months of age, are boarded, kept or trained for commercial gain.

ANIMAL HOSPITAL:

A structure or building where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

APPLICANT:

The person or entity filing an application under this Ordinance.

AS-BUILT DRAWINGS:

Construction plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location and design of all on-site improvements, which includes but is not limited to streets, structures, parking facilities, stormwater detention/retention areas, curbs, sidewalks and any other facilities approved for the subject development. As-Built Drawings shall be sealed by the engineer of record.

AUTOMOTIVE REPAIR GARAGE:

A building where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of "Gas Station, Limited-Service." An auto repair garage shall include, but not be limited to, any use that involves any of the following work: both minor and major mechanical overhauling, paint, and body work. In addition, any use permitted under the definition of a "Gas Station, Limited-Service." is also permitted as part of an Automotive Repair Garage.

AUTOMOTIVE SALES:

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this business must have a valid state license for the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

AUTOMOBILE WRECKING YARD (SEE ALSO JUNKYARDS):

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantling or wrecked vehicles or their parts. The presence on any lot or

parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

BASEMENT:

A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6 ½ feet.

BED AND BREAKFAST:

An owner-occupied dwelling containing units which are rented on a nightly basis for periods of less than a week. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Breakfast shall be the only meal served. Such rooms shall not have separate utilities, provisions for cooking or dormitories for sleeping and must be located within the principal structure.

BOARDING HOUSE:

A structure or portion thereof, which contains rooming units which are rented or leased, with the occupants of said unit being non-transient, and utilizing said location as a legal place of residence. The term "Boarding House," shall specifically exclude the following: Dwelling, Dwelling Unit, Dormitory, Hotel, Motel, Bed and Breakfast Facility, Group Residence. If a dwelling unit is rented, there shall not be more than one lease among all of the occupants. Individual leases shall be deemed to have the dwelling unit classified as a boarding house and/or rooming house.

BOTTLE CLUB:

An establishment operated for profit or pecuniary gain which has a capacity for the assemblage of 20 or more persons and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption. The term shall not include a license under the Act of April 12, 1951 (P.L. 90, No. 21) known as the "Liquor Code" or any organization as set forth in Section 6 of the Act of December 19, 1990 (P.L. 1200, No. 202) known as the "Solicitation of Funds for Charitable Purposes Act. Said Club shall not be operated in a manner in which it could also be classified as either an After Hours Club or a Sexual Oriented Business as so defined by this Ordinance.

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed represent a solid fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. A Buffer Area shall not be occupied by any building, parking, outdoor storage or any use other than open space and approved vegetative plantings.

BUILDING:

Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building Envelope: An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setbacks requirements for a given zoning district establishes the building envelope.

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

Building Height: The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

BULK FUEL STORAGE FACILITY:

Any facility where (1) gasoline is stored in bulk for distribution by delivery truck; (2) fuel, including but not limited to kerosene, home heating oil, diesel fuel, gasoline, or propane, is stored in large volume tanks for distribution to retail or wholesale establishments; or (3) the total combined on-site storage of fuel exceeds twenty thousand (20,000) gallons.

CALIPER:

The diameter of a tree trunk measured at a point 6 inches above the ground for a tree measuring up to and including 4 inches in diameter and 12 inches above the ground for a tree measuring above 4 inches in diameter. The term is usually applied to nursery stock.

CARPORT:

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may be constructed as a separate accessory structure or part of the principal structure.

CAR WASH:

An area of land and/or a structure with machine-or-hand-operated facilities used principally for the interior and/or exterior cleaning, washing, polishing, or waxing of motor vehicles.

CELLAR:

A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6 ½ feet.

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery

purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CHANGE OF USE:

Any use which differs from the previous use of a building, structure or land.

CHILD CARE SERVICES:

The provision of out-of-home care for children for part of a 24 hour day, excluding the care provided by relatives.

CHIMNEY:

A vertical structure containing one or more flues for drawing off emissions from a stationary source of combustion, including but not limited to those attached to an Outdoor Fuel Burning Furnace.

CHURCH: (SEE PLACE OF WORSHIP)

CLEAN WOOD:

Natural wood that has no paint, or other types of coatings, and natural wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

CLEAR SIGHT TRIANGLE:

A triangular-shaped portion of land established at street intersections and at the intersection of a private driveway or point of access to a public street, defined by lines of sight between points at a given distance, in which nothing can be erected, constructed, planted or allowed to grow in such a manner to obstruct the sight distance of motorist entering or leaving an intersection and/or driveway.

CLINIC:(MEDICAL)

A facility comprised of professional offices for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24-hour emergency service.

CLUB/PRIVATE LODGE:

Buildings or facilities used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. Said Club/Private Lodge shall not be operated in a manner in which it could also be classified as a Bottle Club, an After Hours Club and/or a Sexual Oriented Business as so defined by this Ordinance.

COMMERCIAL COMMUNICATION ANTENNA:

Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio services, or any wireless communication signals,

including without rotation, omni-directional or whip antennas and directional or panel antennas, owned and operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residences mounted satellite dishes or television antennas or amateur radio equipment, including without limitation, ham or citizen band radio antennas.

COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS FACILITY

The components normally associated with the use and operation of a Commercial Communication Antenna including a Commercial Communication Tower and Commercial Communications Equipment Building.

COMMERCIAL COMMUNICATION TOWER

A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support a Commercial Communication Antenna.

COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:

The vertical distance measured from the ground to the highest point on a communications Tower, including antennas mounted on the tower.

COMMERCIAL, RETAIL:

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by definition

COMMERCIAL USE:

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMUNITY ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by member of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners' Associations and Condominium Associations are types of Community Associations.

COMMON FACILITIES:

All the real property and improvements, including without limitation, landscaped areas, buffers, open space not included within title lines of any privately owned lot, street rights-of-way not dedicated to Exeter Borough, owned in common by residents within the development which is served by the facilities.

COMMUNITY CENTER:

A place, structure, area, or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

COMPRESSOR:

A device that raises the pressure of oil and natural gas and/or by products. Compressors are any devices that create a pressure differential to move or compress a liquid, vapor, or a gas. Any such device used alone or in series to adequately compress a gas is considered a compressor.

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 separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

CONSERVATION AREA, PRIMARY:

Lands within the 100-year floodplain (including the floodway), wetlands and prohibitive steep slopes (above 25 percent).

CONSERVATION AREA, SECONDARY:

All landscape elements not included in the Primary Conservation Area, which do not create severe limitations for development, but which should be considered for conservation due to their capacity for helping to provide, along with the Primary Conservation Areas, an interconnected system of open space and recreation.

CONSERVATION DESIGN SUBDIVISION:

A residential subdivision designed around permanently preserved natural resources at the dwelling unit density specified in the Borough Zoning Ordinance.

CONSERVATION EASEMENT:

A right or interest in land granted primarily for the preservation of the land in its undeveloped state but which may allow limited development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

CONSTRAINED LAND:

The acreage sum of certain features on the land, each of which is multiplied by a net-out factor set forth in Article 6 of this Ordinance.

CONSERVANCY LOT:

A large, privately owned and maintained lot, containing an existing dwelling, farm complex, or historic structure, comprising part of the required open space in a conservation subdivision. An area of at least one acre surrounding the dwelling, farm complex or historic structure is set aside and is not counted toward the required minimum open space. The remainder of the conservancy lot is permanently protected open space. Public access to conservancy lots is not required.

CONTINUING CARE FACILITY

An age-restricted residential development, as defined in current state licensing requirements, designed, operated and maintained to provide a continuum of accommodations and care for retired adults that may include:

- Independent Dwelling Units

- Skilled Nursing Facilities
- Intermediate Care Facilities
- Personal Care Facilities

A Continuing Care Facility may also include supporting services and facilities that encompass dining, recreational and social activities limited to residents within said facility

CONTRACTOR’S STORAGE:

A lot, building, or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.

CONVENIENCE STORE:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

CONVENIENCE STORE WITH GAS SALES:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

CREMATORY:

A facility used exclusively for the disposal by incineration of the bodies of deceased individuals.

CRITICAL AREAS:

An area with one or more of the following characteristics: stream corridors, streams, flood plain areas, wetlands, slopes which equal or exceed fifteen (15) percent, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge area.

DAY CARE SERVICES:

The provision of out-of-home care for children for part of a 24-hour day, excluding the care provided by relatives.

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children for part of a 24-hour day, excluding the care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

A structure in which child care services are provided for seven (7) or more children at any one time, where the child care areas within the structure are not jointly used as a portion of a family residence.

DAY CARE HOME:

Means a residential structure in which child care services are provided for more than six

(6) but less than twelve (12) children, at any one time, where the child care areas are also used as a portion of a family residence.

DBH (Diameter at Breast Height):

The diameter of a tree trunk measured at a point 4.5 feet above the ground at the base of the tree. If a tree divides or splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split. The term is usually applied to trees in the field (not nursery stock).

DENSITY, NET RESIDENTIAL:

The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g., wetlands, flood plains, steep slopes or other environmentally sensitive areas) and the area in rights-of-way for streets, roads, overhead transmission lines, utilities and/or easements.

DECISION:

Final adjudication of any board or other body granted jurisdiction under any land use ordinance of this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Luzerne County.

DETENTION FACILITY:

A publicly operated or sponsored facility used to house and/or rehabilitate individuals detained, sentenced by, or under the jurisdiction of the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses and similar facilities.

DETERMINATION:

Final action by an officer, body or agency charged with the administration of any land use ordinance or application thereunder, except the following:

1. The Governing Body.
2. The Zoning Hearing Board; or
3. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the Subdivision and Land Development Ordinance or Planning Residential Development Provisions.

Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

DEVELOPMENT:

Any man-made improvements to improved or unimproved real estate. The construction, conversion, structural alteration, relocation, or enlargement of any building or structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

DEVELOPMENT PLAN:

The provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings

and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase "development plan" shall mean the written and graphic materials referred to in this definition.

DRIVE-IN FACILITY:

An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

DRIVEWAY:

A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having a frontage on the road.

DWELLING:

One or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family. A mobile home or similar manufactured housing unit which permanently attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. The term "Townhouse" is excluded under this term (See Definition of Townhouse)
- D. TOWNHOUSE: A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than five (5) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.
- E. MOBILE HOME: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly

operations, and constructed so that it may be used without a permanent foundation.

DWELLING UNIT:

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilet facilities and separate cooking facilities for exclusive use by the family residing therein.

EARTH DISTURBANCE ACTIVITY:

Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

EASEMENT:

A legally recorded grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or eatery.

EASEMENT DRAINAGE:

An easement required for the installation of storm water sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

EAVE:

The projecting lower edges of a roof overhanging the wall of a building.

EMERGENCY SERVICES FACILITY:

A building for the housing of fire, emergency medical or police equipment and for related activities.

ENTERTAINMENT FACILITIES:

Commercial establishments engaged in providing entertainment for a fee or an admission charge, including but not necessarily limited to a movie theater, an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

ENVIRONMENTAL IMPACT STATEMENT:

A report and/or series of reports on the potential effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

EXCAVATION AND EXTRACTION OF MINERALS:

The removal or recovery by any means whatsoever of minerals, excluding oil and/or gas as so defined in this Ordinance from land or water, on or above the surface thereof, or beneath the land surface whether exposed or submerged. It shall include the incidental screening, washing, crushing and grading of materials originating on the site, and mineral processing as an accessory use.

FACADE:

The exterior wall of a building exposed to public view or that wall viewed by person not within the building.

FACILITY:

A structure or place which is built, installed, or established to serve a particular purpose

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one lease among all of the occupants. Individual leases shall be deemed to have the dwelling unit classified as a boarding house and/or rooming house.

FENCE:

A structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry. Hedges, shrubbery and/or similar vegetation shall not be deemed or considered to be a fence.

FLEA MARKET:

An occasional or periodic market held in an enclosed structure where groups of individual sellers offer goods for sale to the public.

FLOOR AREA, GROSS RESIDENTIAL:

The interior floor area of a dwelling, including stairways, halls, and closets but not including basements, porches, garages, breezeways, or carports.

FLOOR AREA, GROSS NONRESIDENTIAL:

Unless specified otherwise, it represent the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic or basement storage space; (2) mechanical utility equipment areas; (3) stairs.

FORESTRY:

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

FOOD PROCESSING ESTABLISHMENT:

Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oils products; (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and by-product processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

FRONTAGE:

The length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

FUNERAL HOME:

A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral units, and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation.

GARAGE, PRIVATE RESIDENTIAL:

A building for the private use of the owner or occupant for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, PUBLIC:

A building or portion thereof, other than a private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARDEN APARTMENTS:

Two (2) or more multi-family residential structures, each containing more than two (2) but not more than eight (8) dwelling units, having a common hallway for entrance into such dwelling units.

GARDEN CENTER:

A place of business where products and produce are sold to the general public. These centers may include a nursery and/or greenhouses, plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

GAS STATION:

A property or a portion thereof where gasoline as fuel is stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity and may also include a freestanding automatic car wash.

GAS STATION, LIMITED-SERVICE:

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs, and maintenance, excluding those services provided under the definition of "Automotive Repair Garage."

GENERAL NUISANCE:

- A. Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including the following: fire and explosion hazards; electrical and radioactive disturbances; noise and vibration; dust, dirt, and fly ash; glare; smoke and odors; and other forms of air pollution.
- B. Any use operated or conducted in manner which directly or indirectly endangers the public health safety and/or welfare, including but not limited to having a detrimental effect on an adjoining property or use of property and/or the community.

- C. A property in a continuing state of disrepair that is not fit for human habitation and/or occupancy with the potential to attract vermin and/or deemed to be a fire hazard to adjoining properties.
- D. A property that contains trash, junk and/or one or more inoperable motor vehicles.

GOVERNING BODY:

The Borough Council of the Borough of Exeter.

GRADE:

The slope of a road, street or other public or private way, specified in percentage (%) terms.

GRADING:

Any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

GREEN ROOFS:

Green roofs are rooftops planted with vegetation. Intensive green roofs have thick layers of soil (6 to 12 inches or more) that can support a broad variety of plant or even tree species. Extensive roofs are simpler green roofs with a soil layer of 6 inches or less to support turf, grass, or other ground cover.

GREENHOUSE, COMMERCIAL:

Retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, and/or display.

GREENWAY LAND:

A parcel or parcels of land and/or water, within a development site set aside for the protection of natural and cultural resources. It is also intended for the use and enjoyment by the residents of such development and possibly the general public. Greenway land is substantially free of structures, but may contain such improvements as are in the finally approved development plan, and does not include individually owned private yards, except in the case of approved conservancy lots. Greenway land may be a combination of natural or naturalized areas (such as the municipal greenway network) and more manicured areas (such as lawn, recreational areas or play fields). Greenway land is permanently restricted against further development. Greenway and Greenway Land are synonymous.

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four (4) persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons of their licensed agents, a governmental agency or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting.

The following shall not be deemed to constitute a Group Residence:

- a. A boarding home and/or personal care boarding home.
- b. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.
- c. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES:

Any material that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics, may:

- a. Cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating illness.
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HEALTH SPA:

An indoor facility where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Said facility may also include game courts, swimming facilities, saunas and massage rooms

HEDGEROW:

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

HEIGHT (Building)

The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation or the Borough of Exeter, which authorizes access from a parcel of land onto a street or highway which is under its respective jurisdiction.

HISTORIC RESOURCE:

Any structure that is 75 years or older at the time a subdivision or land development application is submitted for the property on which it is located or any structure that is:

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

- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;

or

- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved State program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in states without an approved program.

HOME OFFICE:

Residences of clergymen, architects, landscape architects, professional engineers, professional planners, registered land surveyors, lawyers, real estate agents, financial consultants, artists, teachers, musicians, or persons in other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises. The following uses and/or services, including those which are similar in nature, are excluded from the classification as a Home Office: hair stylists, barbers, massage parlors, tanning salons, health spas, beauty spas, nutrition and weight management services manicure and pedicure services, animal grooming services, body piercing and body painting services.

HOME OCCUPATION:

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOMEOWNERS ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community owned property. This term is synonymous with property owners association.

HOTEL (SEE MOTEL):

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

HUB HEIGHT:

The distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached

HYDRAULIC FRACTURING WATER WITHDRAWAL FACILITY:

A facility immediately adjacent to a water body or stream that typically contains a submerged suction line, pumps, water main, multiple hydrants, truck loading and staging area, and water storage tanks, and which stores water on a temporary basis that is intended to be transported by vehicle to a natural gas well for the purpose of hydraulic fracturing.

HYDRAULIC FRACTURING WATER TREATMENT FACILITY:

A facility used for treating the flow back water and solutions used in the process of hydraulic fracturing in order to extract natural gas and remove any harmful chemicals, compounds and radionuclides prior to being transported off-site for reuse or discharge into a stream. Such a facility typically includes a multi-bay truck loading/unloading station, skim ponds for oil/water separation, water clarifiers, sludge, dewatering facilities, reverse osmosis units, evaporators, chemical feed equipment, pumps and other appurtenances.

IMPACT ANALYSIS:

A study and/or report, which may be required at the discretion of the Zoning Hearing Board prior to approval of a special exception use, to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, and the public health, safety and welfare and other factors which may be directly or potentially affected. The applicant shall be responsible for all costs related to any and all report and/or studies required by the Zoning Hearing Board under or within the context of the term “IMPACT ANALYSIS.”

IMPERVIOUS MATERIAL:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or cemented parking areas, streets, sidewalks, driveways and smaller vehicular and/or pedestrian right-of-way.

IMPROVEMENTS:

Man-made physical additions, alterations, and/or changes which become part of, placed upon, or affixed to real estate.

INDUSTRY, HEAVY:

A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, excluding oil and/or natural gas, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions and having potential to produce noise, dust, glare, odors or vibration beyond its property line.

INDUSTRY, LIGHT:

Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, “light industrial” shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories, or

the like. Light industry must be capable of operation in such a manner to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Light industry shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal and/or any form of basic industrial processing, including but not limited to the use of hazardous materials .

INTERMEDIATE-CARE FACILITY:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other personal health services to patients on a planned program of care and administrative management, supervised on a continuous twenty- four hour basis in an institutional setting.

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitate services to more than eight (8) persons on a continuous and/or regular basis, excluding a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

INVASIVE PLANT SPECIES:

Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate that they kill off or drive out many indigenous plant species.

JUNK:

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.

JUNKED VEHICLE:

Any vehicle, including a trailer, which does not bear current license and inspection stickers or is incapable of being moved under its own power, and presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair.

- a. rusted and/or jagged metal on or protruding from the body of a vehicle;
- b. broken glass or windows on or in the vehicle;
- c. leaking of any fluids from the vehicle;
- d. unsecured and/or unlocked doors, hood or trunk;
- e. storage or placement of the vehicle on concrete blocks;
- f. harboring or rodents, insects or other pests

JUNKYARD (SEE ALSO AUTOMOBILE WRECKING YARD):

An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

LAND DISTURBANCE:

Any activity, which exposes soils, alters topography and/or alters woody vegetation, except for removal of a safety hazard, diseased trees, or invasive vegetation.

LANDOWNER:

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

LAUNDRIES:

LAUNDROMAT, SELF-SERVICE:

A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

COMMERCIAL INDUSTRIAL LAUNDRY:

A business that provides washing, drying and ironing services operated by the employees on the premises.

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, for principal and accessory buildings or structures.

LOT AREA:

The total horizontal area within the lot lines of a lot.

LOT AREA, GROSS:

The area of land contained within the limits of the legally described property lines bounding the lot.

LOT AREA, NET:

The area of land contained within the limits of the legally described property lines bounding the lot, exclusive of any street or railroad rights-of-way, common open space, easements for the purposes of access, utility, or stormwater management, prohibitively steep slopes, land within the delineated boundaries of a One Hundred (100) Year Flood Plain, surface waters and wetlands as defined by this Ordinance.

LOT, CORNER:

A lot abutting on and at the intersection of two (2) or more streets.

LOT COVERAGE:

Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures, by the gross area of that lot.

LOT DEPTH:

The average horizontal distance between the front and rear lot lines.

LOT LINE:

A line dividing one lot from another lot or from a street or alley.

LOT LINE, REAR:

The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lines will not have a rear lot line.

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on the effective date of the adoption of this Ordinance.

LOT, THROUGH:

A lot having its front and rear yards each abutting on a street.

LOT WIDTH:

The horizontal distance between side lot lines, measured at the required front setback line.

MANUFACTURING:

The mechanical or chemical transformation of materials or substances into new products, including the assembling of components parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, etc.

MANUFACTURED HOME:

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational, and other similar vehicles placed upon a site for more than 180 consecutive days.

MANUFACTURED HOME PARK:

A parcel or contiguous parcels of land, which has been planned and improved for the placement of two (2) or more manufactured homes.

MASSAGE ESTABLISHMENT:

Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth.

MEDIATION:

A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

METHADONE CLINIC:

A facility licensed by the Pennsylvania Department of Health to use the drug methadone

in the treatment, maintenance or detoxification of persons.

MIDSTREAM OPERATION:

Compressors, compressor stations, meters and processing plants that support more than one well pad.

MINERALS:

Any aggregate or mass of mineral matter, whether or not coherent. The term shall include, but it is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat, and crude oil and natural gas.

MOBILE HOME:

A transportable, single-family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one integral unit capable 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.

MOBILE HOME LOT:

A parcel of land in a mobile home park, improved with all necessary utility connection and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK:

A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

MOTEL (SEE ALSO HOTEL):

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

MUNICIPALLY OWNED BUILDINGS:

A building or structure providing a municipal service or function that is owned and operated by the Borough of Exeter

MUNICIPALITY:

Borough of Exeter, Luzerne County, Pennsylvania.

NO IMPACT HOME BASED BUSINESS:

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use.

NONCONFORMING LOT:

A lot the are or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district

in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE:

A structure or part of a structure manifestly not designed to comply with the applicable use or extend of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, 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 in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

OIL AND GAS ACT:

Pennsylvania's Oil and Gas Act, 58 P.S. §601.101 et. seq., as it has been or may be amended from time to time.

OIL OR GAS COMPRESSOR STATION:

A facility that contains a compressor or compressors to facilitate the movement of oil and/or natural gas and/or its byproducts through a pipeline.

OIL OR GAS DEVELOPMENT:

This term shall include the well site preparation, construction, drilling, re-drilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas. This definition does not include natural gas compressor stations, natural gas metering stations and natural gas processing plants or facilities and/or equipment performing the equivalent functions, nor does this definition include off-site oil and gas pipelines. Oil and Gas Development shall not include ancillary any facilities including but not limited to: Oil and Gas Compressor Stations, Oil and Gas Metering Stations Oil and Gas Processing Facility and off-site Oil and Gas Pipelines.

OIL OR GAS METERING STATIONS:

A facility that is used as a midstream operation for the purpose of measuring all oil and/or natural gas entering or exiting the pipeline system to provide accurate and continuous gas measurements and/or regulate gas pressure and delivery volumes.

OIL OR GAS PIPELINES:

All parts of those physical facilities through which oil and/or natural gas moves in transportation, including pipe, valves, and other appurtenances attached to pipes.

OIL OR GAS PROCESSING FACILITY:

A facility that receives oil and/or natural gas and associated hydrocarbons from a truck, railway car, or pipeline system serving one or more wells, which processes, compresses, condenses, pressurizes, deals with Dew Point Control or gas quality related issues or otherwise treats oil and/or natural gas making it suitable for, among other things, pipeline transmission, or which removes and separates or adds other materials, products, and impurities to or from the oil or gas, and which may or may not include compressor stations, cooling facilities, storage tanks and related equipment and facilities.

OIL OR GAS STAGING FACILITY:

A facility or location for the storage of equipment and vehicles used to support oil and gas development activities.

OIL OR GAS WATER REUSE STORAGE FACILITY:

Tanks of any construction (metal, fiberglass, concrete, etc.) and impoundments used for the storage of water and/or water that has been used and is being reused.

OIL OR GAS WELL:

Any well drilled for the intent of extracting gas, petroleum or other liquid related to oil or gas production from beneath the surface of the earth.

OIL OR GAS WELLOPERATOR:

The person designated as the well operator on the permit application or well registration.

OIL OR GAS WELL OWNER:

A person, who owns, manages, leases, controls or possesses an oil or gas well.

OIL OR GAS WELL SITE:

A specifically defined location with fixed dimensions which may include facilities, structures, materials and equipment, whether temporary or permanent, necessary for or incidental to the preparation, construction drilling or production of an oil or gas well as further identified any application submitted to or approved by the Pennsylvania Department of Environmental Protection.

OIL OR GAS WELL PAD:

The area of land used for the purpose of the construction, drilling and operation of an exploratory or production gas or oil well including all areas used for parking, storage, structures or any other associated use or area of land disturbance.

OFFICES:

PROFESSIONAL OFFICE:

An office (other than a service office) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, veterinarians, engineers, artists, musicians, teachers, and others who, through training, are qualified to perform services of a professional nature.

SERVICE OFFICE:

An office in which are offered services by real estate agents, travel agents, insurance agents, accountants, public stenographers, brokers, or others who,

through training, are duly qualified to perform services of an executive nature as distinguished from a professional office.

OPEN SPACE:

That part of a particular development tract set permanently aside for the protection of sensitive natural features, greenways, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance and the Township Zoning Ordinance. Open space may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland, forest land or conservancy lots which are not accessible to development residents or the public. Open space must be substantially free of structures, but may contain such improvements as are in the finally approved development plan. Open space may be a combination of natural or naturalized areas (such as the municipal greenway network) and more manicured areas (such as lawn, recreational areas or play fields). Open space is permanently restricted against further development.

OUTDOOR WOOD-FIRED BOILER:

A fuel-burning device designed: (1) to burn clean wood or other approved solid fuels; (2) by the manufacturer specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals (e.g., garages); and (3) to heat building space and/or water via distribution, typically through pipes of a fluid heated in the device, typically water or a water/antifreeze mixture. Outdoor wood-fired boilers are also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, etc.

OUTDOOR STORAGE:

The keeping, in an unroofed area, of any goods, material, merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste, hazardous substances, refuse, junk or any inoperative durable items.

OWNER OF RECORD:

The person(s) or entity to whom any applicable property tax is assessed and/or is indicated to be a tax-exempt property as shown on the latest assessment records of Luzerne County.

PARCEL:

A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PARKING LOT (SEE ALSO GARAGE, PUBLIC):

An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

PARKING, SHARED:

The development and use of parking areas on two (2) or more separate properties for joint use by the business on those properties.

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PATIO:

A level surfaced area directly adjacent to a principal building constructed above the existing grade which has an average elevation of not more than 30 inches, and without walls or a roof.

PAWNSHOP:

A business which loans money to a person in exchange for personal property deposited as security.

PERMITTED USE:

Any use which is specifically authorized in a particular zoning district.

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PERMANENT FOUNDATION:

A support for a building or structure, reaching below the frost line, consisting of a full poured concrete or masonry foundation or any other type which is permitted under the design standards of the Pennsylvania Uniform Construction Code, on which the building or structure is anchored and is intended to remain indefinitely.

PERSONAL-CARE HOME:

A facility, as defined under current State licensing requirements, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self administration but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, hair stylists, barbers, massage parlors, tanning salons, health spas, beauty spas, nutrition and weight management services manicure and pedicure services, animal grooming services, body piercing and body painting services and similar services.

PET DAY CARE SERVICES:

A fully enclosed structure in which short term pet boarding services are provided for domestic animals.

PHOTOCOPY SERVICE:

A business that reproduces drawings, plans, maps, or other copy by means of blueprinting or photocopying.

PLACE OF WORSHIP:

A building or portion thereof used for religious services either on a permanent or periodic basis, including churches, synagogues, mosques and similar edifices.

PLANNING COMMISSION:

The Planning Commission of the Borough of Exeter.

PRINCIPAL USE:

The main use of land or structures, as distinguished from a secondary or accessory use.

PRINT SHOP:

A retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports

PRIVATE:

Something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

PRIVATE VOCATIONAL/ TECHNICAL SCHOOL:

A facility primarily teaching usable skills that prepare students for jobs in a trade or profession. Schools of this type shall include, but are not limited to, art, barber, beauty, dance, karate, modeling, music and other similar uses.

PROTECTED USE OR PROTECTED STRUCTURE:

Any Habitable Structure, Religious Institution, Public Building, Healthcare Facility, School, or Public Park. This term shall not apply to accessory buildings, garages, or storage buildings

PUBLIC:

Something owned, operated and supported by the Community or the residents for the use and benefit of the general public.

PUBLIC BUILDING:

Any Building or Habitable Structure used or designed to and intended to be used for gathering purposes such as deliberation, entertainment, amusement, or health care. Public Buildings include, but shall not be limited to, schools, theaters, assembly halls, auditoriums, mortuary chapels, dance halls, exhibition halls, office buildings, government use facilities, gymnasiums, libraries, restaurants, commercial businesses, and healthcare facilities.

PUBLIC HEARING:

A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

PUBLIC MEETING:

A formal meeting held pursuant to public notice by the Governing Body, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.

PUBLIC NOTICE:

Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first

publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

PUBLIC USES:

Public schools, parks and administrative cultural and service buildings excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

PUBLIC UTILITIES FACILITIES (ESSENTIAL):

Telephone, electric and cable television lines, equipment structures; water or gas pipes, mains, valves, or other structures, pumping stations; telephone exchanges and all other facilities, equipment and structures necessary for conducting a service by public utility, under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended

PUBLIC UTILITY TRANSMISSION TOWER:

A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

QUASI-PUBLIC USE

A use conducted by, or a facility or structure owned or operated by, a nonprofit organization that is open and available to the public that provides educational, health, cultural, religious, recreational or other similar types of community services.

RECREATIONAL FACILITIES, COMMERCIAL:

Recreational facilities operated as a business and open to the public for a fee.

RECREATIONAL FACILITIES, PRIVATE:

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

RECYCLING COLLECTION CENTER:

A publically owned facility which is limited to the collection, separating and processing of used material prior to shipment to others who will use those materials to manufacture new products. Hazardous or toxic substances shall not be accepted, located and or stored at such a facility. This definition shall not include a junkyard.

REPORT:

Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for

inspection to the applicant and all other parties to any proceedings upon request, with copies thereof provided at the cost of reproduction.

RESTAURANT:

A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, CARRY-OUT:

An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state either in edible container or in paper, plastic or other disposable containers for consumption off the premises. A catering business shall be deemed to be included within this term.

RESTAURANT, FAST-FOOD:

An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared or prepared, fried, or grilled quickly, such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RIGHT-OF-WAY:

A defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, which usually include cartways, shoulders, and sidewalks.

RIPARIAN LAND:

Land that is traversed or bounded by a natural watercourse.

ROOMING HOUSE:

A structure thereof which contains rooming units which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. The term "Rooming House" shall specifically exclude the following:

Dwelling, Dwelling Unit, Dormitory, Hotel, Motel, Bed and Breakfast Facility, Group Residence.

ROOMING UNIT:

A room or rooms, in a Rooming House and/or Boarding House, forming a single habitable unit intended for living quarters but lacking separate bathroom and toilet facilities and/or cooking facilities for exclusive use by the occupant or occupants of the rooming unit.

SATELLITE DISH ANTENNA:

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 terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations. TVROs (television reception only satellite dish

antennas), and satellite microwave antennas. A satellite dish antenna that does not exceed three (3) feet in diameter and is attached to a building shall be exempt from securing zoning approval.

SCHOOL:

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools that are licensed by the State as such.

SCREENING:

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, wall, hedges, berms, or other features.

SEATING CAPACITY:

The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not affixed, the seating capacity shall be determined by the applicable standards of the most recent Pennsylvania Uniform Construction Code.

SELF-STORAGE FACILITY:

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares. The units shall be used solely for dead storage of non-hazardous materials and no processing, manufacturing, sales, research and development, service or repair, or other storage activities shall occur.

SETBACK:

The required minimum horizontal distance between the building line and the related front, side or rear property line.

SEXUALLY ORIENTED USES:

Sexually Oriented Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Sexually Oriented Entertainment: A nightclub, bar, tavern, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as a "Sexually Oriented Use".

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form.

SITE:

A plot or parcel of land or combination of contiguous lots or parcels of land.

SITE PLAN:

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and features proposed for a specific parcel of land.

SKILLED NURSING FACILITY:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other health services for a period of twenty-four hours or more for individuals not in need of hospitalization, but who because of age, illness or other infirmity, require high-intensity comprehensive planned nursing care

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment designed to effectively minimize soil erosion and sedimentation measures requiring approval by the Luzerne County Conservation District.

SPECIAL EXCEPTION:

A use which may only be permitted in a particular zoning district by special approval, granted by the Zoning Hearing Board in accordance with the applicable provisions of the Ordinance.

SPECIMEN TREE:

A unique, rare, or otherwise specifically selected tree or plant considered worthy of conservation by the municipality, because of its species, size, age, shape, form historical importance, or any other significant characteristics, including listing as a Species of Special Concern by the Commonwealth of Pennsylvania. All healthy trees over 20 inches dbh are considered specimen.

SOCIAL HALL:

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

SOLID WASTE OR WASTE:

Any garbage, refuse or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, excluding "Hazardous Substances" as so defined by this Ordinance and "Hazardous Waste," as so defined by the Pennsylvania Department of Environmental Resources, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste, as so defined by this Ordinance.

STORY:

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor about it, the space between such floor and the ceiling above. A basement shall be counted as a story if its ceiling equals or exceeds five feet of the finished ground surface adjoining the exterior walls of such story.

STEEP SLOPES:

Areas of land where the grade is 15 percent or greater. Steep slopes are divided into two categories:

- A. Precautionary slopes are those areas of land where the grade is 15 to 25 percent.
- B. Prohibitive slopes are those areas of land where the grade is greater than 25 percent.

Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three 2-foot contour intervals (six cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice by the Commonwealth of Pennsylvania.

STREET:

A public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

STRUCTURE:

Any man-made object, having an ascertainable stationary location on or in land or water, whether or not it is affixed to the land.

SUBDIVISION:

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

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE:

The Exeter Borough Subdivision and Land Development Ordinance as enacted on October 4, 2011, as it has been or may be amended from time to time.

SWIMMING POOL, PRIVATE NONCOMMERCIAL:

A water-filled enclosure, having a depth of twenty-four (24) inches or greater, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon.

TATTOO PARLOR/BODY-PIERCING STUDIO:

An establishment whose principal business activity is the practice of one or more of the following:

- (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN

A place where alcoholic beverages are served as a primary or substantial portion of the total trade and which does not meet the definition of a "nightclub." The sale of food may also occur.

TOPSOIL:

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

TOWNHOUSE:

A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than seven (7) single-family attached dwelling units, whereby each unit may be sold as an individual single-family

attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.

TRACT AREA, ADJUSTED: (APPLIED TO CONSERVATION SUBDIVISIONS)

The gross tract area minus the constrained land.

TRACT AREA, GROSS:

The total amount of land contained within the limits of the legally described property lines bounding the tract.

TRUCKING FACILITY:

A structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt of delivery of freight shipped by truck.

TRUCK REPAIR & STORAGE:

A building and/or land used primarily for the maintenance and storage of large commercial vehicles.

TURBINE HEIGHT:

The distance measured from the surface of the tower's foundation to the highest point of the turbine rotor plane at its furthest vertical extension.

USE:

Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1509 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods, and materials.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive.

WATER IMPOUNDMENT, FRESH:

A depression, excavation, pit, or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined, used to store fresh water.

WATER IMPOUNDMENT, WASTE:

A depression, excavation, pit, or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined, used to store waste water including but not limited to brine, fracturing fluid or residual waste.

WATERCOURSE:

A permanent or intermittent stream, river, brook, creek, or channel or ditch for collection and conveyance of water, whether natural or man-made.

WETLANDS:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WIND ENERGY CONVERSION SYSTEM (“WECS”):

A machine designed for the purpose of converting wind energy into electrical energy. (Commonly known as “wind turbine” or “windmill”). The term WECS shall be used interchangeably with the terms “wind turbine” or “windmill,” with said terms having the same meaning as a WIND ENERGY CONVERSION SYSTEM (“WECS”)

WIND ENERGY FACILITY:

An electric generating facility, whose main purpose is to supply electricity, consisting, of one or more Wind Turbines

WIND ENERGY CONVERSION SYSTEM (SMALL) - (“Small WECS”):

A wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for on-site use, which is intended to primarily reduce consumption of utility power at that location and not for resale.

WIND TURBINE:

A wind energy conversion system that converts wind energy into electricity through the use of wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

WOODLANDS:

A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees (larger than 6 inches dbh) covering an area of one-quarter acre or more, or consisting of ten (10) individual trees larger than 6 inches dbh, shall be considered a woodland. The extent of any woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the plant community.

WOODLAND DISTURBANCE:

Any activity that (1) alters the existing structure of a woodland or hedgerow, including the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, and herbaceous woodland floor species; (2) constitutes a land disturbance within a woodland or hedgerow. Woodland disturbance does not include the selective cutting or removal of invasive plant species. (See INVASIVE PLANT SPECIES)

YARD:

An open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance.

YARD, FRONT:

A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR:

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SIDE:

A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT:

A portion of Borough of Exeter illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

ZONING HEARING BOARD:

The Zoning Hearing Board of Borough of Exeter, Luzerne County, Pennsylvania.

ZONING MAP:

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Borough of Exeter, Luzerne County, Pennsylvania.

ARTICLE 3
GENERAL REGULATIONS

SECTION 301 ATTACHED ACCESSORY STRUCTURES

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

SECTION 302 UNATTACHED ACCESSORY STRUCTURES

302.1 NONRESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line.

302.2 RESIDENTIAL

When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

- (A) The maximum height shall not exceed fifteen (15) feet. (See Article 2, definition of Building Height)
- (B) An accessory structure shall not be located less than five (5) feet from a side lot line or the rear lot line; in cases where an accessory structure abuts a street or an alley, a minimum setback distance of ten (10) feet shall be required.
- (C) For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools gazebos and noncommercial satellite antenna dishes.
- (D) The maximum gross floor area of an accessory structure shall not exceed five hundred (500) square feet.

302.3 OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler, as defined in Article 2, shall be deemed to be an accessory structure permitted only in the C-1 District, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the standards as set forth in Section 902.26 and Section 1610 of this Ordinance.

302.4 SMALL WIND ENERGY CONVERSION SYSTEM

A Small Wind Energy Conversion System, whether free standing or roof mounted shall be

deemed to be an accessory structure permitted only in the C-1 District, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the standards as set forth in Section 902.36 and Section 1610 of this Ordinance

302.5 INSTALLATION AND USE OF ACCESSORY STRUCTURES

Accessory structures, including any related equipments, shall be installed and used in accordance with the manufacturer's written recommendations.

SECTION 303 RESIDENTIAL ACCESSORY STRUCTURES IN A
NONRESIDENTIAL ZONE:

In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to all other applicable regulations contained within this Ordinance.

SECTION 304 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located. This provision shall apply to both accessory and principal structures.

SECTION 305 NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located. The following supplemental provisions shall apply.

A. Location on Lot

A satellite dish antenna, excluding those that are roof-mounted, shall be located not less than ten (10) feet from any property line and shall be affixed to a permanent location on a zoning lot in a stationary manner. No satellite dish antenna shall be installed on a portable or moveable device.

B. Number on Lot

Not more than one (1) satellite dish antenna shall be permitted on a zoning lot, excluding lots located in a B-2, B-3 or I-1 District.

C. Size Limitations

The dimensions of a satellite dish antenna measured from its outermost edges cannot exceed twelve (12) feet in diameter.

D. Roof-Mounted

A roof-mounted satellite dish antenna having a diameter not greater than three (3) feet and installed in accordance with the manufacturer's specifications shall be exempted from securing zoning approval.

SECTION 306 PRIVATE NONCOMMERCIAL SWIMMING POOLS

A private noncommercial swimming pool capable of containing water to a depth of twenty-four (24) inches or greater shall be permitted as an accessory use in any Zoning District subject to the following:

306.1 Yard Area and Setback Requirements

A private swimming pool shall be located in either a side yard or rear yard with a minimum side yard and rear yard setback of ten (10) feet as measured from the water's edge. Said pool shall be located not less than ten (10) feet from any roofed structure located upon the property.

306.2 In-Ground Pools

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. The required fencing for an in ground pool must be installed upon the completion of the excavation work for said pool.

306.3 Above Ground Pools

A. Pools With Exterior Supports

An above ground pool which is manufactured, designed and erected with supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 306.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. If access into a pool includes a deck, the deck area shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall require a side yard and/or rear yard setback of not less than five (5) feet.

B. Inflatable Pools without Exterior Supports

An above ground pool which may be inflated and used without supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 306.2

SECTION 307 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining ten (10%) percent or less of the lot so divided.

SECTION 308 PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, stairways, balconies, canopies or other similar architectural features provided that any of the aforementioned features do not extend more than three (3) feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or sideyard, and do not exceed four and one-half (4^{1/2}) feet in depth and five (5) feet in length as extended from the principal structure.
- (D) Handicapped Ramps: The installation of a handicapped ramp in any zone, designed to provide access to handicapped persons, shall be exempt from meeting any applicable front yard or rear yard setback requirements, but shall have a minimum side yard setback of not less than five (5) feet.
- (E) No projections shall be permitted within and/or over a public right-of-way.

SECTION 309 LIMITED EXEMPTIONS FROM YARD REQUIREMENTS:

In all zoning districts any area of a structure already under roof can be enclosed and shall be exempt from meeting the front, side and/or rear yard requirements subject to not exceeding the area covered by the existing roof.

SECTION 310 CERTAIN EQUIPMENT EXEMPT FROM ZONING APPROVAL

In any zoning district, a Zoning Permit Application and approval of the same shall

not be required for any mechanical equipment or apparatuses thereto utilized for heating, plumbing, ventilation, electrical service, or similar functional utilities of a building and/or structure when the following conditions exist.

- A. The subject building and/or structure serviced by such equipment represents new construction.
- B. The equipment is not physically attached to the building and/or structure as an integral part of its design and/or construction.
- C. Said equipment shall not be located a distance of more than three feet from the subject building and/or structure which it serves, otherwise the applicable setback distances to property lines shall apply.

For the purpose of administration of this Ordinance, any piping, wiring, poles, valves or similar features which represent the connection of the subject equipment to service the building and/or structure shall not be deemed to be physically attached and/or an integral part of the design and/or construction of the building and/or structure.

SECTION 311 SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS

Any structural portion of a building, such as a deck, patio, porch or similar feature which is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.
- C. The structural replacement shall be the exact same location and said structural replacement shall be the same size and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed zoning permit application, along with any other information deemed necessary by the Zoning Officer to process the application.

SECTION 312 LAND DEVELOPMENT APPROVAL REQUIRED:

In addition to zoning approval, if the proposed development and/or use of a property is deemed to be a land development based upon the definition of said term as contained within the Exeter Borough Subdivision and Land Development Ordinance, land development approval shall also be required.

SECTION 313 EXEMPTIONS FROM HEIGHT REQUIREMENTS:

Unless stated otherwise, height limitations in this Ordinance as so specified for each Zoning District shall not apply to church spires, belfries, cupolas and domes, monuments, water

towers, wind energy conversion systems, commercial communication towers, chimneys, smokestacks, flag poles, radio towers, masts and aerials, accessory mechanical appurtenances usually located above the roof level or to parapet walls extending not more than four (4) feet above the roof line of the principal building.

SECTION 314 REQUIRED ACCESS

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

SECTION 315 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

315.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half ($2\frac{1}{2}$) feet, excluding street signs, utility poles or traffic signs, shall be erected, planted and/or maintained on any corner lot within the triangle formed by the intersecting property lines of the corner lot and a line projected between points of each of those adjacent property lines at a distance of twenty (20) feet from the intersection of said lot lines

315.2. PRIVATE DRIVEWAYS

The clear sight triangle at driveway and street intersections: Where a driveway enters the street right-of-way, a clear sight triangle shall be formed horizontally, by measuring 10 feet into the lot as measured from the sidewalk edge that is closest to the property line (or from the property line if no sidewalk exists), and 20 feet along the sidewalk edge (or property line if no sidewalk exists) parallel to the street, within which all visual obstructions including but not limited to fences, structures and/or vegetation shall be limited to a height of not more than two and one-half ($2\frac{1}{2}$) feet.

315.3 REQUIRED SETBACK

No driveway or part thereof shall be located closer than five (5) feet from a side property line.

SECTION 316 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed. Height measurements for compliance with this Section shall be based upon the ground elevation directly below the fence.

316.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A. FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height.

C. MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.2 NONRESIDENTIAL

Fences to be constructed within a B-2 or, B-3 District shall not exceed eight (8) feet in height above the adjacent ground level. Fences to be constructed within any I-1 District shall not exceed ten (10) feet in height above the adjacent ground level.

316.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10) feet in height, designed as an enclosure to a public park, a public playground or similar public outdoor recreational facility.

SECTION 317 PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 318 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Borough's Act 537 Sewage Facility Plan. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the Borough's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection prior to the issuance of a zoning permit.

SECTION 319 MOBILE HOMES - PERMANENT FOUNDATIONS

A mobile home shall be constructed and anchored to a permanent foundation. Under such conditions said mobile home shall be deemed to be a single family residence.

SECTION 320 TEMPORARY STRUCTURE AND/OR TEMPORARY USE

A temporary structure and/or a temporary use may be allowed in all Zoning Districts as a special exception approval by the Zoning Hearing Board subject to the criteria as set forth in Section 1610 of this Ordinance and also subject the following supplemental requirements:

- a. Approval of a temporary structure and/or temporary use shall be valid for a period of 180 days from the date on which the Zoning Hearing Board granted special exception approval to such structure and/or use.
- b. The use of a temporary structure and/or temporary use shall be directly related to the principal use of the property and shall be located upon the same lot.
- c. A temporary structure and/or temporary use shall not be permitted if either the principal structure and/or principal use are nonconforming.
- d. The size of the gross floor area and/or land area of a temporary structure and/or a temporary use shall not exceed that of the principal structure and/or principal use.
- e. A temporary structure and/or temporary use shall meet all applicable setback requirements for the Zoning District in which it is to be located.
- f. Trailers placed upon a property as a field office during the construction activities for a permanent principal structure and/or use shall be exempt from securing special exception approval by the Zoning Hearing Board, but shall be required to submit a Zoning Permit Application and shall be subject the 180 day time limitation.
- g. Required off-street parking and/or loading shall be provided for a temporary structure and/or temporary use in accordance with the applicable provisions contained in Article 12, Off-Street Parking and Loading.
- h. Not more than one (1) temporary structure and/or temporary use shall be permitted upon any property during any period of 180 days.

The time limitation of 180 days for a temporary structure and/or use shall be cumulative in nature. Any intermittent cessation and subsequent resumption of a temporary structure and/or use shall be included within the 180 day time limitation from the date on which approval was originally granted. On or before the expiration of the 180 day time limitation, the owner of the property may seek a time extension which shall require approval of the Zoning Hearing Board in the form of a variance. Failure to cease all operations and activities by the termination the 180 day time limitation, or any approved time extension, shall constitute a violation of this Ordinance. The Zoning Officer may revoke approval prior to the expiration the 180 day time limitation, or any approved

time extension, if any standards, conditions, and/or terms under which approval was granted are violated.

SECTION 321 PROHIBITION OF GENERAL NUISANCES

The use, operation and/or condition of any property found to be a “GENERAL NUISANCE” as so defined in Article 2 of this Ordinance shall constitute a violation of this Ordinance and shall be subject to the violation procedures and penalties as set forth in Section 1403 (Enforcement Procedures) of this Ordinance.

SECTION 322 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Borough road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable entity having jurisdiction over the same.

SECTION 323 SOIL EROSION AND SEDIMENTATION CONTROL PLAN

Zoning approval for any proposed use and/or development of a property that requires a Soil Erosion and Sedimentation Control Plan shall be conditioned upon the applicant’s the submission, approval and implementation of an approved Soil Erosion and Sedimentation Control Plan.

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet shall be required to prepare and implement a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent addition of the Department of Environmental Protection Erosion and Sedimentation Control Manual.

For stormwater discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne County Conservation District. No zoning permit for development shall be issued by the Borough until written notification is received from the Luzerne County Conservation District verifying compliance in securing the NPDES Permit.

SECTION 324 STORMWATER MANAGEMENT

Any proposed development or use of property which results and/or requires a land disturbance shall be undertaken in compliance with the applicable regulations of the Exeter Borough Stormwater Management Ordinance.

SECTION 325 RIPARIAN BUFFER:

Excluding stormwater detention facilities, floodproofing structures and/or similar devices, a minimum setback of one hundred (100) feet from any Watercourse, (as defined in

Article 2) shall be required in all Zoning Districts for any form of development and/or improvements.

SECTION 326 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The proposed use may be permitted if only if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a special exception as contained in Section 1610.2 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

SECTION 327 SUPPLEMENTAL REQUIREMENTS

Any use, provided for under any Zoning District within this Ordinance, shall, in addition to all other applicable provisions of this Ordinance, be governed by the applicable regulations contained within Article 8, Conditional Uses and/or Article 9, Supplemental Regulations.

ARTICLE 4
ZONING MAP AND ZONING DISTRICTS

SECTION 401 OFFICIAL ZONING MAP

Exeter Borough is hereby divided into zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the applicable provisions contained within Article 14 of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the Exeter Borough Council

SECTION 403 INTERPRETATION OF BOUNDARIES

For the interpretation of zoning district boundaries, the following subsections shall apply if or when a determination is not made by the Zoning Officer.

403.1 ZONING HEARING BOARD

If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in Section 403.2.

403.2 GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- (C) In accordance with Section 307 of this Ordinance, if a Zoning District boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) percent or more of the lot area in a particular Zoning District, the location of such district boundary line may be construed to include the remaining ten (10%) percent or less of the lot so divided. It shall be the property owner's responsibility

to provide documentation to the Zoning Officer to substantiate the location and area of land of the applicable Zoning Districts for the subject property.

- (D) If the guidelines within this Section above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

For the purpose of this Ordinance, Lehman is hereby divided into Zoning Districts as designated below:

R-1	SINGLE FAMILY RESIDENTIAL DISTRICT
R-2	TWO FAMILY RESIDENTIAL DISTRICT
R-3	MULTIFAMILY RESIDENTIAL DISTRICT
B-2	GENERAL BUSINESS DISTRICT
B-3	HIGHWAY BUSINESS DISTRICT
C-1	CONSERVATION DISTRICT
I-1	GENERAL INDUSTRIAL DISTRICT

ARTICLE 5
ZONING DISTRICT REGULATIONS

SECTION 501 - C-1 CONSERVATION DISTRICT

501.1 PERMITTED USES

- Agriculture, (as defined in Article 2)
- Animal Hospital
- Commercial Greenhouses, Nurseries and Garden Shops
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Forestry (as defined in Article 2, also see Section 902.15)
- Home Office
- Public Recreational Facilities
- No Impact Home Based Business
- Tree Farms, including retail sales of trees and forestry products produced and/or processed upon the premises
- Single-Family Dwellings, including mobile homes on permanent foundations.

- Single-Family Dwellings shall also be subject to the following when such dwellings are to be developed within a proposed subdivision :
 1. On tracts 10 acres or larger, conservation subdivision with single-family detached dwellings, in compliance with Article 6 of this Ordinance “Conservation Design Overlay District.”
 2. Proposals on tracts 10 acres or larger are exempt from the standards of Article 6 of this Ordinance “Conservation Design Overlay District” when the following conditions exist:
 - a. Proposals for minor subdivisions involving three lots or less providing such proposals shall meet the dimensional regulations of Section 501.5
 - b. Proposals with a density no greater than one dwelling unit/20 acres or less, regardless of the number of lots.
 3. On tracts less than 10 acres a conventional subdivision with single family detached dwellings shall be permitted subject to compliance with dimensional regulations of Section 501.5

- Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

- Animal Kennels

- Bed and Breakfast Establishments
- Cemeteries
- Club or Lodge (Private)
- Commercial Communications Facility
- Emergency Services Facility:
- Home Occupations
- Outdoor Wood-Fired Boiler (as defined in Article 2, also see Section 902.26)
- Place of Worship
- Private Outdoor Recreational Facilities
- Small Wind Energy Conversion System
- Accessory Uses to the Above

501.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances (as defined in Article 2)

501.4 CONDITIONAL USES (See Article 8)

- Golf Course, including clubhouses that may include dining facilities, snack bars, locker facilities, pro shops and other services directly related to its operation as a golf course.
- Wind Energy Facility (as defined in Article 2)
- Any nonresidential use permitted by right or by special exception in the C-1 District, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation of a building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet.

501.5 DIMENSIONAL REGULATIONS

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 9 of this Ordinance.

- A. Minimum Lot Area: Each principal building or use shall be located upon a lot having a minimum net lot area , as defined in Article 2, of not less than 80,000 square feet.
- B. Minimum Lot Width: Each lot shall have a lot width not less than one hundred fifty (150') feet.

- C. Front Yard: The minimum front yard shall be not less than seventy-five (75') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than seventy-five (75') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than twenty-five (25') feet on each side.
- F. Lot Coverage: Not more than fifteen (15%) percent of a lot shall be covered by buildings. Total impervious cover shall not exceed thirty (30%) percent.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

501.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

501.7 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 502 - R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

502.1 PERMITTED USES

- Single-family Detached Dwellings
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Day Care Home
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Forestry (as defined in Article 2, also see Section 902.15)
- Home Office
- No-Impact Home Based Business
- Accessory Uses to the Above

502.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Emergency Services Facility
- Home Occupations
- Place of Worship
- Public Recreational Facilities
- Public Uses, as defined in Article 2
- Skilled Nursing Facility
- School, Public or Private, Primary or Secondary
- Accessory Uses to the Above

502.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

502.4 CONDITIONAL USES (See Article 8)

- Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (c) the initial or cumulative construction, placement or installation of a building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet

502.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 9 of this Ordinance.

- A. Minimum Lot Area: Each principal building, or use shall be located upon a lot having a minimum lot area of not less than:
 - 1. Eleven Thousand Two Hundred and Fifty (11,250) square feet when serviced by central sewers.
 - 2. One (1) acre when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.

- B. Minimum Lot Width:
 - 1. Seventy-Five (75') feet for lots serviced by central sewers.
 - 2. One Hundred and Fifty (150') for lots with on-lot sewage disposal.

- C. Front Yard: The minimum front yard shall be not less than thirty (30') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than thirty (30') feet in depth as measured from the rear lot line.

- E. Side Yard: The combined side yards shall be not less than twenty (20') feet, with not less than eight (8') feet on one side.

- F. Lot Coverage: Not more than thirty (30%) percent of the lot area shall be covered with buildings or structures.

- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

502.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

502.7 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 503 - R-2 – TWO FAMILY RESIDENTIAL DISTRICT

503.1 PERMITTED USES

- Single-family Detached Dwellings
- Two-Family Dwellings
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Day Care Home
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Forestry (as defined in Article 2, also see Section 902.15)
- Home Office
- No-Impact Home Based Business
- Accessory Uses to the Above

503.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Emergency Services Facility
- Day Care Center
- Group Residence
- Home Occupations
- Place of Worship
- Public Recreational Facilities
- Public Uses, as defined in Article 2
- Quasi-Public Use
- Accessory Uses to the Above

503.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

503.4 CONDITIONAL USES (See Article 8)

- Any nonresidential use permitted by right or by special exception in the R-2 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (d) the initial or cumulative construction, placement or installation of a building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet

503.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 9 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use shall be located upon a lot having a minimum lot area of not less than:
 - 1. Nine Thousand (9,000) square feet for a single family detached residential dwelling when serviced by central sewers.
 - 2. Fifteen Thousand (15,000) square feet for a two family dwelling, when serviced by central sewers, with an additional three thousand five hundred (3,500) square feet for each additional unit
 - 3. One (1) acre when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.

- B. Minimum Lot Width:
 - 1. Seventy-Five (75') feet when the minimum required lot size is not less than Nine Thousand (9,000) square feet.
 - 2. One Hundred (100') feet when the minimum required lot size is not less than Fifteen Thousand (15,000) square feet.
 - 3. One Hundred and Fifty (150') for lots with on-lot sewage disposal.

- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than thirty (30') feet in depth as measured from the rear lot line.

- E. Side Yard: The combined side yards shall be not less than eighteen (18') feet, with not less than (9') feet on each side.

- F. Lot Coverage: Not more than thirty (30%) percent of the lot area shall be covered with buildings or structures.

- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

503.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

503.7 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 504 - R-3 –MULTIFAMILY RESIDENTIAL DISTRICT

504.1 PERMITTED USES

- Single-family Detached Dwellings
- Two-Family Dwellings
- Townhouses Land Development approval may also required und the Exeter Borough Subdivision and Land Development Ordinance
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Day Care Home
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Forestry(as defined in Article 2, also see Section 902.15)
- Home Office
- No-Impact Home Based Business
- Accessory Uses to the Above

504.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Emergency Services Facility
- Day Care Homes
- Group Residence
- Home Occupations
- Public Recreational Facilities
- Public Uses, as defined in Article 2
- Quasi-Public Use
- Single Structure with Multifamily Dwellings (three of more units)
- Accessory Uses to the Above

504.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

504.4 CONDITIONAL USES (See Article 8)

- Mobile Home Park (including expansion of an existing Mobile Home Park. (Land Development approval may also required und the Exeter Borough Subdivision and Land Development Ordinance.
- Any nonresidential use permitted by right or by special exception in the R-3 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (e) the initial or cumulative construction, placement or installation of a

building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet

504.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 9 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use shall be located upon a lot having a minimum lot area of not less than:
 - 1. Seven Thousand Five Hundred (7,500) square feet for a single family detached residential dwelling when serviced by central sewers.
 - 2. Fifteen Thousand (15,000) square feet for a two family dwelling, when serviced by central sewers, with an additional three thousand five hundred (3,500) square feet for each additional unit
 - 3. One (1) acre when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.

- B. Minimum Lot Width:
 - 1. Sixty Five (65') feet when the minimum required lot size is not less than Nine Thousand (7,500) square feet.
 - 2. One Hundred (100') feet when the minimum required lot size is not less than Fifteen Thousand (15,000) square feet.
 - 3. One Hundred and Fifty (150') for lots with on-lot sewage disposal.

- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than thirty (30') feet in depth as measured from the rear lot line.

- E. Side Yard: The combined side yards shall be not less than sixteen (16') feet, with not less than seven (7') feet on one side.

- F. Lot Coverage: Not more than thirty (30%) percent of the lot area shall be covered with buildings or structures.

- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

504.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

504.7 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 505 - B-2- GENERAL BUSINESS DISTRICT

505.1 PERMITTED USES

A. RETAIL BUSINESSES AREA INCLUDING OR SIMILAR TO THE FOLLOWING:

- Artist, Music and Hobby Supplies
- Automotive Supplies
- Building Supplies
- Clothing and Clothing Accessories
- Commercial Greenhouses, Nurseries & Garden Shops
- Convenience Stores
- Florist Shops
- Food/Grocery
- Forestry (as defined in Article 2, also see Section 902.15)
- Greeting Cards, Books & Stationery
- Hardware
- Household Goods and Appliances
- Office Equipment and Supplies
- Pharmaceutical Products
- Sporting Goods
- Variety Goods
- Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

- Banks
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Day Care Centers
- Electronic Equipment and Products (Sales, Service and Repair)
- Funeral Homes
- Health /Recreation Facility (indoor)
- Office, Professional
- Office, Service
- Personal Services
- Public Utility Facilities (as defined in Article 2 of this Ordinance), excluding storage yards.
- Restaurants
- Skilled Nursing Facility
- Taverns
- Accessory uses to the above

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING OR SIMILAR TO:

- Entertainment Facilities

- Public Recreational Facilities
- Accessory uses to the above

D. RESIDENTIAL USES

- Single-family Detached Dwellings
- Two-Family Dwellings
- Dwelling over and/or attached to Business
- Group Residence
- No-Impact Home Based Business
- Home Occupations
- Home Office
- Accessory uses to the above

E. MISCELLANEOUS

- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Emergency Services Facility
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Public Uses

505.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Car Wash
- Commercial Recreational Facilities
- Club or Lodge (Private)
- Medical Clinics
- Private Recreational Facilities
- Automotive Repair Garage
- Warehouse Facilities, including self-storage.
- Accessory uses to the above

505.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

505.4 CONDITIONAL USES (See Article 8)

- Any nonresidential use permitted by right or by special exception in the B-2 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (f) the initial or cumulative construction, placement or installation of a

building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet

505.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 9 of this Ordinance.

A. Minimum Lot Area:

1. Ten Thousand (10,000) square feet, subject to the lot being serviced by centralized sewers.
2. One (1) acre when serviced by an on-lot sewage disposal system

B. Minimum Lot Width:

1. Seventy-Five (75') feet when the minimum required lot size is not less than Ten Thousand (10,000) square feet.
2. One Hundred and Fifty (150') for lots with on-lot sewage disposal.

C. Front Yard: The minimum front yard shall be not less than fifteen (15') feet in depth as measured from the front lot line.

D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line.

E. Side Yard: The side yard shall be not less than five (5') feet on each.

F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.

G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.

H. Buffer Area: Where a B-2 District abuts any residential district, a setback distance of ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than five (5) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5') feet in height, excluding corner lots where a clear site triangle shall be maintained.

The above requirements shall not be applied in such cases when the principal use in the B-2 District is residential and/or the properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

505.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

505.7 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 506 - B-3- HIGHWAY BUSINESS DISTRICT

506.1 PERMITTED USES

A. RETAIL BUSINESSES AREA INCLUDING OR SIMILAR TO THE FOLLOWING:

- Artist, Music and Hobby Supplies
- Automotive Supplies
- Clothing and Clothing Accessories
- Commercial Greenhouses, Nurseries & Garden Shops
- Convenience Stores
- Convenience Stores with Gas Sales
- Equipment Sales and Repair
- Flea Market
- Florist Shops
- Food/Grocery
- Forestry (as defined in Article 2, also see Section 902.15)
- Greeting Cards, Books & Stationery
- Hardware
- Household Goods and Appliances
- Office Equipment and Supplies
- Paint & Painting Supplies
- Pharmaceutical Products
- Sporting Goods
- Variety Goods
- Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:

- Animal Hospital
- Automotive Sales
- Automotive Services, including reconditioning, detailing polishing, air conditioning, and similar services
- Banks
- Car Wash
- Continuing Care Facilities
- Day Care Centers
- Electronic Equipment and Products (Sales, Service and Repair)
- Funeral Home
- Gas Station
- Gas Station, Limited-Service
- Heath Spa
- Laundromat, Self-Service
- Office, Professional
- Office, Service
- Personal Services
- Photocopy Service

- Private Garage (storage of commercial vehicles)
- Restaurant:
- Restaurant, Carry-Out:
- Restaurant, Fast-Food:
- Taverns
- Tattoo Parlor/Body-Piercing Studio
- Warehouse Facilities, including self-storage.
- Accessory uses to the above

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING OR SIMILAR TO:

- Club or Lodge (Private)
- Commercial Recreational Facilities
- Entertainment Facilities
- Private Recreational Facilities
- Public Recreational Facilities
- Accessory uses to the above

D. RESIDENTIAL USES

- Single-family Detached Dwellings
- Two-Family Dwellings
- Dwelling over and/or attached to Business
- Group Residence
- No-Impact Home Based Business
- Home Occupations
- Home Office
- Accessory uses to the above

E. MISCELLANEOUS

- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Emergency Services Facility
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance (excluding storage yards)
- Public Uses

506.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Flea Market
- Hotels/Motels
- Institutional Use (as defined in Article 2)
- Medical Clinics
- Outdoor Storage (Commercial)
- Pawnshop

- Pet Day Care Services
- Automotive Repair Garage
- Rooming House/ Boarding
- Accessory uses to the above

506.3 PROHIBITED USES

- Any use which utilizes and/or stores any hazardous substances as defined in Article 2 of this Ordinance.

506.4 CONDITIONAL USES (See Article 8)

- Large Retail Establishment, not to exceed 75,000 square feet of gross floor area.
- Any nonresidential use, other than a large retail establishment, permitted by right or by special exception in the B-3 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds thirty thousand (30,000) square feet of buildings, structures and/or other impervious surface area.

506.5 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 9 of this Ordinance.

A. Minimum Lot Area:

1. Fifteen Thousand (15,000) square feet, subject to the lot being serviced by centralized sewers.
2. One (1) acre when serviced by an on-lot sewage disposal system

B. Minimum Lot Width:

1. One hundred (100) feet when the minimum required lot size is not less than Fifteen Thousand (15,000) square feet.
2. One Hundred and Fifty (150') for lots with on-lot sewage disposal.

C. Front Yard: The minimum front yard shall be not less than twenty-five (25') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than thirty (30') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than ten (10') feet on each side.
- F. Lot Coverage: Not more than forty (40%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed three (3) stories or forty (40') feet.
- H. Buffer Area: Where a B-3 District abuts any residential district, a setback distance of ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than five (5) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5') feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases when the principal use in the B-3 District is residential and/or the properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

506.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

506.7 REGULATIONS GOVERNING ABANDONMENT OF LEGAL NONCONFORMING USES IN A B-3 ZONING DISTRICT

- A. A lot may be used as permitted in this district without compliance with and notwithstanding the requirements of Section 506.4 provided that the lot and the existing or proposed development as illustrated on a site plan sealed by a registered engineer or architect complies with the following:
 - 1. The lot is the site of a lawful, nonconforming use or there exists the - right to continue or to resume a lawful nonconforming use on the lot;
 - 2. The right to operate or conduct any and all lawful nonconforming uses shall be abandoned totally and the lot shall be developed for a use or uses permitted in the B-3 zoning district;
 - 3. All buildings or structures previously devoted to such nonconforming use or uses shall be removed or converted to uses as permitted in the zoning district;
 - 4. The lot exceeds 15 acres of lot area;

5. The lot is developed, or is proposed to be developed, with a building having a gross floor area in excess of ninety thousand (90,000) square feet;
 6. The lot enjoys a minimum of 300 lineal feet of street frontage;
 7. The new use shall be served by public sewer and public water prior to commencement; and
 8. Except as otherwise provided in Section 506.7B, the new use shall be developed in a manner which conforms to all dimensional requirements contained in Section 506.5 of the Zoning Ordinance.
- B. Notwithstanding anything contained in this Zoning Ordinance to the contrary, the following provisions shall apply to developments on lots satisfying the criteria set forth in Section 506.7A, subsections 1 through 7:
1. Parking:

One (1) parking space, measuring no less than 162 square feet, shall be required for every two hundred (250) square feet of gross floor area contained in all buildings on the lot.
 2. Freestanding Signs:
 - (a) No freestanding sign shall exceed two hundred and fifty (250) square feet in area.
 - (b) The maximum height for any freestanding sign shall be thirty (30) feet.
 3. Directional Signs:
 - (a) No directional sign shall exceed thirty (30) square feet in area.
 - (b) There shall be no limitation on the number of directional signs.
 4. Wall Signs: Not more than eight (8) wall signs may be displayed on a building.
 5. Temporary Signs:
 - (a) No temporary sign shall exceed two hundred sixty (260) square feet.

- (b) A lot may have no more than three (3) temporary signs, none of which may be displayed for longer than 90 days in a single calendar year.

6. Access Drives:

The size, location, and quantity of access drives and driveways shall be in accordance with the regulations of the Pennsylvania Department of Transportation.

506.8 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definition of a "Subdivision" or a "Land Development", as provided in Article 2 of the Exeter Borough Subdivision and Land Development Ordinance shall also be subject to the governing regulations and provisions within said Ordinance.

SECTION 507 - I-1 GENERAL INDUSTRIAL DISTRICT

507.1 PERMITTED USES

- Automotive Repair Garage
- Automotive Sales
- Building Supplies
- Commercial Industrial Laundry
- Communication antennas mounted on an existing public utility transmission tower, building or other structure.
- Contractors' Offices, Shops and Storage Yards (for commercial uses which sell products such as: lumber, building, heating, plumbing, electrical, masonry, fencing and related material).
- Contractor's Storage:
- Electronic Equipment and Products (Sales, Service and Repair)
- Equipment Sales and Repairs
- Essential Public Utility Facilities as defined in Article 2 of this Ordinance
- Food Processing Establishment (as defined in Article 2)
- Forestry (as defined in Article 2, also see Section 902.13)
- Gasoline Service Stations
- Light Industry (as defined in Article 2)
- Lumberyards Outdoor Storage (Commercial)
- Print Shops
- Public Uses
- Public Utility Facilities
- Stone or Monument Works
- Warehouse and Distribution Facilities
- Warehousing, including self-Storage Facilities
- Accessory uses to the above

507.2 USES PERMITTED BY SPECIAL EXCEPTION (See Article 7)

- Trucking Facilities

507.3 CONDITIONAL USES (See Article 8)

- After Hours Club
- Ancillary Facilities of Oil Or Gas Development
- Automotive Wrecking Yards
- Bottle Club
- Bulk Fuel Storage
- Compressor
- Detention Facility
- Excavation And Extraction Of Minerals, (As Defined In Article 2)
- Heavy Industrial Uses (As Defined In Article 2)
- Hydraulic Fracturing Water Withdrawal Facility
- Hydraulic Fracturing Water Treatment Facility

- Junk Yards
- Oil And Gas Compressor Station
- Oil And Gas Development
- Oil And Gas Metering Station
- Oil And Gas Pipelines
- Oil And Gas Processing Facility
- Oil And Gas Staging Facility
- Oil And Gas Water Reuse Storage Facility
- Oil Or Gas Well
- Oil Or Gas Well Pad
- Recycling Collection Center
- Sewage Treatment Plants
- Sexually Oriented Uses (as defined in Article 2)
- Transfer Stations

Any nonresidential use permitted by right or by special exception in the I-1 district shall be deemed a conditional use if it involves any of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
- (g) the initial or cumulative construction, placement or installation of a building and/or structure which equals or exceeds twenty thousand 20,000 square feet of gross floor area and/or any development which has a cumulative impervious surface area of which equals or exceeds twenty thousand 20,000 square feet
- (c) Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

507.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 9 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure or use shall be located upon a lot having a lot area of forty thousand (40,000) square feet.
- B. Minimum Lot Width: Each lot shall have a lot width not less than one hundred fifty (150) feet.
- C. Minimum Front Yard Setback: The minimum front yard shall be not less than thirty (30) feet in depth as measured from the front lot line.
- D. Minimum Rear Yard Setback: The rear yard shall be not less than thirty (30) feet in depth as measured from the rear lot line.

- E. Minimum Side Yard Setback: The side yard shall be not less than twenty (20) feet on each side.
- F. Maximum Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings and/or structures..
- G. Maximum Building Height: The maximum height of any building and/or structure shall not exceed three (3) stories or forty-five (45) feet.
- H. Buffer Area: Where I Districts abut any residential district, an additional twenty (20) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.
- J. Noise: For any proposed heavy industrial use (as defined in Article 2) or light industrial use (as defined in Article 2), the applicant shall establish the continuous seventy-two hour ambient noise for all level of frequencies at all boundaries of the property on which the proposed use or facility is to be located, with prior approval of the testing times and dates by the Borough Council. All noise level measurements for all level of frequencies shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting. The decibel level for all level of frequencies for any proposed heavy industrial use or proposed light industrial use shall not exceed established ambient noise level outside the boundaries of the property by more than 3 decibels.

507.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 9)

507.6 SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or a "Land Development", as provided in Article 2 of this Ordinance, shall also be subject to the governing regulations and provisions of the Exeter Borough Subdivision and Land Development Ordinance.

ARTICLE 6
CONSERVATION DESIGN OVERLAY DISTRICT

SECTION 601 PURPOSE

- A. In conformance with the Pennsylvania Municipalities Planning Code the purposes of this Article among others, are as follows:
1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
 2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
 3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
 4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
 5. To implement adopted Borough's policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Borough's Comprehensive Plan including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
 6. To protect areas of the Borough with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 7. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
 8. To provide for the conservation and maintenance of open land within the Borough to achieve the above-mentioned goals and for active or passive recreational use by residents.
 9. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
 10. To provide standards reflecting the varying circumstances and interests

of individual landowners, and the individual characteristics of their properties.

11. To conserve scenic views and elements of the Borough's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

B. In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing two forms of "by-right" development referred to as "options", as summarized below:

1. **Option One: Neutral Density and Basic Conservation**, providing for residential uses at the density of the underlying zoning district. Open space must comprise at least half the tract.
2. **Option Two: Estate Lots**, providing for rural residential uses at a reduced density of one half of the density of the underlying zoning district in conventional layouts of standard lots, where homes and streets are located carefully to minimize impacts on resource lands. No open space is required.

C. Section 604 sets forth the development densities and required open space land percentages.

SECTION 602 GENERAL REGULATIONS

In addition to the governing requirements of the Exeter Borough Subdivision and Land Development Ordinance, the design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- A. **Applicability**. This district shall be an overlay on the C-1 Conservation District and shall apply to all residential uses on tracts 10 acres of Adjusted Tract Area or larger, except for minor subdivisions, which are exempt.
- B. **Ownership**: The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.
- C. **Site Suitability**: As evidenced by the Existing Resources/Site Analysis Plan, the conceptual Preliminary Plan, and the detailed Final Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- D. **Combining the Design Options**: The various layout and density options described in this Article may be combined at the discretion of the Planning Commission, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Article, as compared with applying a single option to the property.

- E. Intersections and Access: New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing more than 13 (thirteen) dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.
- F. Sensitive Area Disturbance - The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Existing Resources and Site Analysis Plan. Lands within the 100-year floodplain, or having slopes in excess of 25%, and rock outcroppings and wetlands constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the Preliminary Subdivision Plan and the Final Subdivision Plan.

SECTION 603 USE REGULATIONS

The following residential uses shall be permitted in a Conservation Subdivision.

- A. Single-Family Detached Dwellings
- B. Conservation Open Space comprising a portion of residential development, according to requirements of Section 605
- C. Nonresidential Uses - The following non-residential uses:
- Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
 - Wood lots, arboreta, and other similar silvicultural uses.
 - Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
 - Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit entity or agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal solid waste disposal facilities.
- D. Accessory Uses - Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.

SECTION 604 DENSITY DETERMINATION AND DIMENSIONAL STANDARDS

Maximum density, minimum open space, and dimensional and bulk requirements for Conservation Subdivisions in the C-1 are set forth in the Table 604-A.

**TABLE 604-A
C-1, CONSERVATION DISTRICT**

	OPTION 1 Neutral Density/Basic Conservation	OPTION 2 Estate Lots
Density*	1 du//80,000 SF ATA or as determined by a yield plan	1 du/160,000 SF ATA or as determined by a yield plan
Minimum Lot Size	20,000 SF	40,000 SF
Minimum Lot Width at Building Line	80 FT	115 FT
Minimum Street Frontage	20 FT	50 FT
Minimum Front Setback	20 FT	50 FT
Minimum Rear Setback	40 FT	50 FT
Minimum Side Yard Setback per side	10 FT	25 FT
Maximum Lot Impervious Coverage	20%	15%
Maximum Height	2 ¹ / ₂ Stories not to exceed 35 ft	2 ¹ / ₂ Stories not to exceed 35 ft

* Density is based on Adjusted Tract Area, which subtracts constrained land.

SECTION 605 METHODS FOR DENSITY DETERMINATION FOR
CONSERVATION SUBDIVISIONS

Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

- A. Adjusted Tract Area Approach. Determination of the maximum number of dwelling units shall be based upon the following calculations.
 - a. Determine Gross Tract Area. Gross tract area shall equal the acreage within the legally described parcel minus existing public or private road rights-of-way.
 - 2. Determine Constrained Land. Constrained land consists of the resources listed in Table 605-A, multiplied by a protection factor and added for a total sum. In the event two or more resources overlap, only the resource with the highest protection factor shall be used.

Table 605-A

	Resource	Area of Resource (acres)	Protection Factor	Constrained Land (acres)
a.	Existing Utility Rights-of-Way		x 1.0	=

b.	That portion of lands under conservation easement that are restricted from further development		x 1.0	=
c.	100-year Floodplain		x 1.0	=
d.	Wetlands		x 0.95	=
e.	Prohibitive Steep Slopes (over 25%)		x 0.85	=
f.	Precautionary Steep Slopes (15-25%)		x 0.25	=
g.	Rock Outcroppings over 1,000 SF in area		x 0.90	=
h.	CONSTRAINED LAND = SUM OF a through g =			

3. Determine Adjusted Tract Area (ATA). Adjusted Tract Area equals the gross tract area minus the constrained land.

a.	Gross tract area	_____ acres
b.	minus Constrained Land (from Table 605.D.h above)	_____ acres
c.	equals Adjusted Tract Area (ATA)	= _____ acres ATA

4. Maximum Number of Dwelling Units. In Options 1 and 2, the maximum number of dwelling units equals the Adjusted Tract Area (ATA) divided by the applicable density factor set forth in Table 605.A.

a.	Adjusted Tract Area (from 3.c above, converted to square feet)	_____ SF
b.	divided by density factor (from Table 104.A)	÷ _____
c.	equals maximum number of dwelling units	= _____ DU's

1) In Option 2, the maximum number of dwelling units equals the ATA area divided by 80,000 SF.

2) Where calculations result in fractional numbers, the fraction shall be rounded down to the next whole number.

B. Yield Plan Approach.

1. Number of Units Permitted.
 - a. For Option 1, the maximum number of dwelling units shall be determined by a layout with conventional lotting using the dimensional standards in Table 605-B. The number of units permitted in the conservation subdivision shall equal the number of units on the yield plan, provided it meets the requirements of this section and all sections of the Subdivision and Land Development Ordinance applicable to conventional lotting.

Table 605-B

Standard	Option 1
Minimum lot area	80,000 SF
Minimum street frontage	150 feet
Front yard	75 feet
Rear yard	75 feet
Side yard per side	25 feet

- b. For Option 2, the maximum number of units permitted shall equal the number of units on an Option 1 yield plan, multiplied by a factor of .50.
2. Wetlands, slopes greater than 25 percent and land under high-tension electrical transmission lines (69 kV or greater) and any other existing easements or encumbrances shall not be counted toward minimum lot area.
3. No more than 25 percent of the minimum lot area may consist of land within the 100-year floodplain. Floodplain that is counted toward minimum lot area shall be free of wetlands.
4. Yield plans shall meet the following requirements:
 - a. Yield plans shall be prepared as conceptual layout plans in accordance with the standards of the Subdivision and Land Development Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Yield plans shall be drawn to scale. The layout shall be realistic, reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the ability of the site to utilize on-lot soils-based sewage disposal methods.

- b. The yield plan shall identify the site's primary and secondary resources, as identified in the Existing Resources/Site Analysis (ER/SA) Plan required in Section 402.3 in the Subdivision and Land Development Ordinance.
- c. On sites not served by central sewage disposal facilities, density shall be further determined by evaluating the number of homes that could be supported by individual soils-based sewage disposal methods. For the purposes of determining density under this Section, this standard shall exclude holding tanks, individual stream discharge systems and evapotranspiration systems.
- d. Based on the ER/SA Plan and observations made during an on-site visit of the property, the municipal Engineer shall select a 10% sample of the lots considered marginal for on-lot sewage disposal. The applicant shall provide evidence that these lots meet the standards for an individual soils-based septic system. Should any of the lots in a sample fail to meet the standard for an individual soils-based septic system, those lots shall be deducted from the yield plan and a second 10% sample shall be selected by the municipal Engineer and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual soils-based septic system.

SECTION 606 DESIGN STANDARDS FOR CONSERVATION SUBDIVISIONS

- A. Lots shall not encroach upon Primary Conservation Areas as identified in the Borough's Subdivision and Land Development Ordinance, and their layout shall respect Secondary Conservation Areas as described in both the Borough's Zoning Ordinance and in the Subdivision and Land Development Ordinance.
- B. All new dwellings shall meet the following setback requirements:
 - 1. From all external road ultimate right-of-way - 100 feet
 - 2. From all other tract boundaries - 50 feet
 - 3. From cropland or pasture land - 100 feet
 - 4. From buildings or barnyards housing livestock - 300 feet
 - 5. From active recreation areas such as courts or playingfields (not including tot-lots) -150 feet.
- C. Views of lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Borough's Subdivision and Land Development Ordinance.
- D. Lots shall generally be accessed from interior streets, rather than from roads bordering the tract.
- E. One centrally located access point to the open space shall be provided for every 15 lots and shall be at least 35 feet wide.

- F. At least 50% of the dwelling units shall face open space, with the front façade of the dwelling, either directly or across a street.

SECTION 607 OPEN SPACE LAND USE AND DESIGN STANDARDS

Protected open space land in all subdivisions shall meet the following standards:

A. Uses Permitted On Open Space Lands

The following uses are permitted in open space land areas:

1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
3. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required open space land.
4. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.
5. Village greens, central commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.
 - a. Active non-commercial recreation areas, such as playing fields, playgrounds and bikeways, not requiring supporting structures. Such recreational uses shall meet the following standards:
 - b. Such areas shall not consume more than 50% of the minimum required Greenway land or five acres, whichever is less. The 5-acre limit may be increased to 10 acres on development parcels 200 acres or larger.
 - c. Playing fields and playgrounds shall not be located within 100 feet of the tract boundary or a dwelling unit within the development parcel.
 - d. Minimum parking facilities for the same, as determined by the Borough Council, may also be permitted. Such lots may be paved with gravel and shall be unlighted, properly drained and provide safe ingress and egress.

6. Non-commercial recreation areas such as playing fields, courts, swimming pools or picnic areas requiring supporting structures, and their parking areas, are permitted, but shall not count toward the minimum required Greenway land, unless dedicated to the Borough. Structures shall be Di minimus to the activity. Parking areas may be paved with gravel and shall be unlighted, properly drained and provide safe ingress and egress.
7. Audubon International Signature golf courses and their accessory facilities and parking areas, when permitted by the underlying zoning district, may comprise up to 50 percent of the minimum ATA of the required Greenway land. This use shall not include driving ranges or miniature golf. The gross floor area devoted to sales of golf equipment, clothing, food and other similar items shall not exceed 1,200 square feet gross. Accessory facilities and parking areas shall not count toward the minimum Greenway land requirement.
8. The total area of water supply systems, sewage disposal systems, stormwater management systems and associated easements may occupy up to 20 percent of the minimum ATA required in the Greenway land. The following standards shall apply:
 - a. Water Supply Systems.
 - 1) Drainage easements for water lines may be counted toward the minimum Greenway land requirement.
 - 2) Land used for ground-level well structures and associated parking exceeding 5,000 square feet shall not count toward the minimum Greenway land requirement.
 - b. Sewage Disposal Systems.
 - 1) Sewage treatment lagoons, structures, structure access areas and parking lots shall not count toward the Greenway land requirement.
 - 2) Sewage disposal areas shall be appropriate for active or passive recreation or managed as meadows and may be counted toward the minimum Greenway land requirement.
 - 3) Absorption fields serving individual dwelling units may be located in the Greenway land, but individual treatment tanks shall be located within the lots they serve.
 - 4) Drainage easements for sewer lines may be counted toward the minimum Greenway land requirement.
 - c. Stormwater Management Systems. The following stormwater management practices may be counted toward the minimum Greenway land requirement provided they meet the guidelines in the Pennsylvania Stormwater Best Management Practices Manual:
 - 1) Infiltration basin, provided the berms do not exceed 36 inches in height;

- 2) Subsurface infiltration bed;
 - 3) Infiltration trench;
 - 4) Rain garden;
 - 5) Vegetated swale;
 - 6) Infiltration berm, provided the berms do not exceed 24 inches in height.
9. Easements or rights-of-way for overhead power lines shall not count toward the minimum Greenway land requirement.

B. Open Space Design Standards

1. Open Space lands shall be laid out in consideration Borough's Comprehensive Plan to ensure that an interconnected network of open space will be provided. The required open space land consists of a mixture of Primary Conservation Areas, all of which must be included, and Secondary Conservation Areas. Primary Conservation Areas comprise floodplains, wetlands, and slopes over 25%. Secondary Conservation Areas should include special features of the property that would ordinarily be overlooked or ignored during the design process.
2. The open space land shall comprise a minimum of 50% of the Adjusted Tract Area. This land shall generally remain undivided and may be owned and maintained by a community association, a homeowners' association, land trust, another conservation organization recognized by the Borough, or by a private individual (typically as part of the original farmhouse). However, in no case shall less than 30% of the land comprising the "Adjusted Tract Area" be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the open space land may be owned by different entities.
3. Greens.
 - a. At least three percent (3%) of the required open space shall be in the form of common greens. A green is typically 5,000-20,000 square feet in area, with a maximum area of 32,000 square feet.
 - b. A green shall be created and maintained as the open space around which dwellings are arranged. Dwellings shall face the green with the front façade of the dwelling.
 - c. Greens shall be surrounded by roads on at least two sides, but more commonly on three or four sides.

SECTION 608

GREENWAY LAND: PERMANENT PROTECTION

Whenever the landowner is providing Greenway land as part of the development, a conservation easement restricting such Greenway land in perpetuity against further subdivision or development shall be executed between the landowner and the Borough or

a qualified land conservancy acceptable to the Borough. Deed restrictions may also be used in certain applications, in accordance with Subsection B below.

- A. Conservation Easements. Conservation easements are required to protect Greenway lands from further subdivision and development and to conserve the natural characteristics of such lands. Conservation easements shall conform to the following minimum requirements:
1. Easements shall be granted to a land conservancy meeting the requirements in Section 609.A.3. The Grantee shall have the rights of reasonable entry and enforcement.
 2. The property made subject to the conservation easement shall be described by metes and bounds, by an exhibit containing the subdivision plan and designating the property, and photographs which illustrate the nature and character of the property and any special environmental features identified by the Planning Commission during the subdivision process.
 3. Grantors shall declare that the terms of the easement shall run with the land and bind the property in perpetuity for the benefit of the Grantee.
 4. The uses of property subject to the conservation easement shall be limited by the permitted uses defined by Section 607.A of this ordinance. The following use restrictions shall also apply:
 - a. The property shall not be further subdivided into additional building lots.
 - b. Construction shall be permitted only in areas specifically designated in the property description and approved by the Borough Council. The determination of the need for any additional disturbance shall lie with the Borough Council.
 - c. Permitted construction activities, including cutting and removing of trees and other vegetation shall be permitted only in compliance with the Management Plan.
 - d. Signs, fencing and dumping shall be restricted in consistence with the permitted uses and Management Plan.
 5. The terms and restrictions of the conservation easement shall be approved by the Borough Council which shall be guided by the objectives set forth in the Municipal Comprehensive Plan and/or Open Space Plan, as well as the Management Plan for the property.
 6. Provisions pertaining to remedies, liability, indemnification and other relevant subjects, shall be approved by the Grantor, the Borough Council and the authorized representative of the Grantee before final approval of the development plan by the Borough Council.

- B. Deed Restrictions. Deed restrictions may be used in the place of conservation easements only under the following circumstances and in accordance with the following standards:
1. When Greenway land totals less than 5 acres, a deed restriction may be used.
 2. If no entity is available or willing to hold a conservation easement on required Greenway land, a deed restriction may be used.
 3. The Borough shall be party to the deed restriction. The deed restriction shall be used only if approved by the Borough. If the Borough does not agree to be party to the restriction, no deed restriction shall be used.
 4. Restrictions, meeting municipal specifications, shall be placed in the deed for each lot with Greenway land. The deed restriction shall ensure the permanent protection and continuance of the Greenway land and shall define permitted uses.
 5. It shall be clearly stated in the individual deeds that maintenance responsibility for the Greenway land lies with the property owner.

SECTION 609 GREENWAY LAND: OWNERSHIP AND MAINTENANCE

- A. Ownership Options for Greenway Land. The following methods may be used, either individually or in combination, to own common facilities and Greenway land. Greenway land shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no decrease in the total Greenway land. Ownership methods shall conform to the following:
1. Borough.
 - a. Fee Simple Dedication to the Borough. The Borough may, but shall not be required to, accept dedication of any portion of the Greenway land, provided that:
 - 1) There is no cost of acquisition to the Borough; and
 - 2) The Borough agrees to and has access to maintain such Greenway land.
 - b. Dedication of Easements to the Borough. The Borough may, but shall not be required to, accept dedication of easements for public use of any portion of the Greenway land. In such cases, the facility remains in the ownership of the community association, or private conservation organization, while the Borough holds the easements. In addition, the following regulations shall apply:
 - 1) There shall be no cost of acquisition to the Borough;
 - 2) Any such easements for public use shall be accessible to the residents of the Borough; and
 - 3) A satisfactory maintenance agreement shall be reached between the owner and the Borough.

2. Community Association. Greenway land and common facilities may be held in common ownership for the use of all residents of the subdivision or land development and shall thereby be controlled and maintained by a Community Association. Community Association Documents shall be in compliance with the Pennsylvania Uniform Planned Community Act (as to a Homeowners' Association Document) or the Pennsylvania Uniform Condominium Act (as to a Condominium Association Document), as the case may be. The Community Association Document shall include, but not be limited to, the following:
 - a. A description of the common Greenway land to be owned by the Community Association. This description shall include a plan of the proposal highlighting the precise location of all aspects of the common Greenway land;
 - b. Statements setting forth the powers, duties, and responsibilities of the Community Association, including the services to be provided;
 - c. A Declaration of Covenants, Conditions, and Restrictions (Declaration), giving perpetual easement to the lands and facilities owned by the Community Association. The Declaration shall be a legal document providing for automatic membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the Community Association, including voting, elections, and meetings. The Declaration shall give power to the Community Association to own and maintain the common Greenway land and to make and enforce rules;
 - d. Statements prescribing the process by which Community Association decisions are reached and setting forth the authority to act;
 - e. Statements requiring each owner within the subdivision or land development to become a member of the Community Association;
 - f. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement;
 - g. Requirements for all owners to provide a pro rata share of the cost of the operations of the Community Association;
 - h. A process of collection and enforcement to obtain funds from owners who fail to comply;
 - i. A process for transition of control of the Community Association from the developer to the unit owners;
 - j. Statements describing how the common Greenway land of the Community Association will be insured, including limit of liability;
 - k. Provisions for the dissolution of the Community Association;

- l. Agreements for the maintenance of stormwater management facilities; and
 - m. Agreements for the maintenance and operation of water supply and wastewater treatment facilities.
3. Private Conservation Organization or the County. With permission of the Borough, an owner may transfer either fee simple title of the Greenway land or easements on the Greenway land to a private non-profit conservation organization or to the County provided that:
- a. The conservation organization is acceptable to the Borough and is a bona fide conservation organization intended to exist indefinitely;
 - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or the County becomes unwilling or unable to continue carrying out its functions;
 - c. The Greenway land is permanently restricted from future development through a conservation easement and the Borough is given the ability to enforce these restrictions; and
 - d. A maintenance agreement acceptable to the Borough is established between the owner and the organization or the County.

B. Management Plan.

- 1. Unless otherwise agreed to by the Borough Council, the cost and responsibility of maintaining Greenway land shall be borne by the property owner, community association, or conservation organization.
- 2. The applicant shall, at the time of preliminary plan submission, provide a plan for management of Greenway land in accordance with Section 502.J in the Subdivision and Land Development Ordinance.

C. Remedy. Failure to adequately maintain the Greenway land in reasonable order and condition in accordance with the development plan constitutes a violation of this ordinance.

- 1. In the event that the organization established to maintain the Greenway land, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Borough may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the Greenway land in reasonable order and condition, and may direct the owner to remedy the same within twenty (20) days.
- 2. Upon default by any owner or other entity responsible for maintenance of Greenway land, where such maintenance is necessary to abate a nuisance, emergency, hazard or other condition threatening persons or property or the public health, safety or welfare, the Borough may, but shall not be obligated to, take the following actions:

- a. Upon 30 days advance written notice to the owner or entity responsible for such maintenance (or any lesser number of days as may be specified in the notice in instances of emergency) and the failure of such owner or entity to perform the necessary maintenance and remedy the condition set forth in the notice, the Borough may enter upon the Greenway land to correct the condition. If the Borough is forced to assume responsibility for maintenance, any escrow funds may be forfeited and any permits may be revoked or suspended.
- b. Any and all costs incurred by the Borough in connection with such notice and maintenance shall be paid by the owner or responsible entity within 10 days after written demand by the Borough. Upon failure of the owner or responsible entity to pay such costs in the time required, there shall be added thereto, interest at the rate of 15 percent per annum as well as all costs incurred by the Borough in collection thereof.

All such costs of maintenance, remediation, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the owner or responsible entity. Notice of such lien shall be filed by the Borough in the office of the Prothonotary of the County

ARTICLE 7
SPECIAL EXCEPTIONS

SECTION 701 PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Article 5, Zoning District Regulations.

SECTION 702 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 16. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in Section 1610.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of Exeter Borough and any applicable State and/or Federal regulations.

SECTION 703 SITE PLAN

Uses classified as a special exception shall file, in addition to a zoning permit application and an application for hearing before the Zoning Hearing Board, a site plan at a scale of not greater than

One (1) inch equals fifty (50) feet for uses/developments located upon properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for uses/developments located upon properties being two (2) acres or less.

Please note that the subject applications must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.

Such site plan shall provide all applicable information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including

the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Borough.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
12. In cases when a proposed use includes new construction and/or grading of the site, applicant shall provide upon the site plan the contours of the site at vertical intervals of:
 - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
 - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
 - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

13. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Luzerne County Conservation District.
14. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent

operational aspects, features and/or activities related to the proposed uses or development of the site.

15. The applicant shall supply any other information required by the Exeter Borough Zoning Hearing Board for determining the conformance of the special exception use with the applicable regulations for that particular use.

SECTION 704 IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "Impact Analysis" on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance.

ARTICLE 8
CONDITIONAL USES

SECTION 801 PURPOSE

The purpose of a use classified as a “Conditional Use” is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Article 5 of this Ordinance.

SECTION 802 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Exeter Borough Council, with the Exeter Borough Planning Commission having the authority to review and submit their recommendations to the Borough Council. Decisions by the Borough Council shall be made in accordance with standards and criteria set forth in this Article, Article 9 (Supplemental Regulations), any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and all applicable State and/or Federal regulations.

SECTION 803 PLANS, INFORMATION AND PROCEDURES FOR CONDITIONAL USES

The procedure for approval or denial of a conditional use shall be in accordance with the following:

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than:

One inch (1) equals fifty (50) feet for properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for properties being two (2) acres or less.

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Borough.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
12. In cases when a proposed use includes new construction and/or grading of the site, contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey shall be required. As applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Control Plan for review and approval by the Luzerne County Conservation District.
13. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
14. The applicant shall supply any other information required by the Exeter Borough Council for determining the conformance of the conditional use with the regulations for that particular use.

- B. Prior to approving or denying an application for a conditional use, the Exeter Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council

shall submit the application for the proposed conditional use to the Exeter Borough Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.

- C. The public hearing shall be held and conducted in accordance with the same procedural guidelines, which govern the Zoning Hearing Board under Article 16 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- D. The Borough Council shall convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
- E. The Borough Council shall render a final decision on a conditional use application, within forty-five (45) days following the conclusion of the last public hearing. If the Borough Council fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.

If the Borough Council fails to conduct or complete the required hearing as provided for under Section 1606(D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as hereinabove provided, the Borough Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If the Borough Council fails to provide such notice, the applicant may do so.

- F. The Borough Council may grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

SECTION 804 GENERAL STANDARDS

The general standards contained herein, shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

- A. The proposed use shall not jeopardize Community Development Objectives, and is generally consistent with those as set forth in Article 1 of this Ordinance.

- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
- D. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions .
- E. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- F. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
- G. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
- H. The submission of any reports and/or studies, required by the Borough Council within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Borough Council, in requiring such reports and/or studies.
- I. Compliance with any applicable standards and/or criteria as set forth in Article 9, Supplemental Regulations.
- J. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Borough Council may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 805 CLASSIFIED CONDITIONAL USES

The following uses/developments are classified as conditional uses within Article 5 of this Ordinance:

Section 501 - C-1, Conservation District

- Golf Course, including clubhouses that may include dining facilities, snack bars, locker facilities, pro shops and other services directly related to its operation as a golf course.
- Wind Energy Facility (as defined in Article 2)
- Any nonresidential use permitted by right or by special exception in the C-1 District, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Section 502 - R-1, Single Family Residential District

- Any nonresidential use permitted by right or by special exception, excluding agricultural uses, shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Section 503 - R-2, Two Family Residential District

- Any nonresidential use permitted by right or by special exception in the R-2 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Section 504 - R-3, Multifamily Residential District

- Mobile Home Park (including expansion of an existing Mobile Home Park)
- Any nonresidential use permitted by right or by special exception in the R-3 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or

exceeds 40,000 square feet of surface area.

- (b) the initial or cumulative construction, placement or installation which equals or exceeds fifteen thousand (15,000) square feet of buildings, structures and/or other impervious surface area.

Section 505 - B-2, General Business District

- Large Retail Establishment not to exceed 40,000 square feet of gross floor area.
- Any nonresidential use, other than a Large Retail Establishment, permitted by right or by special exception in the B-2 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds twenty thousand (20,000) square feet of buildings, structures and/or other impervious surface area.

Section 506 - B-3, Highway Business District

- Large Retail Establishment, not to exceed 75,000 square feet of gross floor area.
- Any nonresidential use, other than a Large Retail Establishment, permitted by right or by special exception in the B-3 District shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative earth disturbance activity which equals or exceeds 40,000 square feet of surface area.
 - (b) the initial or cumulative construction, placement or installation which equals or exceeds twenty thousand (20,000) square feet of buildings, structures and/or other impervious surface area.

Section 507 - I-1, General Industrial District

- After Hours Club
- Ancillary Facilities of Oil or Gas Development
- Automotive Wrecking Yards
- Bottle Club
- Bulk Fuel Storage
- Compressor:
- Detention Facility
- Excavation and extraction of minerals, (as defined in Article 2)
- Heavy Industrial Uses (as defined in Article 2)
- Hydraulic Fracturing Water Withdrawal Facility:
- Hydraulic Fracturing Water Treatment Facility
- Junk Yards
- Methadone Clinic

- Oil or Gas Compressor Station:
- Oil or Gas Development:
- Oil or Gas Metering Stations:
- Oil or Gas Pipelines:
- Oil or Gas Processing Facility:
- Oil or Gas Staging Facility:
- Oil or Gas Water Reuse Storage Facility:
- Oil or Gas Well:
- Oil or Gas Well Pad
- Recycling Facilities
- Sewage Treatment Plants
- Sexually Oriented Uses (as defined in Article 2)
- Solid Waste Facilities
- Staging Areas
- Transfer Stations

Any nonresidential use permitted by right or by special exception in the I-1 district shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative earth disturbance activity which equals or exceeds 80,000 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 30,000 square feet of buildings, structures and/or other impervious surface area.
- (c) Any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance.

SECTION 806 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Borough Council, at its sole discretion, may exempt a use from the submission of an Environmental Impact Statement, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant which addresses the basis for the requested exemption. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Exeter Borough and its environs. An Environmental Impact Statement shall require a site plan which illustrates the applicable information for following items and/or a written response to the following items for said proposed use/development which is classified as a Conditional Use

806.01. SOIL TYPES

- a. U.S.D.A. Soil Types (illustrated upon map).

- b. Permeability of soil on the site.
- c. Rate of percolation of water through the soil for every five acres.

806.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling down stream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.
- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

806.03 GROUND COVER INCLUDING TREES

- a. Extent of existing impervious ground cover on the site.
- b. Extent of proposed impervious ground cover on the site.
- c. Extent of existing vegetative cover on the site.
- d. Extent of proposed vegetative cover on the site.

806.04 TOPOGRAPHY

- a. Maximum existing elevation of site.
- b. Minimum existing elevation of site.
- c. Maximum proposed elevation of site.
- d. Minimum proposed elevation of site.
- e. Description of the topography of the site and all proposed changes in topography.

806.05 GROUND WATER

- a. Average depth to seasonal high water table.

- b. Minimum depth to water table on site.
- c. Maximum depth to water table on site.

806.06 WATER SUPPLY

- a. The source and adequacy of water to be provided to the site.
- b. The projected water requirements (G.P.D.) for the site.
- c. The uses to which the water will be put.

806.07 SEWAGE SYSTEM

- a. Sewage disposal system (description and location on the site of system).
- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, and other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plant's present capacity and design capacity.

806.08 SOLID WASTE

- a. Estimated quantity of solid waste to be developed and/or processed on the site during and after construction.
- b. Method of disposal and/or processing of solid waste during and after construction.
- c. Plans for recycling of solid waste during and after construction.

806.09 AIR QUALITY

- a. Expected changes in air quality due to activities at the site during and after construction.
- b. Plans for control of emissions affecting air quality.

806.10 NOISE

- a. Noise levels, above existing levels, anticipated to be generated at the site, (source and magnitude), during and after construction.
- b. Proposed method for control of additional noise on-site during and after construction.

806.11 IMPACT OF PROPOSED USE/DEVELOPMENT

A description of the impacts on the environment and mitigating factors shall be provided for the following:

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.
- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.
- e. Effects on ground water quality.
- f. Effects on surface water quality.
- g. Effects on air quality.
- h. Alternatives to proposed use/development, consistent with the zoning of the site.
- i. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

806.12 IMPACT UPON CRITICAL AREAS

The applicant shall define, describe and identify upon a map, critical areas as defined in Article 2 of this Ordinance. A statement of any potential impact upon critical areas shall be provided by the applicant, including but not limited to adverse impacts which cannot be avoided and/or mitigated as a resulting effect of the development.

806.13 OTHER GOVERNMENTAL JURISDICTION

A list of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

806.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Borough Council shall promptly forward the Environmental Impact Statement to the Borough Planning Commission, the Borough Planning Consultant, the Borough Engineer and any other agency, firm or individual which the Borough Council may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Borough Council with its comments and

recommendations within thirty (30) days from the date of its submission to the Planning Commission.

- C. The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement.
- D. In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Borough Council' review of the same shall constitute sufficient basis for the denial of a conditional use permit.

ARTICLE 9
SUPPLEMENTAL REGULATIONS

SECTION 901 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception and or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

SECTION 902 USE REGULATIONS

902.1 AFTER HOURS CLUB

An After Hours Club, as so defined in Article 2 of this Ordinance, shall be located not less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

902.2 ANCILLARY FACILITIES OF OIL OR GAS DEVELOPMENT

Ancillary Facilities of Oil or Gas Development shall be classified as a conditional use in the "I-1," Zoning District. Such facilities shall be considered as a principal use and/or structure. Any applicant desiring to construct, maintain and/or and operate an Ancillary Facility of Oil or Gas Development shall submit a Conditional Use Application and Plan in accordance with the provisions of Section 803 and Section 806 of this Ordinance. The following supplemental information and provisions shall apply:

1. Information
 - a. A site plan which complies with the provisions and requirements of Section 803(A) and Section 806 of this Ordinance.
 - b. A description of proposed improvements to site with identification whether the site or any part thereof is located in a wetland or floodplain.

- b. Anticipated construction start and completion date of all improvements and the start date for the use and/or operation of the facility.

2. Dimensional, Setback, Height and Buffer Requirements

- a. A minimum parcel size of fifteen (15) acres shall be required for any an Ancillary Facility of Oil or Gas Development:

- b. A minimum setback of three thousand (3,000) feet shall be maintained between any Ancillary Facility of Oil or Gas Development from any stream, spring or body of water, or wetlands measured horizontally as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey.

- c. An Ancillary Facility of Oil or Gas Development shall require a minimum setback of three thousand (3,000) feet to any property line and a minimum distance of five thousand (5,000) feet to any Protected Use or Protected Structure. With the exception of the required Buffer Area, all land within the required setback, shall remain undisturbed and shall not be used for parking, storage or any other purpose associated with an Ancillary Facility of Oil or Gas Development except for crossing of access roads.

- d. Required Buffer: A Buffer Area, as defined in Article 2, not less than seventy-five (75) feet in depth shall be provided be along all property lines. The Borough Council may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffers shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Exeter Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- e. Height: The height of an Ancillary Facility of Oil or Gas Development shall comply with the height limitations applicable to the underlying zoning district.

- f. Flood Plains: An Ancillary Facility of Oil or Gas Development shall not be permitted within any 100 Year Flood Plain as identified in the most recent Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for the Borough as prepared and approved by Federal Emergency Management Agency (FEMA.)

3. Land Development Approval:

Approval of a land development plan in accordance with the terms, standards and procedures as set forth in the Exeter Borough Subdivision and Land Development Ordinance shall be required.

4. Stormwater Management Ordinance:

Approval of a Stormwater Management Permit shall be required for any earth disturbance in accordance with the standards and provisions of the Exeter Borough Stormwater Management Ordinance.

5. Soil Erosion and Sedimentation Control Plan

Documentation of an approved Soil Erosion and Sedimentation Control Plan by the Luzerne County Conservation District or the Pennsylvania Department of Environmental Protection and implementation of the same shall be provided prior to and during any grading and/or earth disturbance.

6. Parking and Staging Areas:

The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time. Unless stated otherwise, said parking areas shall comply with all applicable standards of Article 12, including but not limited to Section 1207. All vehicle parking areas and staging areas shall be setback not less than 200 feet from any property line. No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

7. Fence Standards.

A secured entrance gate on the access road shall be required and all gates are to be kept locked when the operator or its employees are not on the premises. All storage tanks, separation facilities, or other mechanical or production equipment on the site shall be completely enclosed by a permanent chain link fence. Standards for the chain link fence and secured gate are as follows:

- a. The chain link fence shall be at least eight (8) feet in height;
- b. Support posts shall be set in concrete and shall be imbedded into the ground to a depth sufficient to maintain the stability of the fence;
- c. The chain link shall be dark green or black steel wire;
- d. The chain link fence shall have, at a minimum, eleven (11) gauge thickness;
- e. Posts and rails shall be standard black or dark green welded pipe;
- f. Tension rods shall be three-eighths (3/8) inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six (6) inch minimum take-up. Tension bars shall have minimum thickness of one-fourth (1/4) by three-fourths (3/4) inch;
- g. Fencing shall be equipped with interlocking opaque slats, mesh, or other screening material approved by the Borough. Color of materials shall be uniform and complementary to the color of the fence and painted equipment. Approved colors shall include, but not be limited to green, brown, tan, and black.
- h. All chain link fences shall be equipped with at least two (2) gates having openings no less than 12 feet wide. The gates shall be equipped with a locking attachment and shall be kept locked except when being used for access to the site.
- d. Emergency Responders shall be given means to access to the site in case of an emergency.

- e. Warning signs shall be placed on the fencing surrounding the facility providing notice of the potential dangers and the contact information in case of an emergency. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three-hundred sixty-five days a year.

8. Engines.

A Compressor and any other power driven equipment of an Ancillary Facility of Oil or Gas Development shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Borough ordinances and the Pennsylvania Uniform Construction Code.

9 State, Federal and Local Compliance:

The applicant shall comply with all applicable State and Federal regulations and shall show evidence of obtaining the required State and/or Federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The applicant shall notify the Borough immediately of any suspension or revocation of the required State and/or Federal permits. Upon notification of said suspension or revocation the Borough issued permits will hereby be deemed suspended or revoked until State and/or Federal compliance is reached.

10. Access Roads:

Access to any ancillary facility shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of Borough roads. The following shall apply:

- a. Any newly established private easements/roadways constructed on the parcel containing the well site shall be located at least fifty (50) feet from any property line.
- b. The access road to the well site, beginning with its intersection with a Borough road, shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access way is less than two hundred (200) feet in length, the entire access road or access way shall meet these conditions. Compliance with above requirements must occur prior to the use of the access road.
- c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

11. Truck Routes and Excess Road Maintenance Agreement:

- a. The applicant for any Ancillary Facility of Oil or Gas Development, its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Borough roads directly caused by truck hauling from the Ancillary Facility of Oil or Gas Development in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained herein relating to an excess maintenance agreement and the bonding of the applicant's performance thereof, should the applicant, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Borough roads attributable to an Ancillary Facility of Oil or Gas Development, the Borough reserves the right to proceed against the applicant, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees.
- b. The applicant for an Ancillary Facility of Oil or Gas Development shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for an Ancillary Facility of Oil or Gas Development and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are determined by the Borough Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
- c. Before the commencement of any development for an Ancillary Facility of Oil or Gas Development, the Borough Engineer and the applicant shall conduct an on-site inspection of all Borough roads to be utilized for truck hauling to and from an Ancillary Facility of Oil or Gas Development. Upon the basis of the inspection, the Borough Engineer and the applicant shall prepare a detailed report documenting the existing structural condition of the road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the applicant and the Borough.
- d. The applicant for an Ancillary Facility of Oil or Gas Development shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Borough roads wherever feasible.
- e. The applicant for an Ancillary Facility of Oil or Gas Development shall produce evidenced satisfactory to the Borough Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.
- f. All Borough roads used by the applicant for an Ancillary Facility of Oil or Gas Development for truck and/or equipment hauling will be kept and restored to the same or similar condition during and after such activity. Accordingly, prior to any development and use of an Ancillary Facility of Oil or Gas Development t, the Borough and applicant shall enter into an excess maintenance agreement, in a form acceptable to the Borough, in order to guarantee the repair and the restoration of any Borough road(s), which may be determined in the reasonable

professional opinion of the Borough Engineer founded, in whole or in part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the applicant must assume explicitly its responsibility to repair and restore any Borough road determined to be damaged as a result of traffic generated by truck and/or equipment hauling from an Ancillary Facility of Oil or Gas Development in excess of the usual and customary extent due to general vehicular use. The reasonable professional opinion of the Borough Engineer as to damage(s) shall prevail hereunder.

- g. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the operator shall post a bond or other financial security in favor of the Borough and in a form acceptable to the Borough. The principal of the bond shall be determined by the Borough Engineer acting on behalf of the Borough. The bond to be posted by the operator may be in a principal sum in excess of otherwise applicable Penn Dot limits when the Borough Engineer has reasonably estimated that the cost of the repair and restoration of Borough roads will exceed the prevailing Penn Dot bonding limits.
- h. The applicant of an Ancillary Facility of Oil or Gas Development is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
- i. Notwithstanding any other provision herein set forth, the applicant of an Ancillary Facility of Oil or Gas Development shall, at all times, utilize the Borough roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The applicant shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from an Ancillary Facility of Oil or Gas Development, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
- j. Where truck traffic generated by an Ancillary Facility of Oil or Gas Development is heavy in the proximity of school bus stops, the applicant will provide flagmen to ensure the safety of children waiting for or leaving school buses.
- k. The access driveway off the public road to an Ancillary Facility of Oil or Gas Development shall be gated at the entrance to prevent illegal access. An Ancillary Facility of Oil or Gas Development assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the well name and number, name of the applicant and the telephone number for a person responsible who may be contacted in case of emergency.
- l. Access of an Ancillary Facility of Oil or Gas Development roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at an Ancillary Facility of Oil or Gas Development, the Borough shall be provided a copy of the Highway Occupancy Permit.

- m. The applicant for an Ancillary Facility of Oil or Gas Development shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes. The operator shall comply in all respects with the Borough's "Burning Ordinance".

12. Noise

- a. The applicant shall take the following steps to minimize noise resulting from an Ancillary Facility of Oil or Gas Development.
- b. An Ancillary Facility of Oil or Gas Development shall be fully enclosed in a sound reduction structure that conforms to the character of the zone in which it exists
- c. Prior to approval and use or operation of an Ancillary Facility of Oil or Gas Development the applicant shall establish the continuous seventy-two hour ambient noise level for all level of frequencies at all boundaries of the property on which the facility is located with prior approval of the testing times and dates by the Borough Council.
- d. Measurement Equipment - All noise level measurements for all level of frequencies shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements for all level of frequencies shall be taken using the FAST response time and A-weighting.
- e. The applicant shall provide the Borough documentation of the established ambient noise level for all level of frequencies prior to any operations at the subject Ancillary Facility of Oil or Gas Development.
- f. The decibel level shall not exceed ambient noise level for all level of frequencies that was established above under item 12(c) at any point outside the boundaries of the property on which subject facility is located by more than 3 decibels.

13. Engines.

A Compressor and any other power driven equipment shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Borough ordinances and the Pennsylvania Uniform Construction Code.

14. Emergency Response Plan:

- a. The applicant shall submit an Emergency Response Plan to the Borough Council for its review and approval as to its adequacy to protect the public health, safety, and general welfare in the event of an emergency or catastrophic event.
- b. Prior the use or operation of an Ancillary Facility, applicant shall provide to the Borough Council, Police Department, Fire Department and Zoning Officer, a copy of the approved Emergency Response Plan.

- c. Not less than 60 days prior use or operation of an Ancillary Facility, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from development activities and shall be made available at least annually during the period when the applicant anticipates drilling activity within the Borough. Emergency Responders shall be provided with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.

15. Lights:

No person shall permit any exterior lights located on any facility or upon the property on which a facility is located site to be directed in such a manner so that they shine directly on public road, protected use, adjacent property or property in the general vicinity of the facility. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, protected uses, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated.

16. Signage, Site Identification:

At the entrance gate to each facility where the access road intersects with the Borough or State owned road and there shall be signage clearly posted and visible posted that includes the following information.

- a. Applicant name
- b. Unit name
- c. Borough assigned address
- d. Emergency contact phone number

This information shall be updated from time to time to ensure the information is always accurate and current.

17. Environmental Pollution Liability Coverage:

The applicant shall purchase and maintain in force insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least Five Million (\$5,000,000) dollars per loss, with an annual aggregate of at least Fifteen Million (\$15,000,000) dollars. In the alternative, applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the Borough.

- a. Coverage shall include coverage for apply to pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits.
- b. The applicant shall maintain coverage until such time, as in the judgment of the Borough, it is no longer necessary.

18. Fee Reimbursement.

In submitting the Conditional Use Application, the applicant agrees to reimburse the Borough for all reasonable and direct professional consulting fees incurred by the Borough related to the site inspection, including but not limited to, the Borough Engineer, Borough Solicitor and any other reasonable and direct consulting fees incurred for the review and approval process, and for any specialized work called for in the permit and its conditions. An escrow account shall be established by the applicant with an initial deposit of \$10,000 for the drawdown by the Borough to pay for related fees incurred during the review and approval process of the conditional use application. Whenever the balance within the escrow account is less than \$5,000, upon notification from the Borough, the applicant will deposit the required amount funds into the account to restore a balance of \$10,000.

902.03 ANIMAL HOSPITAL

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than one-hundred (100) feet from any property line.

902.04 ANIMAL KENNELS

Animal kennels in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed building, no objectionable odors shall be vented outside the building. If open runways are used, the building and runways shall be located not less than one hundred (100) feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than two hundred (200) feet from such property lines. Any person operating a dog kennel must have a valid kennel license as issued by the Pennsylvania Department of Agriculture.

902.05 AUTOMOTIVE RELATED ACTIVITIES

- A. Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles, motorcycles and boats shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Said buildings shall be equipped with oil containment facilities/equipment which shall prohibit any oil from being discharged upon the ground or into streams, aquifers and/or environment. Refuse and/or waste oil shall be removed from site with disposal required in accordance with governing standards of the Pennsylvania Department of Environmental Protection. Only vehicles to be repaired on the premises or picked up by the vehicles'

owner may be stored in the yard area. Where the operation abuts on the side or rear property line of any Residential District a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive repair facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1402.2).

- B. Automotive and Boat Sales: The operation of an automotive sales business shall be solely limited to the property on which zoning approval was granted for said use. It shall be expressly prohibited to display and/or store any vehicles or boats intended for sale within or upon a street, road or public-right-of-way. Where the operation of an automotive sales use abuts on the side or rear property line of any Residential District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive sales facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1402.2).
- C. Gasoline Service Stations (Also Includes Convenience Stores With Gasoline Sales): When a service station abuts on the rear or side lot line on the side or rear property line of any Residential District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the gasoline service station from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required for a Zoning Permit (Section 1402.2). Unless superseded by a PennDOT Highway Occupancy Permit, when a service station occupies a corner lot, the access driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot and shall not exceed twenty-five (25) feet in width. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty feet from the right-of-way line of the adjoining road. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1402.2).

D. Car Wash:

1. The site shall be able accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Traffic flow and ingress/egress shall not cause traffic hazards on adjacent streets. On-lot traffic circulation channels and parking areas shall be clearly marked.
2. The facility shall be designed with a water reclamation system. The applicant shall provide evidence that adequate measures will be in place to prevent pollutants from being washed into the groundwater or waterways. Any chemicals or polluted runoff that may be hazardous to aquatic life shall be stored within an area that will completely contain any leaks, spills or polluted runoff. Water used in the operation shall not flow into streets, sidewalks, separated storm sewers or waterways.
3. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1402.2).
4. Adequate provisions shall be made for the proper and convenient disposal of refuse.

Where car wash abuts any Residential District, the following additional requirements shall apply to the side and rear yard property boundaries:

- Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the car wash facility from adjoining properties.
- Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

902.06 BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Unless superseded by a PennDOT Highway Occupancy Permit, access driveways shall be no more than twenty-five (25) feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

902.07 BED AND BREAKFAST

A Bed and Breakfast shall be within an owner occupied dwelling which are rented on a nightly basis for periods of normally not more than a week. There shall not be separate

cooking facilities in any guestrooms. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Two off street parking spaces shall be provided for each rental unit.

No signs, show windows or any type of display or advertising shall be visible from outside the premises, except for a single wall or freestanding sign, which shall not be internally illuminated, with a maximum sign area of four square feet on each of two sides, if freestanding, and with a maximum height of eight (8) feet.

In a residential district, the exterior of the building shall not be changed in any way that would decrease its residential appearance and character, except for needed modifications for historic restoration, handicapped access or fire safety.

902.08 BOARDING/ROOMING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

902.09 BOTTLE CLUB

A Bottle Club, as so defined in Article 2 of this Ordinance, shall be located not less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

902.10 BULK FUEL STORAGE

The bulk storage of natural and manufactured gas shall comply with the following requirements:

- A. Storage tanks shall be located not less than one hundred (100') feet from any property line and shall be not less than five hundred (500') feet from any dwelling, school, church or similar use.

- B. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located seventy-five (75') feet from all property lines.
- C. The tank storage area shall be fenced with an eight (8') feet high industrial gauge fence. If the property abuts on the side or rear property line containing a residence, the property shall be screened from view by a dense growth of evergreens at least five (5') feet in height at the time of planting.
- D. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

902.11 CEMETERIES

The property shall not be less than ten (10) acres. A structure, grave or place of permanent burial shall be set back not less than fifty (50) feet from the property line. The cemetery shall be enclosed along all boundaries by a fence, wall or shrubbery, or any combination thereof, at least four (4) feet in height. The interior roads shall have a minimum width of fifteen (15) feet and shall be properly maintained with either gravel or paving.

902.12 CLUB/PRIVATE LODGE

Buildings utilized for such purposes shall not be less than twenty-five (25) feet from any property line. Where such use abuts any Residential District, the following requirements shall apply to the side and rear yard property boundaries:

- Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the facility from adjoining properties.
- Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted for a Zoning Permit (Section 1402.2).

902.13 COMMERCIAL COMMUNICATION ANTENNAS
(ATTACHED TO BUILDING OR STRUCTURE)

A Commercial Communication Antenna when attached to an existing building or structure shall require approval as a special exception and shall be subject to the following requirements:

- (1) Commercial Communications Antenna shall not be located or permitted on any building or structure located within a Residential Zoning District.

- (2) A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
- (3) A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antennas.
- (4) The applicant shall provide a copy of its current Federal Communication Commission license.
- (5) The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.
- (6) The applicant shall provide evidence of agreements and/or easements necessary to provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.
- (7) The applicant shall provide A Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence.
- (8) An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Exeter Borough with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

902.14 COMMERCIAL COMMUNICATION ANTENNAS (CO-LOCATION)

The placement of a Commercial Communication Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be permitted by right in all nonresidential zoning districts. Said antenna shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Exeter Borough with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

902.15 COMMERCIAL COMMUNICATIONS FACILITY

Commercial Communication Facilities shall be subject to the following requirements.

A. COMMERCIAL COMMUNICATIONS ANTENNA

- (1) Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications

Commission governing human exposure to electromagnetic radiation.
A copy of the subject standards shall be submitted with a Zoning Permit Application.

- (2) The applicant shall provide a copy of its current Federal Communication Commission license.

B. COMMERCIAL COMMUNICATION TOWER

- (1) A written statement and graphic depiction that describes and depicts the proposed Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;
- (2) The submission of not less than three color photos, no smaller than 8 inches by 10 inches, taken from locations within a three (3) mile radius of the proposed site of a Communications Tower, as selected by the Board and computer enhanced to simulate the as-built appearance of the Tower as it would appear from these locations.
- (3) Certification and documentation from a Pennsylvania registered professional engineer that the proposed Tower will be designed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Pennsylvania Uniform Construction Code and other applicable regulations.
- (4) The name, address, and emergency telephone number for operator of the Tower;
- (5) The applicant shall demonstrate, using technological evidence, that the Tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
- (6) All new Towers shall be engineered and constructed to accommodate at least one (1) other user.
- (7) Unless required by the FAA, no Tower may use artificial or strobe lighting. The tower shall be a brownish color (whether painted brown or caused by oxidation or otherwise to lessen its visual impact) up to the height of the tallest nearby trees. Above that height, it shall be painted silver or another color that will minimize its visual impact.
- (8) A Tower shall be setback from all property lines a distance that is not less than one hundred and twenty (120%) percent of the height of the Tower as measured in linear feet.
- (9) An applicant proposing the construction of a Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or

Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half ($\frac{1}{2}$) mile radius of the proposed Tower site be contacted. The applicant shall supply supporting documentation for not selecting an alternate location.

- (10) All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure. The exposed, aboveground portion of guy anchors shall be no less than 10 feet from the nearest property line.
- (11) No signs shall be mounted on a Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Tower and a 24-hour emergency telephone number.

C. COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

- (1) A Commercial Communications Equipment Building shall not exceed four hundred (400) square feet of floor area.
- (2) A Commercial Communications Equipment Building shall meet the governing setback distances applicable to the district in which it is located.

D. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A tower shall be removed from the site within six (6) months of its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the tower and restoring the site:

- (1) The anticipated and/or estimated life of the project;
- (2) The estimated decommissioning costs in current dollars;
- (3) The method and schedule for updating the costs of decommissioning and restoration;
- (4) The method of ensuring that funds will be available for decommissioning and restoration;
- (5) The anticipated manner in which the project will be decommissioned and the site restored.
- (6) The applicant shall provide an appropriate and adequate demolition bond for purposes of removing the tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
- (7) The sufficiency of the demolition bond shall be confirmed at least every

five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

E. INSURANCE REQUIREMENTS

- (1) The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence covering the Commercial Communications Facility.

902.16 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where such use abuts any Residential District, the following requirements shall apply to the side and rear yard property boundaries:

- Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the storage area from adjoining properties.
- Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1402.2).

902.17 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.

- B. Noise and all other possible disturbing aspects connected such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All child day care facilities shall have an outdoor play area which shall be completely enclosed with a fence six (6') feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The minimum area of said play area shall be three-hundred (300) square feet or ten (10) square feet per child, whichever is greater, unless superseded by regulations of any designated State agency of the Commonwealth having jurisdiction over said use by virtue of licensing said facility.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.

902.18 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments may be permitted provided that such dwelling is occupied by the owner or manager of such business. Said dwelling unit shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. The required off-street parking shall include residence parking spaces in addition to commercial parking spaces as required by Article 12.

902.19 ENTERTAINMENT FACILITIES

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. All activities shall be conducted entirely within an enclosed structure. Any structure shall not be less than fifty (50) feet from any boundary of a Residential District. Where such use abuts any Residential District, the following requirements shall apply to the side and rear yard property boundaries:

- Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the structures and parking areas from adjoining properties.
- Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

902.20 EXCAVATION AND EXTRACTION OF MINERALS, EXCLUDING OIL AND GAS,

The intent of this section is to ensure the Borough is supplied with all necessary information for making an informed decision about the proposed mineral extraction and to establish the foundation for any conditions required to protect the public health, safety and general welfare. Excavation and extraction of minerals, as defined in Article 2, shall be considered a temporary use, subject to the following requirements:

- A. Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B. Map: Submission of a map or maps at a scale of not greater than one (1) inch equals fifty (50) feet that outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.
- C. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond that guarantees the restoration and backfilling of any land proposed to be excavated or otherwise disturbed has been secured.
- D. Insurance: That a Certificate of Insurance evidencing that the quarry operator has general liability insurance with limits of \$500,000 per accident and \$1,000,000 in the aggregate for bodily injury and personal injuries, and \$1,000,000 per accident and in the aggregate for property damage, be filed with the Borough Council; said Certificate shall indicate that Exeter Borough is listed as an additional insured on the aforementioned policy for losses arising out of the named insured's operations at the site subject to the excavation and/or extraction of minerals.
- E. Distance Provisions: The perimeter of any excavation under this Section shall comply with the governing provisions of State Surface Mining Conservation and Reclamation Act and/or the Noncoal Surface Mining Conservation and Reclamation Act, as amended.
- F. Timing: If blasting is a necessary part of the excavation/extraction process, and approved by the Borough Council, blasting shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time, excluding Saturdays, Sundays and the following holidays:

January 1st
Memorial Day
July 4th
Labor Day
Thanksgiving
Christmas

All blasting shall be in accordance with regulations promulgated by the Pennsylvania Department of Environmental Protection. The applicant shall provide the Borough with not less than a twenty-four (24) hour advance notice.

- G. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than one hundred (100) feet from both the right-of-way of any public street and the boundary of the subject property with any property located in any zoning district that allows a residence as a principal permitted use; unless a lesser distance is approved for either dimension by the Borough Council as part of a conditional use approval decision.
- H. Drainage: All excavations shall be adequately drained with the intent to avoid the formation of stagnant pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the operation. This is not intended to supersede any reclamation plan approved by the Pennsylvania Department of Environmental Protection.
- I. Compliance With State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and /or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

902.21 FOOD PROCESSING

The processing, packaging, dressing and treatment of meat, poultry and fish products, shall be conducted wholly within a completely enclosed building. Smoke, noise, or odors affecting adjacent property shall be prohibited.

902.22 FORESTRY ACTIVITIES (TIMBER HARVESTING)

In order to preserve forests and the environmental and economic benefits that they provide, it is the policy of Exeter Borough to encourage the owners of forest land to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, historical and amenity values. The timber harvesting regulations set forth in this Section are intended to further this policy by:

1. promoting good forest stewardship;
2. protecting the rights of adjoining property owners;
3. minimizing the potential for adverse environmental impacts;
4. preserving historical and environmental sensitive areas; and
5. avoiding unreasonable and unnecessary restrictions of the right to practice forestry.

“Forestry activities that include timbering operations that equal or exceed five (5) acres shall be conducted in accordance with the following requirements:

1. A Zoning Permit Application shall be submitted to the Exeter Borough Zoning Officer prior to harvesting or otherwise removing trees on any tract of land larger than five (5) acres;
2. Prior to the start of operations, a Forestry Management Plan shall be prepared and filed with the submission of the Zoning Permit Application. Said plan shall be prepared by a qualified forester or forest technician, with a four year degree from an accredited college;
3. The Forestry Management Plan shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association;
4. Prior to the approval of the Zoning Permit Application, an Erosion and Sediment Control Plan shall be submitted by the Applicant to the Luzerne County Conservation District for its review, recommendation and approval;
5. Clear cutting shall be prohibited except on tracts of less than five (5) acres;
6. When harvesting or otherwise removing on tracts larger than five (5) acres, at least 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed. At least 30% of these residual trees shall be composed of highest value species as determined and documented by the Forestry Management Plan;
7. Clear cutting is prohibited on acres with slopes greater than 15% or within the 100 year floodway.

902.23 FUNERAL HOME

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or solid opaque fencing six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

902.24 GARDEN APARTMENTS

A multi-family residential development of garden apartments shall be subject to the following requirements and all other applicable requirements of this Ordinance:

- A. Minimum lot size shall be 2 acres.
- B. Minimum lot width shall be 200 feet.
- C. Maximum percentage of building coverage on a lot shall be 40 percent.
- D. There shall not be more than eight (8) dwelling units per structure.
- D. Minimum front yard setback shall be 50 feet.

- E. Minimum rear yard setback shall be 50 feet.
- F. Minimum side yard setback shall be 50 feet.
- H. Maximum net residential density shall not exceed 5 units per (1) acre.
- I. Maximum building height shall not exceed 3 stories or 35 feet.
- J. Minimum distance between principal structures shall not be less than 35 feet.
- K. Minimum front yard setback for off-street parking areas shall not be less than 30 feet.
- L. Minimum side yard setbacks for off-street parking areas shall be not less than 15 feet.
- M. Minimum rear yard setbacks for off-street parking areas shall be not less than 15 feet.
- N. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- P. Unattached accessory structures, such as swimming pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have five (5) foot side and rear yard setbacks. Attached structures shall have the same setbacks as required for principal structures.

902.25 GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence", in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A. The maximum occupancy of a Group Residence shall not exceed eight (8) persons, excluding staff. The occupancy of said Group Residence shall be governed by the standards and requirements as provided for within the most recent housing code standards by the governing code as provided for under the Pennsylvania Uniform Construction Code.
- B. The Group Residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).
- C. The applicant and/or operator of a Group Residence shall provide written documentation from the applicable governmental entity which certifies said Group Residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.
- D. The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two (2) additional off-street parking spaces shall be provided and if there is any required staffing associated with the management and operation of a Group Residence.

902.26 HOME OCCUPATIONS

A home occupation which is conducted within a dwelling unit or an existing accessory building to the dwelling shall be subject to the following provisions:

- A. The occupation shall be carried on wholly indoors, within the principal building.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be

permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.

- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. There shall be no repetitive servicing by truck.
- E. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- F. The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional employees.
- G. The floor area devoted to a home occupation, shall be greater than twenty-five (25%) percent of the floor area of the dwelling unit.
- H. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Three (3) spaces for all other home occupations.

Among the uses that shall not constitute a home occupation are the following; animal hospital; commercial stables kennels; funeral parlors or undertaking establishments; antique shop; restaurants; rooming, boarding, nursing or convalescent homes; health facilities; auto repair shops, and grocery stores.

902.27 HYDRAULIC FRACTURING WATER WITHDRAWAL FACILITY

- 1. A Hydraulic Fracturing Water Withdrawal Facility shall be classified as a conditional use in the I-1 District.
- 2. An applicant desiring to construct, maintain and/or operate a Hydraulic Fracturing Water Withdrawal Facility shall submit a Conditional Use Application and Plan in accordance with the provisions of Section 803 and Section 806 of this Ordinance.
- 3. Minimum Lot Size: 15 Acres
- 4. Setbacks Requirements - The following setbacks shall be maintained for the facilities and any truck parking or staging areas. With the exception of the required Buffer Area, all land within the required setback, shall remain undisturbed and shall not be used for parking, storage or any other purpose associated with the proposed facility.
 - a. Property Lines: not less than one thousand (1,000) feet to adjoining properties

- b. Road Rights-of-Way: not less than two hundred (200) feet to public road rights-of-way.
- c. Protected Use or Structure: not less than one thousand (1,000) feet.
- d. Water Bodies: not less than one thousand (1,000) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required intake structures or facilities at the receiving stream or water supply.

4. Buffer Requirements

Required Buffer: A buffer area, as defined in Article 2, not less than seventy-five (75) feet in depth shall be provided be along all property lines. The Borough Council may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffers shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

5. State, Federal and Local Compliance:

- a. The applicant shall comply with all applicable State and Federal regulations and shall show evidence of obtaining the required State and/or Federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The applicant shall notify the Borough immediately of any suspension or revocation of the required State and/or Federal permits. Upon notification of said suspension or revocation the Borough issued permits will hereby be deemed suspended or revoked until State and/or Federal compliance is reached.
- b. Susquehanna River Basin Commission Application Information - A copy of all applications and information required by the Susquehanna River Basin Commission for water withdrawal shall be provided to the Borough.

6. Land Development Approval:

Approval of a land development plan in accordance with the terms, standards and procedures as set forth in the Exeter Borough Land Development Ordinance shall be required.

7. Stormwater Management Ordinance:

Approval of a Stormwater Management Permit shall be required for any earth disturbance in accordance with the standards and provisions of the Borough Stormwater Management Ordinance.

8. Soil Erosion and Sedimentation Control Plan

Documentation of an approved Soil Erosion and Sedimentation Control Plan and implementation of the same shall be provided prior to any grading and/or earth disturbance.

9. Parking and Staging Areas:

The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time. Unless stated otherwise, said parking areas shall comply with all applicable standards of Article 12, including but not limited to Section 1207. All vehicle parking areas and staging areas shall be setback not less than 200 feet from any property line. No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

10. Access Roads:

Access to a Hydraulic Fracturing Water Withdrawal Facility shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of Borough roads. The following shall apply:

- a. Any newly established private easements/roadways constructed on the parcel containing a Hydraulic Fracturing Water Withdrawal Facility shall be located at least fifty (50) feet from any property line.
- b. The access road to the well site, beginning with its intersection with a Borough road, shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access way is less than two hundred (200) feet in length, the entire access road or access way shall meet these conditions. This shall be in place prior to the commencement of operations at a Hydraulic Fracturing Water Withdrawal Facility.
- c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

11. Truck Routes and Excess Road Maintenance Agreement:

- a. The applicant for a Hydraulic Fracturing Water Withdrawal Facility, its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Borough roads directly caused by truck hauling to and from a Hydraulic Fracturing Water Withdrawal Facility in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained herein relating to an excess maintenance agreement and the bonding of the applicant's performance thereof, should the

- applicant, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Borough roads attributable to a Hydraulic Fracturing Water Withdrawal Facility, the Borough reserves the right to proceed against the applicant, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees.
- b. The applicant for a Hydraulic Fracturing Water Withdrawal Facility shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for a Hydraulic Fracturing Water Withdrawal Facility and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are determined by the Borough Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
 - c. Before the commencement of any development for a Hydraulic Fracturing Water Withdrawal Facility, the Borough Engineer and the applicant shall conduct an on-site inspection of all Borough roads to be utilized for truck hauling to and from a Hydraulic Fracturing Water Withdrawal Facility. Upon the basis of the inspection, the Borough Engineer and the applicant shall prepare a detailed report documenting the existing structural condition of the road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the applicant and the Borough.
 - d. The applicant for a Hydraulic Fracturing Water Withdrawal Facility shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Borough roads wherever feasible.
 - e. The applicant for a Hydraulic Fracturing Water Withdrawal Facility shall produce evidenced satisfactory to the Borough Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.
 - f. All Borough roads used by the applicant for a Hydraulic Fracturing Water Withdrawal Facility for truck and/or equipment hauling will be kept and restored to the same or similar condition during and after such activity. Accordingly, prior to any development and use of a Hydraulic Fracturing Water Withdrawal Facility, the Borough and applicant shall enter into an excess maintenance agreement, in a form acceptable to the Borough, in order to guarantee the repair and the restoration of any Borough road(s), which may be determined in the reasonable professional opinion of the Borough Engineer founded, in whole or in part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the applicant must assume explicitly its responsibility to repair and restore any Borough road determined to be damaged as a result of traffic generated by truck and/or equipment hauling to and from a Hydraulic Fracturing Water Withdrawal Facility in excess of the usual and customary extent due to

general vehicular use. The reasonable professional opinion of the Borough Engineer as to damage(s) shall prevail hereunder.

- g. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the operator shall post a bond or other financial security in favor of the Borough and in a form acceptable to the Borough. The principal of the bond shall be determined by the Borough Engineer acting on behalf of the Borough. The bond to be posted by the operator may be in a principal sum in excess of otherwise applicable Penn Dot limits when the Borough Engineer has reasonably estimated that the cost of the repair and restoration of Borough roads will exceed the prevailing Penn Dot bonding limits.
- h. The applicant of a Hydraulic Fracturing Water Withdrawal Facility is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
- i. Notwithstanding any other provision herein set forth, the applicant of a Hydraulic Fracturing Water Withdrawal Facility shall, at all times, utilize the Borough roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The applicant shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from an a Hydraulic Fracturing Water Withdrawal Facility, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
- j. Where truck traffic generated by a Hydraulic Fracturing Water Withdrawal Facility is heavy in the proximity of school bus stops, the applicant will provide flagmen to ensure the safety of children waiting for or leaving school buses.
- k. The access driveway off the public road to a Hydraulic Fracturing Water Withdrawal Facility shall be gated at the entrance to prevent illegal access. A Hydraulic Fracturing Water Withdrawal Facility assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the well name and number, name of the applicant and the telephone number for a person responsible who may be contacted in case of emergency.
- l. Access of Hydraulic Fracturing Water Withdrawal Facility roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at a Hydraulic Fracturing Wastewater Treatment Facility, the Borough shall be provided a copy of the Highway Occupancy Permit.
- m. The applicant for a Hydraulic Fracturing Water Withdrawal Facility shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes. The operator shall comply in all respects with the Borough's "Burning Ordinance".

12. Noise

- a. Prior to approval of a Hydraulic Fracturing Water Withdrawal Facility the applicant shall establish the continuous seventy-two hour ambient noise level for all level of frequencies at all boundaries of the property on which the facility is located with prior approval of the testing times and dates by the Borough Council.
- b. Measurement Equipment - All noise level measurements for all level of frequencies shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements for all level of frequencies shall be taken using the FAST response time and A-weighting.
- c. The applicant shall provide the Borough documentation of the established ambient noise level for all level of frequencies prior to any operations at the subject Hydraulic Fracturing Water Withdrawal Facility.
- d. The decibel level shall not exceed ambient noise level for all level of frequencies that was established above under item 12 (a) at any point outside the boundaries of the property on which subject facility is located by more than 3 decibels.

13. Engines.

A Compressor and any other power driven equipment shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Borough ordinances and the Pennsylvania Uniform Construction Code.

14. Emergency Response Plan:

- a. The applicant shall submit an Emergency Response Plan to the Borough Council for its review and approval as to its adequacy to protect the public health, safety, and general welfare in the event of an emergency or catastrophic event.
- b. Prior to the use and operation of Hydraulic Fracturing Water Withdrawal Facility, applicant shall provide to the Borough Council, Police Department, Fire Department and Zoning Officer, a copy of the approved Emergency Response Plan.
- c. Not less than 60 days prior to operations of the facility, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from development activities and shall be made available at least annually during the period when the applicant anticipates drilling activity within the Borough. Emergency Responders shall be provided with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.

15. Lights:

No person shall permit any exterior lights located on any facility or upon the property on which a facility is located site to be directed in such a manner so that they shine directly on public road, protected use, adjacent property or property in

the general vicinity of the facility. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, protected uses, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated.

16. Environmental Pollution Liability Coverage:

The applicant shall purchase and maintain in force insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least Five Million (\$5,000,000) dollars per loss, with an annual aggregate of at least Fifteen Million (\$15,000,000) dollars. In the alternative, applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the Borough.

- a. Coverage shall include coverage for apply to pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits;
- b. The applicant shall maintain coverage until such time, as in the judgment of the Borough, it is no longer necessary.

16. Fee Reimbursement.

In submitting the Conditional Use Application, the applicant agrees to reimburse the Borough for all reasonable and direct professional consulting fees incurred by the Borough related to the site inspection, including but not limited to, the Borough Engineer, Borough Solicitor and any other reasonable and direct consulting fees incurred for the review and approval process, and for any specialized work called for in the permit and its conditions. An escrow account shall be established by the applicant with an initial deposit of \$10,000 for the drawdown by the Borough to pay for related fees incurred during the review and approval process of the conditional use application. Whenever the balance within the escrow account is less than \$5,000, upon notification from the Borough, the applicant will deposit the required amount funds into the account to restore a balance of \$10,000.

902.28 HYDRAULIC WASTEWATER TREATMENT FACILITY

1. A Hydraulic Fracturing Wastewater Treatment Facility shall be classified as a conditional use in the I-1 District.
2. An applicant desiring to construct, maintain and/or operate a Hydraulic Wastewater Treatment Facility shall submit a Conditional Use Application and Plan in accordance with the provisions of Section 803 and Section 806 of this Ordinance.

3. Minimum Lot Size: 15 Acres
4. Setbacks Requirements - The following setbacks shall be maintained for a Hydraulic Wastewater Treatment Facility and any truck parking or staging areas. With the exception of the required Buffer Area, all land within the required setback, shall remain undisturbed and shall not be used for parking, storage or any other purpose associated with the proposed facility.
 - a. Property Lines: not less than five hundred (500) feet to adjoining properties
 - b. Road Rights-of-Way: not less than two hundred (200) feet to public road rights-of-way.
 - c. Protected Use or Structure: not less than one thousand (1,000) feet.
 - d. Water Bodies: not less than one thousand (1,000) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge structures. No discharge shall be permitted into any lakes or streams that are classified as having High Quality Waters or Exceptional Value Waters by the Pennsylvania Department of Environmental Resources.

5. Buffer Requirements

Required Buffer: A buffer area, as defined in Article 2, not less than seventy-five (75) feet in depth shall be provided be along all property lines. The Borough Council may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffers shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

6. State, Federal and Local Compliance:

- a. The applicant shall comply with all applicable State and Federal regulations and shall show evidence of obtaining the required State and/or Federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The applicant shall notify the Borough immediately of any suspension or revocation of the required State and/or Federal permits. Upon notification of said suspension or revocation the Borough issued permits will hereby be deemed suspended or revoked until State and/or Federal compliance is reached.

7. Land Development Approval:

Approval of a land development plan in accordance with the terms, standards and procedures as set forth in the Exeter Borough Land Development Ordinance shall be required.

7. Stormwater Management Ordinance:

Approval of a Stormwater Management Permit shall be required for any earth disturbance in accordance with the standards and provisions of the Exeter Borough Stormwater Management Ordinance.

8. Soil Erosion and Sedimentation Control Plan

Documentation of an approved Soil Erosion and Sedimentation Control Plan and implementation of the same shall be provided prior to any grading and/or earth disturbance.

9. Parking and Staging Areas:

The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time. Unless stated otherwise, said parking areas shall comply with all applicable standards of Article 12, including but not limited to Section 1207. All vehicle parking areas and staging areas shall be setback not less than 200 feet from any property line. No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

10. Access Roads:

Access to a Hydraulic Wastewater Treatment Facility shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of Borough roads. The following shall apply:

- a. Any newly established private easements/roadways constructed on the parcel containing a Hydraulic Wastewater Treatment Facility shall be located at least fifty (50) feet from any property line.
- b. The access road to a Hydraulic Wastewater Treatment Facility, beginning with its intersection with a Borough road, shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access way is less than two hundred (200) feet in length, the entire access road or access way shall meet these conditions. . Compliance with above requirements must occur prior to the use of the access road.
- c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

11. Truck Routes and Excess Road Maintenance Agreement:

- a. The applicant for a Hydraulic Fracturing Wastewater Treatment Facility, its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Borough roads directly caused by truck hauling to and from a Hydraulic Fracturing Wastewater Treatment Facility in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained herein relating to an excess maintenance agreement and the bonding of the applicant's performance thereof, should the applicant, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Borough roads attributable to a Hydraulic Fracturing Wastewater Treatment Facility, the Borough reserves the right to proceed against the applicant, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees.
- b. The applicant for a Hydraulic Fracturing Wastewater Treatment Facility shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for a Hydraulic Fracturing Wastewater Treatment Facility and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are determined by the Borough Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
- c. Before the commencement of any development for a Hydraulic Fracturing Wastewater Treatment Facility, the Borough Engineer and the applicant shall conduct an on-site inspection of all Borough roads to be utilized for truck hauling to and from a Hydraulic Fracturing Wastewater Treatment Facility. Upon the basis of the inspection, the Borough Engineer and the applicant shall prepare a detailed report documenting the existing structural condition of the road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the applicant and the Borough.
- d. The applicant for a Hydraulic Fracturing Wastewater Treatment Facility shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Borough roads wherever feasible.
- e. The applicant for a Hydraulic Fracturing Wastewater Treatment Facility shall produce evidenced satisfactory to the Borough Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.
- f. All Borough roads used by the applicant for a Hydraulic Fracturing Wastewater Treatment Facility for truck and/or equipment hauling will be kept and restored to the same or similar condition during and after such activity. Accordingly, prior to any development and use of a Hydraulic Fracturing Wastewater Treatment Facility, the Borough and applicant shall enter into an excess maintenance agreement, in a form acceptable to the Borough, in order to guarantee the repair and the restoration of any Borough road(s), which may be determined in the reasonable professional opinion of the Borough Engineer founded, in whole or in

- part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the applicant must assume explicitly its responsibility to repair and restore any Borough road determined to be damaged as a result of traffic generated by truck and/or equipment hauling to and from a Hydraulic Fracturing Wastewater Treatment Facility in excess of the usual and customary extent due to general vehicular use. The reasonable professional opinion of the Borough Engineer as to damage(s) shall prevail hereunder.
- g. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the operator shall post a bond or other financial security in favor of the Borough and in a form acceptable to the Borough. The principal of the bond shall be determined by the Borough Engineer acting on behalf of the Borough. The bond to be posted by the operator may be in a principal sum in excess of otherwise applicable Penn Dot limits when the Borough Engineer has reasonably estimated that the cost of the repair and restoration of Borough roads will exceed the prevailing Penn Dot bonding limits.
 - h. The applicant of a Hydraulic Fracturing Wastewater Treatment Facility is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
 - i. Notwithstanding any other provision herein set forth, the applicant of a Hydraulic Fracturing Wastewater Treatment Facility shall, at all times, utilize the Borough roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The applicant shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from an a Hydraulic Fracturing Wastewater Treatment Facility, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
 - j. Where truck traffic generated by a Hydraulic Fracturing Wastewater Treatment Facility is heavy in the proximity of school bus stops, the applicant will provide flagmen to ensure the safety of children waiting for or leaving school buses.
 - k. The access driveway off the public road to a Hydraulic Fracturing Wastewater Treatment Facility shall be gated at the entrance to prevent illegal access. A Hydraulic Fracturing Wastewater Treatment Facility assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the well name and number, name of the applicant and the telephone number for a person responsible who may be contacted in case of emergency.
 - l. Access of Hydraulic Fracturing Wastewater Treatment Facility roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at a Hydraulic Fracturing Wastewater Treatment Facility, the Borough shall be provided a copy of the Highway Occupancy Permit.

- m. The applicant for a Hydraulic Fracturing Wastewater Treatment Facility shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes. The operator shall comply in all respects with the Borough's "Burning Ordinance".

12. Noise

- a. Prior to approval of a Hydraulic Fracturing Wastewater Treatment Facility the applicant shall establish the continuous seventy-two hour ambient noise level for all level of frequencies at all boundaries of the property on which the facility is located with prior approval of the testing times and dates by the Borough Council.
- b. Measurement Equipment - All noise level measurements for all level of frequencies shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4-not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements for all level of frequencies shall be taken using the FAST response time and A-weighting.
- c. The applicant shall provide the Borough documentation of the established ambient noise level for all level of frequencies prior to any operations at the subject Hydraulic Fracturing Wastewater Treatment Facility.
- d. The decibel level shall not exceed ambient noise level for all level of frequencies that was established above under item 12 (a) at any point outside the boundaries of the property on which subject facility is located by more than 3 decibels.

13. Engines.

A Compressor and any other power driven equipment shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Borough ordinances and the Pennsylvania Uniform Construction Code.

14. Emergency Response Plan:

- a. The applicant shall submit an Emergency Response Plan to the Borough Council for its review and approval as to its adequacy to protect the public health, safety, and general welfare in the event of an emergency or catastrophic event.
- b. Prior to the use and operation of a Hydraulic Fracturing Wastewater Treatment Facility, applicant shall provide to the Borough Council, Police Department, Fire Department and Zoning Officer, a copy of the approved Emergency Response Plan.
- c. Not less than 60 days prior to operations of the Facility, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from development activities and shall be made available at least annually during the period when the applicant anticipates drilling activity within the Borough. Emergency Responders shall be provided

with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.

- b. Not less than 60 days prior to operations of the facility, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from development activities and shall be made available at least annually. Borough Emergency Responders shall be provided with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.

15. Lights:

No person shall permit any exterior lights located on any facility or upon the property on which a facility is located site to be directed in such a manner so that they shine directly on public road, protected use, adjacent property or property in the general vicinity of the facility. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, protected uses, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated.

16. Signage, Site Identification:

At the entrance gate at a Hydraulic Fracturing Wastewater Treatment Facility where the access road intersects with the Borough or State owned road and there shall be signage clearly posted and visible posted that includes the following information.

- a. Applicant name
- b. Unit name
- c. Borough assigned address
- d. Emergency contact phone number

This information shall be updated from time to time to ensure the information is always accurate and current.

17. Environmental Pollution Liability Coverage:

The applicant shall purchase and maintain in force insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least Five Million (\$5,000,000) dollars per loss, with an annual aggregate of at least Fifteen Million (\$15,000,000) dollars. In the alternative, applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the Borough.

- a. Coverage shall include coverage for apply to pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits;
- b. The applicant shall maintain coverage until such time, as in the judgment of the Borough, it is no longer necessary.

18. Fee Reimbursement.

In submitting the Conditional Use Application, the applicant agrees to reimburse the Borough for all reasonable and direct professional consulting fees incurred by the Borough related to the site inspection, including but not limited to, the Borough Engineer, Borough Solicitor and any other reasonable and direct consulting fees incurred for the review and approval process, and for any specialized work called for in the permit and its conditions. An escrow account shall be established by the applicant with an initial deposit of \$10,000 for the drawdown by the Borough to pay for related fees incurred during the review and approval process of the conditional use application. Whenever the balance within the escrow account is less than \$5,000, upon notification from the Borough, the applicant will deposit the required amount funds into the account to restore a balance of \$10,000.

902.29 INDUSTRIAL ACTIVITIES

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects that are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agency. All industries are required to supply the Borough Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

902.30 JUNKYARDS AND/OR AUTOMOTIVE WRECKING YARDS

All new junk yards and automotive wrecking yards, or the proposed expansion of an existing junk yard and automotive wrecking yard, shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.

- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline, oil, antifreeze, transmission fluid and/or other toxic fluid or hazardous material shall be drained and/or removed said vehicles and disposed of in a manner consistent with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.
- H. There shall be no stockpiling of motor vehicles or any junk piled higher than four (4) feet.
- I. Fire lanes of a minimum width of twenty (20) feet in width shall be provided for every forty (40) linear feet of junk, which shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.
- J. Junk shall not be stored within one hundred (100) feet of any adjoining property line or nearer than one hundred (100) feet to any adjoining or abutting street.
- K. All junkyards shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. The required fence shall be not closer than ten (10) feet to any property line.
- L. Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.
- M. All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin.
- N. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 4:00 P.M., local time.

902.31 LARGE RETAIL ESTABLISHMENT

A. INTENT:

1. The intent of this section is to insure that a large retail establishment is of a quality that enhances the character of Exeter Borough and does not overwhelm its surroundings. Large retail establishments can result in substantial impacts to the

community, such as, but not limited to, noise, traffic, community character, environment, and local economy. One purpose of this chapter is to minimize the effects of these impacts through a detailed review and approval process.

2. The requirements of this section are to be used for evaluating and assessing the quality and design of proposed large retail establishments. Where these requirements conflict with other provisions of this Ordinance, the more restrictive requirements shall apply. These requirements are in addition to the General Standards applicable to all conditional use as set forth in Section 804 of this Ordinance. Those general standards are as follows: which read as follows:

SECTION 804 GENERAL STANDARDS

The general standards contained herein, shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

- A. *The proposed use shall not jeopardize Community Development Objectives, and shall be generally consistent with those as set forth in Article 1 of this Ordinance.*
- B. *Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.*
- C. *Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.*
- D. *The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.*
- E. *The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.*
- F. *The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.*
- G. *The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.*
- H. *The submission of any reports and/or studies, required by the Borough Council within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed*

use or development will not have a negative impact upon the particular subject or subjects as defined by the Borough Council, in requiring such reports and/or studies.

I. The proposed use and/or development shall not be injurious to the public interest.

B. DESIGN STANDARDS

1. CAP SIZE

No large retail establishment, as defined in Article 2 of this Ordinance shall exceed seventy-five thousand (75,000) square feet of gross floor area.

2. PRE-APPLICATION CONFERENCE

Prior to submitting a complete conditional use application for a large retail establishment, the applicant is encouraged to meet with the Borough Planning Commission and the Borough Council to discuss the conditional use permit process and issues that may affect the proposed conditional use. This meeting is to provide for an exchange of general and preliminary information only and no statement made in such meeting by either the applicant or the members of the Planning Commission or Council shall be regarded as binding or authoritative.

3. CONDITIONAL USE APPLICATION

An application for a conditional use permit for a large retail establishment shall be submitted by a property owner. If initiated by the owner's agent, the agent shall submit with the application written authorization signed by the owner expressly stating the agent's authority

4. SITE PLAN

A site plan shall be required which illustrates the specific location of setbacks, easements, all existing and proposed buildings and structures, access points, buffering, vehicular and pedestrian circulation patterns, parking, signage, loading and delivery areas, mechanical equipment, drainage, landscaping, and the specific location of the use or uses of the development, elevation plans and profiles of all proposed structures, and other information necessary to establish that all applicable requirements will be met.

5. COSTS

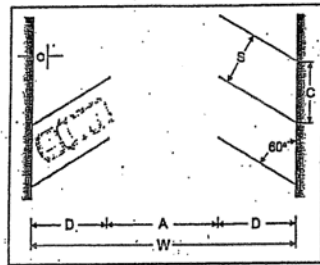
The cost of all permits, studies, investigations and/or impact analysis required under this Section shall be borne by the applicant. In the case of a required impact analysis, to insure impartiality, the Borough shall select an independent consultant to prepare the subject impact analysis.

6. PARKING LOTS

- a. Four (4) spaces for each 1,000 square feet of gross floor area.
- b. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces. The above

requirement may be increased to 125% when porous pavement is used in areas of the parking lot that do not receive heavy traffic, such as parking stalls, cart areas and cross walks.

- c. Not more than 50% of the total number of parking spaces shall be located between the front facade of the building and any abutting street.
- d. Provide for bicycle access, including bike lanes where appropriate.
- e. Provide customer trash receptacles throughout the parking lot. The parking lot shall be cleared daily of all trash, debris or other discarded material not placed within trash receptacles.
- f. All parking lots will be posted 'No Overnight Camper or Trailers Permitted' with enforcement of the same being the responsibility of the applicant.
- g. Stall dimensions shall be in accordance with the following:



Parking Stall and Access Aisle Geometry.

Parking Stall Dimensions

Stall Angle (degrees)	S Stall Width (ft.)	C Stall Length (ft.)	D Stall Depth (ft.)	O Front Over-hang (ft.)	A* Aisle Width (ft.)	W Module Width (ft.)
90	9	9.5	18	3	24	60
60	9.5	11.0	20.5	2.6	16**	57**
45	9.5	13.4	19.5	2.1	14**	53**

The minimum width for aisles providing access to stalls with two-way traffic shall be twenty-four (24) feet.

7. DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

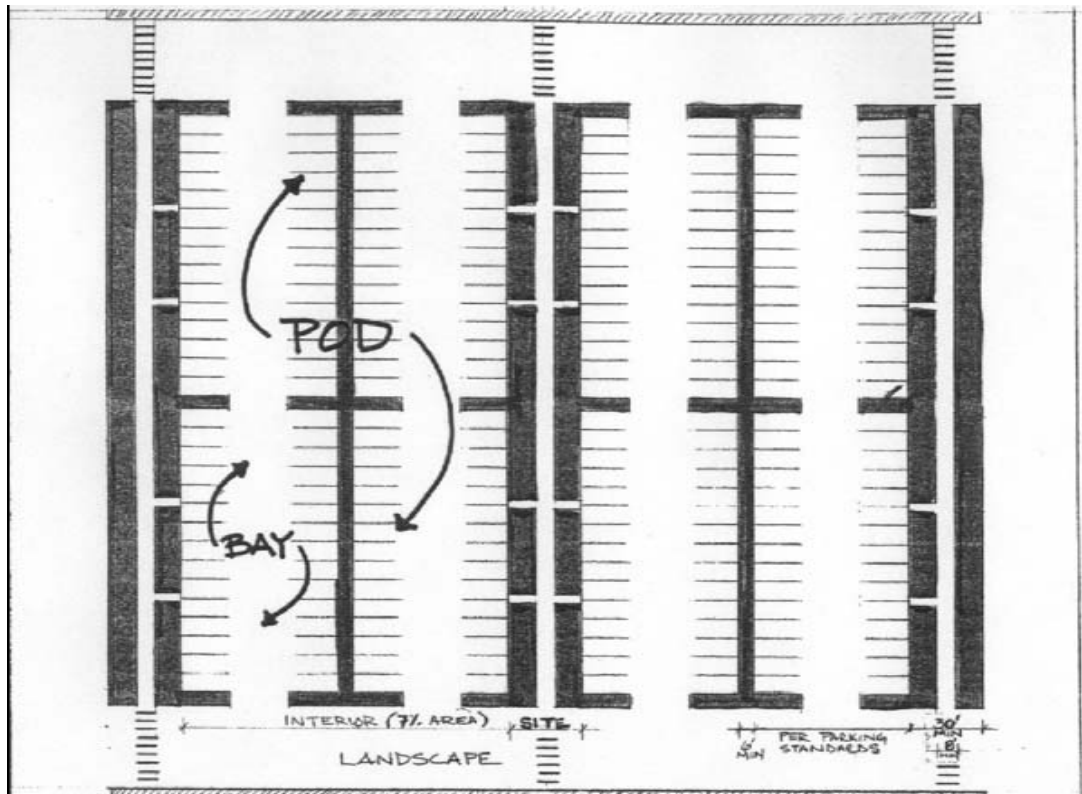
Excluding points of ingress or regress, the paved parking area shall be curbed. All stormwater shall be contained within the boundaries of the property. Methods for containment may include:

- a. The design and construction of catch basins to collect and discharge stormwater into a separate public storm sewer, excluding any combined storm and sanitary sewer line.
- b. The design and construction of rain gardens or similar systems designed to retain stormwater within the parking area for infiltration into the ground.

- c. The use of porous pavement.
- d. The use of green roofs
- e. Any alternate method for the containment stormwater within the boundaries of the property.
- f. Any combination of the above.

8. LANDSCAPING AND SCREENING REQUIREMENTS

- a. A planting bed with a minimum width of 20' shall be located between parking lots and the street right of way.
- b. Landscaping shall be used along site boundaries as required to screen blank walls, service and loading areas and open parking.
- c. An evergreen or mixture of evergreen and deciduous vegetation designed to be maintained at a height of at least 2.5' and not more than 3.5' is required along the street frontage of any open surface parking lot.
- d. Surface parking lots shall be designed such that every 140 parking stalls (a parking "pod") must be separated by a minimum 30 foot wide landscaped and pedestrian walkways or walkway and bike lane in combination. The above pod separation is in addition to the requirement that parking areas or "bays" of over 30 contiguous stalls be divided by landscaped strips. The width of internal landscaped strips in Large Retail Establishments parking lots must be at a minimum six feet wide. Vegetation ground cover shall be provided for all landscaped areas that will provide 90% coverage within 2 years. Landscaping designs shall include evergreen material.
- e. Drought tolerant materials shall be used for all plantings unless an irrigation system is provided.
- f. Screening must be provided along side and rear exterior lot lines which is adjacent to a residential use and/or district. Unless otherwise required, the following landscaping and screening provisions will apply. A 6 foot wall, fence, berm, evergreen screening plant material, or a combination of wall, fence, berm or evergreen screening plant material with a combined minimum height of 6 feet above grade shall be used for the purposes of screening. If evergreen plant material is used, it must be at least 4 feet in height at the time of planting and capable of forming a continuous opaque screen at least 6 feet in height, with individual plantings spaced not more spaced not more than 5 feet apart. Berms shall have a side slope no greater that 3:1.



9. SIGNS.

- a. The total square feet of all types of signage located upon the property shall not exceed 2.5 times the amount of frontage of the lot.
- b. Blinking, animated, moving or changeable copy signs are prohibited.
- c. Signs on the building shall not extend above the parapet or roof line. Parapet walls may not be erected for the sole purpose of extending sign heights and when they are not in character with the rest of the building or complex.
- d. Signs shall be designed and located to minimize impacts on residential uses. Signs shall not be located on any wall, canopy or building façade facing abutting Residential zones.
- e. A free standing sign shall not exceed two hundred and fifty (250) square feet in area and shall not exceed a height of 25 feet.
- f. A freestanding sign shall have a minimum setback of fifteen (15) feet from any property line as measured from the outer most edge of the sign.
- g. Only one freestanding sign shall be allowed on each street frontage.
- h. No directional sign shall exceed thirty (30) square feet in area and there shall be no limitation on the number of on-site directional signs
- i. No more than eight (8) wall signs may be displayed on a building.

- j. No Temporary sign shall exceed two hundred (200) square feet,
- k. A lot may have no more than three (3) temporary signs, none of which may be displayed for longer than 90 days in a single calendar year.

10. PEDESTRIAN ACCESS AND CIRCULATION

The intent and purpose of this section is for Large Retail Establishments to provide for pedestrian-oriented ingress and egress through design features that enhance pedestrian safety, efficiency, and clear connectivity, including connectivity among buildings and to pedestrian walkways/bike paths on adjacent roadways, with a clear definition between vehicular areas and pedestrian walkways.

- a. Public sidewalks at least 6 feet in width shall be provided along all public streets.
- b. Continuous internal pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large retail establishments on the site. The walkways shall have a minimum width of 6 feet, exclusive of vehicle overhang area. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than 50% of the length of the walkway.
- c. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. The sidewalk shall have a minimum width of 6 feet, exclusive of vehicle bumper overhang area. Such sidewalks shall be located at least 6 feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
- d. Awnings, canopies, marquees, arcades, building overhangs or similar forms of pedestrian weather protection, at least 4.5feet wide shall be provided over a pedestrian walkway along at least 80% of any façade with a customer entrance. Such weather protection shall be at least 8 feet above the sidewalk. If placed more than 8 feet above the walkway, the weather protection shall be at least an additional 6" in width for each additional foot of height, or portion thereof.
- e. All internal pedestrian walkways shall be distinguished from driving surfaces through a change in material. Durable, low maintenance surface materials such as pavers, bricks or scored concrete shall be used to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. . Signs shall be installed to designate pedestrian walkways.
- f. Walkways shall be designed for pedestrian safety and shall avoid or mitigate vehicle and pedestrian route conflicts through lighting, bollards and other features.

- g. Cart corrals shall not encroach on walkways.
- h. Bike racks shall be located in a well-lighted area close to building entrances.

11. OUTDOOR STORAGE, TRASH COLLECTION, AND LOADING AREAS

- a. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.
- b. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or internal pedestrian way.
- c. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets..
- d. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, location and time/duration of such sales/displays shall be reviewed and approved by the Borough Council or its appointed designee.

12. LIGHTING

- a. All outdoor lighting shall be sized and directed to avoid adverse impact and spillover onto adjacent properties. Upward directed lighting is prohibited. Outside parking lot lighting shall not be less than one foot candle per IES (Illuminating Engineering Society of North America) minimum lighting standards at the property line, and shall be designed to minimize glare and spillover onto adjacent properties. Building and aesthetic lighting must be shielded to prevent direct glare and/or light trespass in excess of one foot candle at the property line.
- b. Night lighting shall be provided for all pedestrian walkways.
- c. All exterior lighting shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining uses and streets.
- d. The maximum height of light poles in parking lots shall not exceed 20'.

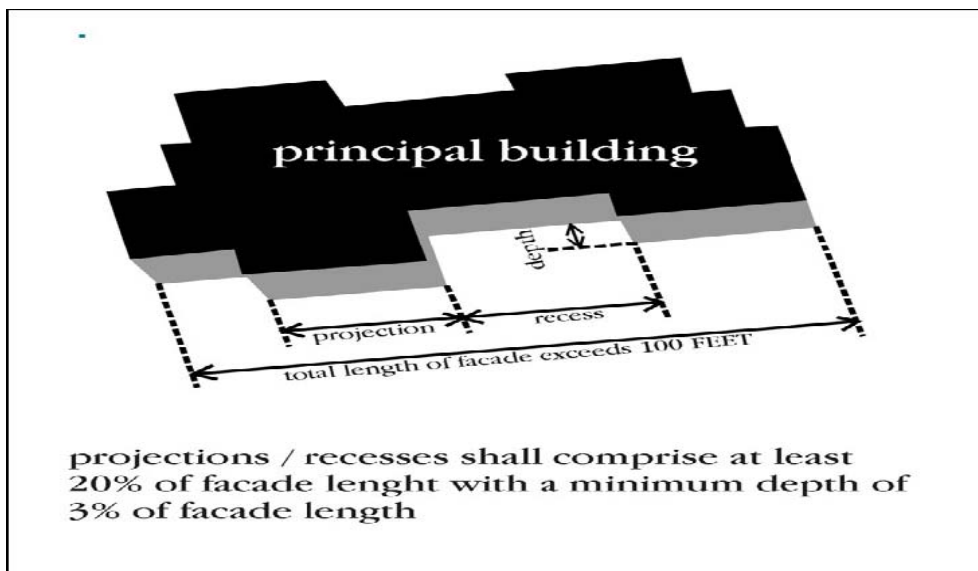
13. STORMWATER MANAGEMENT

The entire site plan shall be designed and constructed in compliance with all applicable requirements and design standards contained within the Exeter Borough Stormwater Management Ordinance.

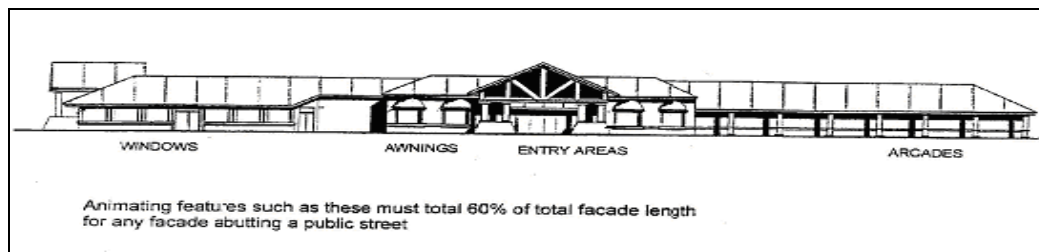
14. DESIGN STANDARDS AND GUIDELINES

The purpose of following standards and guidelines is intended to provide a basic level of architectural variety and a compatible scale for large retail developments. These guidelines shall apply to all large retail developments, which are processed according to the criteria for proposed land development plans. These guidelines are to be used in conjunction with the Subdivision and Zoning Regulations of Exeter Borough.

- a. Facades greater than 100' in length, measured horizontally, shall incorporate wall plane projects or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet. Facades that have no customer entrance that are only visible from service areas and are screened from abutting properties and customer parking are exempt from this requirement.



- b. Facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than 60% of their horizontal length.



- c. Building façades must include a repeating pattern that shall include no less than three of the elements listed below (at least one of these elements shall repeat

horizontally). All elements shall repeat at intervals of no more than 30 feet, either horizontally or vertically):

- Color change
- Texture change
- Material change

Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.



structural bay layout

- d. Variations in roof lines should be used to add visual interest to, and reduce the massive scale of, large buildings. Roof features should complement the character of adjoining neighborhoods. Rooflines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Alternating lengths and designs may be acceptable and can be addressed during the conditional use hearing.
- e. Materials and Colors.
- Predominant exterior building materials shall be high quality materials, including, but not limited to, brick, sandstone, other native stone and tinted and textured concrete masonry. Materials shall have a low level of reflectivity.
 - Facade colors shall be low reflectance. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.
 - Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
- d. The entryway design should include elements and variations that give orientation and aesthetically pleasing character to the building. Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three of the following:
- canopies or porticos
 - overhangs
 - recesses/projections
 - arcades
 - raised corniced parapets over the door
 - peaked roof forms
 - arches

- outdoor patios
- display windows

15. COMMUNITY AND ECONOMIC IMPACT

The conditional use permit application for a large retail establishment store shall include a community and economic impact analysis report that evaluates the projected benefits and costs caused by the project to the public and private sectors of the community, and prescribes mitigation measures, if needed. It is the intent of Exeter Borough to approve only those projects that will not have an adverse effect upon the local economy. The analysis must show:

- a. The proposed project will not have a significant adverse impact to the Borough in terms of balancing as near as possible the cost of public services and public revenue provided through taxes and other revenue to the Borough.
- b. The project shall be designed to minimize negative impacts to adjoining property values.
- c. The developer shall demonstrate the financial ability to complete the project and to achieve long-term financial stability.

At a minimum the community and economic impact analysis shall include, based on a horizon year of 10 years, the following information:

- a. The estimated net impacts to local employment, wages and salaries, retained profits, property taxes, and sales taxes.
- b. The estimated net impacts of increased local consumer spending and savings.
- c. The change in the estimated number of employees, employment types, and estimated wages generated by the project.
- d. The net change in sales tax and property tax base and revenues, including any changes in overall land values.
- e. The projected net costs to the Borough arising from increased demand for and required improvements to public services and infrastructure.
- f. The value of improvements to public services and infrastructure to be provided by the project.
- g. The impacts (including displacement of existing retailers) on the existing businesses in the zoning district in question and on the business community as a whole.

16. TRAFFIC IMPACT STUDY

A traffic impact study shall be required for a large scale retail development. The scope of the study shall evaluate existing conditions in comparison to those projected to occur 10

years after the projected opening of a proposed large scale retail development. The projected 10 year evaluation shall include those without the proposed large scale retail development and those with the full build-out of the proposed large scale retail development. The required traffic impact study include at minimum:

- Executive Summary of Findings
- Site Location Map
- Site Plan and Site Access
- Existing and projected traffic volumes at intersections agreed upon by Exeter Borough and PennDOT, to include traffic signals that are part of an interconnected system.
- Existing and projected traffic Levels of Service at the study intersections.
- Trip Generation based upon traffic volumes generated by the proposed development.
- Any required mitigation measures to ensure Levels of Service at the study intersections do fall below a D.
- Proposed traffic improvement by the developer.

17. ABANDONED BUILDING SURETY BOND AND MAINTENANCE

- a. As may be required by the Borough, a large retail establishment shall obtain, provide evidence to the Borough, and carry in full force and effect throughout the duration of the life of the project, or time period as may be stipulated by a development agreement, a performance/surety bond providing for demolition of the primary building or buildings as identified by the Borough. Said performance/surety bond shall provide funds to cover the cost of complete building demolition and maintenance of the vacant building site if the primary building is ever vacated or abandoned, and remains vacant or abandoned for a period of more than eighteen consecutive months following primary business closure. The amount of the performance/surety bond shall be updated every three (3) years to reflect current costs to cover the cost of complete building demolition and maintenance of the vacant building site
- b. During any period of vacancy owner must continue to maintain the property, including the continual care of: lawns, landscape areas, vehicular use areas, driveways, and all other sections of the tract requiring similar attention. The owner must replace broken windows, paint, and continue the general repair maintenance, and upkeep of the interior and the exterior of the structure. Interior lighting and parking lot lights must continue to operate.

902.32 MOTELS AND HOTELS

Motel and Hotel uses shall require a minimum lot size of not less than three (3) acres with a lot width of not less than two hundred (200) feet.

- A. The hotel/motel shall be serviced by centralized sewage and centralized water.
- B. There shall be more than ten (10) rooms designed and utilized to accommodate overnight guests.
- C. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms designed and utilized to accommodate overnight guests.
- D. There may be club rooms, ballrooms, and common dining facilities.
- E. In the case of a corner lot, access drives shall be not less than eighty (80) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

902.33 NO IMPACT HOME-BASED BUSINESS

A No Impact Home-Based Business, as defined in Article 2 of this Ordinance, shall be permitted by right in all zoning districts in which residences are permitted as a principal permitted use, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of the land, nor any master deed, bylaw, or other document applicable to common interest ownership community. The following standards and criteria shall apply to a No Impact Home-Based Business:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than the family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business, including, but not limited to, parking, signs, banners or lights.
- E. The business activity shall not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.
- G. The business activity shall not occupy more than twenty-five (25%) of the habitable floor area.
- H. The business shall not involve any illegal activity.

902.34 OIL OR GAS PIPELINES

1. Oil and Gas Pipelines shall be permitted in all zoning districts as a conditional use.
2. An applicant desiring to construct Oil or Gas Pipelines shall furnish to the Borough copies showing evidence that it has obtained and maintains in good standing all required State and/or Federal permits, including proof of bonding to operate pipelines. Any suspension or revocation of any required State or Federal approvals or permits shall be reported to the Borough immediately. In addition, the applicant must adhere to the following regulations:
3. An Oil or Gas Pipelines shall have minimum setback distance of not less than one hundred (100) feet from any property line as measured from the outermost edge of any easement for a proposed Oil or Gas Pipeline.
4. An applicant desiring to construct, maintain and/or an Oil or Gas pipeline shall submit a Conditional Use Application and Plan in accordance with the provisions of Section 803 and Section 806 of this Ordinance. The following supplemental information and provisions shall apply to documentation required to be submitted by the applicant:
 - a. The origin point and the destination of the segment of the pipeline to be constructed;
 - b. A description of the substance to be transported through the pipeline and a copy of the material safety data sheet (MSDS);
 - c. Engineering plans, drawings and/or maps with summarized specifications showing the horizontal pipeline location, pipeline covering depths and location of shutoff valves (the location of shutoff valves must be known in order for emergency responders to clear area for access valves. To the extent that information can be readily obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within five (5) feet of the proposed pipeline;
 - d. Detailed cross section drawings for all public street right-of-way and easement crossings;
 - e. Executed copies of the easements for the areas constructed outside of the road right-of-way
 - f. A copy of the site reclamation plans
5. Land Development Approval:

Approval of a land development plan in accordance with the terms, standards and procedures as set forth in the Exeter Borough Subdivision and Land Development Ordinance shall be required.

6. Stormwater Management Ordinance:

Approval of a Stormwater Management Permit shall be required for any earth disturbance in accordance with the standards and provisions of the Borough's Stormwater Management Ordinance.

7. Soil Erosion and Sedimentation Control Plan

Documentation of an approved Soil Erosion and Sedimentation Control Plan by the Luzerne County Conservation District or the Pennsylvania Department of Environmental Protection and implementation of the same shall be provided prior to and during any grading and/or earth disturbance.

8. State and Federal Compliance.

The applicant shall comply with all applicable State and Federal regulations and shall show evidence of obtaining the required State and/or Federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The applicant shall notify the Borough immediately of any suspension or revocation of the required State and/or Federal permits. Upon notification of said suspension or revocation the Borough issued permits will hereby be deemed suspended or revoked until State and/or Federal compliance is reached.

9. Parking and Staging Areas:

The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time. Unless stated otherwise, said parking areas shall comply with all applicable standards of Article 12, including but not limited to Section 1207. All vehicle parking areas and staging areas shall be setback not less than 200 feet from any property line. No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

10. Access Roads:

Access to any oil or gas pipeline site shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of Borough roads. The following shall apply:

- a. Any newly established private easements/roadways constructed on the parcel shall be located at least fifty (50) feet from any property line.
- b. Any access road beginning with its intersection with a Borough road, shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access way is less than two hundred (200) feet in length, the entire access road or access way shall meet these conditions. Compliance with above requirements must occur prior to the use of the access road.

- c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.
11. Truck Routes and Excess Road Maintenance Agreement:
 - a. The applicant for any Oil or Gas Pipelines, its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Borough roads directly caused by truck hauling from the Oil or Gas Pipeline property in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained herein relating to an excess maintenance agreement and the bonding of the applicant's performance thereof, should the applicant, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Borough roads attributable to development and construction Oil or Gas Pipelines, the Borough reserves the right to proceed against the applicant, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees.
 - b. The applicant for the proposed development and construction of Oil or Gas Pipelines shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for Oil or Gas Pipelines and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are determined by the Borough Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
 - c. Before the commencement of any development for Oil or Gas Pipelines, the Borough Engineer and the applicant shall conduct an on-site inspection of all Borough roads to be utilized for truck hauling to and from any property for the proposed development and construction of Oil or Gas Pipelines. Upon the basis of the inspection, the Borough Engineer and the applicant shall prepare a detailed report documenting the existing structural condition of the road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the applicant and the Borough.
 - d. The applicant for the proposed development and construction of Oil or Gas Pipelines shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Borough roads wherever feasible.
 - e. The applicant for the proposed development and construction of Oil or Gas Pipelines shall produce evidenced satisfactory to the Borough Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.

- f. All Borough roads used by the applicant for Oil or Gas Pipelines for truck and/or equipment hauling will be kept and restored to the same or similar condition during and after such activity. Accordingly, prior to any development and use of Oil or Gas Pipelines, the Borough and applicant shall enter into an excess maintenance agreement, in a form acceptable to the Borough, in order to guarantee the repair and the restoration of any Borough road(s), which may be determined in the reasonable professional opinion of the Borough Engineer founded, in whole or in part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the applicant must assume explicitly its responsibility to repair and restore any Borough road determined to be damaged as a result of traffic generated by truck and/or equipment hauling to and from a property for the proposed development and construction of Oil or Gas Pipelines in excess of the usual and customary extent due to general vehicular use. The reasonable professional opinion of the Borough Engineer as to damage(s) shall prevail hereunder.
- g. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the operator shall post a bond or other financial security in favor of the Borough and in a form acceptable to the Borough. The principal of the bond shall be determined by the Borough Engineer acting on behalf of the Borough. The bond to be posted by the operator may be in a principal sum in excess of otherwise applicable Penn Dot limits when the Borough Engineer has reasonably estimated that the cost of the repair and restoration of Borough roads will exceed the prevailing Penn Dot bonding limits.
- h. The applicant of Oil or Gas Pipelines is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
- i. Notwithstanding any other provision herein set forth, the applicant of Oil or Gas Pipelines shall, at all times, utilize the Borough roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The applicant shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from Oil or Gas Pipelines, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
- j. Where truck traffic generated by Oil or Gas Pipelines is heavy in the proximity of school bus stops, the applicant will provide flagmen to ensure the safety of children waiting for or leaving school buses.
- k. The access driveway off the public road to Oil or Gas Pipelines shall be gated at the entrance to prevent illegal access.
- l. Access of Oil or Gas Pipelines roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit approval. Prior to initiating any work at Oil or Gas Pipelines, the Borough shall be provided a copy of the Highway Occupancy Permit.

- m. The applicant for Oil or Gas Pipelines shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes. The operator shall comply in all respects with the Borough's "Burning Ordinance".

12. Emergency Response Plan:

- a. The applicant shall submit an Emergency Response Plan to the Borough Council for its review and approval as to its adequacy to protect the public health, safety, and general welfare in the event of an emergency or catastrophic event.
- b. Prior to the use and operation of an oil or gas pipe line, applicant shall provide to the Borough Council, Police Department, Fire Department and Zoning Officer, a copy of the approved Emergency Response Plan.
- c. Not less than 60 days prior to the use and operation of an oil or gas pipe line, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from the subject pipe line and its subsequent operation and shall be made available at least annually.

13. Environmental Pollution Liability Coverage:

The applicant shall purchase and maintain in force insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least Five Million (\$5,000,000) dollars per loss, with an annual aggregate of at least Fifteen Million (\$15,000,000) dollars. In the alternative, applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the Borough.

- a. Coverage shall include coverage for apply to pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits;
- b. The applicant shall maintain coverage until such time, as in the judgment of the Borough, it is no longer necessary.

14. Fee Reimbursement.

In submitting the Conditional Use Application, the applicant agrees to reimburse the Borough for all reasonable and direct professional consulting fees incurred by the Borough related to the site inspection, including but not limited to, the Borough Engineer, Borough Solicitor and any other reasonable and direct consulting fees incurred for the

review and approval process, and for any specialized work called for in the permit and its conditions. An escrow account shall be established by the applicant with an initial deposit of \$10,000 for the drawdown by the Borough to pay for related fees incurred during the review and approval process of the conditional use application. Whenever the balance within the escrow account is less than \$5,000, upon notification from the Borough, the applicant will deposit the required amount funds into the account to restore a balance of \$10,000.

902.35 OIL OR GAS WELLS

Oil or Gas wells shall be classified as a conditional use in the I-1 Zoning District. Any applicant desiring to engage in any oil or gas development that includes well site construction, drilling, hydraulic fracturing, or site restoration associated with an oil or gas well of any depth; water impoundment, water treatment, and other fluid storage, and transportation used for such activities shall submit a Conditional Use Application and Plan in accordance with the provisions of Section 803 and Section 806 of this Ordinance. The following supplemental information and provisions shall apply:

1. Information
 - a. The name and address of the mineral and royalty owner(s), a copy of the oil or gas lease, excluding any financial information, and any drilling permits issued by the Commonwealth of Pennsylvania, or the application, if a state permit has not yet been issued, shall be attached;
 - b. A site plan which complies with the provisions and requirements of Section 703(A) and Section 706 of this Ordinance.
 - c. The name and address of the applicant, including the name and telephone number of a local representative;
 - d. The exact description and location of a proposed oil or gas well and verification that the site is not located in a wetland or floodplain;
 - e. The name and mailing address of each property owner of all property within two thousand feet (2,000) of the proposed oil or gas well, and the name and mailing address of each property owner where horizontal drilling will take place under their property. For informational purposes the applicant shall provide verification that all of above referenced property owners have been notified in writing of the drilling activity not less than forty-five (45) days prior to drilling an oil or gas well or multiple oil or gas wells. The applicant shall provide and map the direction and linear distance from the wellhead of horizontal drilling which shall be verified by an independent third party individual or firm having required expertise in the opinion the Borough Council to do so.
 - f. Anticipated construction start and completion date of each phase of Oil or Gas Development that will occur upon the property.
2. Dimensional, Setback, Height and Buffer Requirements
 - a. A minimum parcel size of ten (10) acres shall be required for any oil or gas site.

- b. A minimum setback of not less than two hundred (200) feet shall be maintained between any oil or gas well and adjoining properties lines, public road rights-of-way and existing water well. The setback distances to any the above facilities shall in no event be less than the minimum permissible distance under the State's Oil and Natural Gas Act, including any subsequent amendments to said Act. With the exception of the required Buffer Area, all land within the required setback, shall remain undisturbed and shall not be used for parking, storage or any other purpose associated with the oil or gas development operations operation except for crossing of access roads.
- c. A minimum setback of not less than one hundred (100) feet shall be maintained between any disturbed area associated with any oil or gas well site measured horizontally from any stream, spring or body of water as identified on the most current 7 1/2 minute topographic quadrangle map of the United States Geological Survey or within 100 feet of any wetlands greater than one acre in size. The setback distances to any the above environmental features shall in no event be less than the minimum permissible distance under the State's Oil and Natural Gas Act, including any subsequent amendments to said Act.
- d. A minimum distance of not less than three thousand (3,000) feet shall be maintained between any oil or gas well and any Protected Use or Protected Structure with the exception of a public or private school which shall require a minimum distance of five thousand (5,000) feet.
- e. Required Buffer: A buffer area, as defined in Article 2, not less than seventy-five (75) feet in depth shall be provided be along all property lines. The Borough Council may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas. Buffers shall be considered improvements for the purposes of guaranteeing installation in accordance with the requirements for land developments in the Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the applicant to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- f. Height: The height of a drilling rig and other temporary facilities on site shall be exempt from the height limits in this Ordinance. Permanent structures, whether principal or accessory, shall comply with the height limitations applicable to the underlying zoning district.
- g. Multiple Wells: Multiple wells may be approved on one (1) oil or gas well pad. A separate application and zoning approval shall be required for each well.
- h. Flood Plains: An oil or gas well shall not permitted within any 100 Year Flood Plain as identified in the most recent Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for the Borough as prepared and approved by Federal Emergency Management Agency (FEMA.)

3. Land Development Approval:

Approval of a land development plan in accordance with the terms, standards and

procedures as set forth in the Exeter Borough Subdivision and Land Development Ordinance shall be required.

4. Stormwater Management Ordinance:

Approval of a Stormwater Management Permit shall be required for any earth disturbance in accordance with the standards and provisions of the Exeter Borough Stormwater Management Ordinance.

5. Soil Erosion and Sedimentation Control Plan

Documentation of an approved Soil Erosion and Sedimentation Control Plan by the Luzerne County Conservation District or the Pennsylvania Department of Environmental Protection and implementation of the same shall be provided prior to and during any grading and/or earth disturbance.

6. Parking and Staging Areas:

The required amount of off-street vehicle parking shall be equal to not less than 75% of the maximum number of the applicant's employees, subcontractors, and agents working and/or residing on the property at any given time during the construction and/or operation of a well. Unless stated otherwise, said parking areas shall comply with all applicable standards of Article 12, including but not limited to Section 1207. All vehicle parking areas and staging areas shall be setback not less than 200 feet from any property line. No vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.

7. State, Federal and Local Compliance:

The applicant shall comply with all applicable State and Federal regulations and shall show evidence of obtaining the required State and/or Federal permits, including proof of insurability, before initiating any work and maintaining the required permits throughout the duration of all operations. The applicant shall notify the Borough immediately of any suspension or revocation of the required State and/or Federal permits. Upon notification of said suspension or revocation the Borough issued permits will hereby be deemed suspended or revoked until State and/or Federal compliance is reached.

8. Access Roads:

Access to any oil or gas well site shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of Borough roads. The following shall apply:

- a. Any newly established private easements/roadways constructed on the parcel shall be located at least fifty (50) feet from any property line.
- b. Any access road beginning with its intersection with a Borough road, shall be paved for the first fifty (50) feet and be constructed with an additional one hundred fifty (150) feet of limestone in a manner that would reasonably minimize water, sediment or debris carried onto any public road. If the access road or access

way is less than two hundred (200) feet in length, the entire access road or access way shall meet these conditions. Compliance with above requirements must occur prior to the use of the access road.

- c. All roads and access ways shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulphur water or water in mixture with any type of hydrocarbon be used for dust abatement.

9. Truck Routes and Excess Road Maintenance Agreement:

- a. The applicant, its successors and assigns, shall be liable for the full and complete repair and restoration of all damages of whatever nature to all Borough roads directly caused by truck hauling from the Oil or Gas Development in excess of any usual and customary damage attributable to normal and general vehicular use. Notwithstanding the provisions contained herein relating to an excess maintenance agreement and the bonding of the applicant's performance thereof, should the applicant, its successors and assigns, fail to repair and restore fully and completely such road repair and restoration of damages to Borough roads attributable to Oil or Gas Development, the Borough reserves the right to proceed against the applicant, its successors and assigns, by the commencement of an action in law or equity seeking payment of the entire cost of such repair and restoration of road damage, including, but not limited to, all costs of suit and reasonable attorney fees.
- b. The applicant shall disclose the proposed routes of all trucks and other heavy equipment to be utilized for Oil or Gas Development and the estimated weights of those trucks and/or heavy equipment associated with such activity. The Borough reserves the right to designate alternate routes in the event that the applicant's proposed routes are determined by the Borough Engineer to be inadequate, unsafe, or overly disruptive to normal vehicular traffic.
- c. Before the commencement of any Oil or Gas Development, including, but not limited to, the construction of the well site, the Borough Engineer and the applicant shall conduct an on-site inspection of all Borough roads to be utilized for truck hauling to and from the Oil or Gas Drill Site. Upon the basis of the inspection, the Borough Engineer and the applicant shall prepare a detailed report documenting the existing structural condition of the road. Photographs and video tapes will be taken to substantiate the report. Copies of the inspection report, photographs, and/or video tapes will be made available to the applicant and the Borough.
- d. The applicant shall plan or design all proposed hauling routes to minimize the use and impact of such truck hauling upon Borough roads wherever feasible.
- e. The applicant shall produce evidenced satisfactory to the Borough Engineer that all intersections along proposed hauling routes provide a sufficient turning radius for trucks to be utilized for hauling so that all turns can be safely made without damage to vehicles, sidewalks, curbs or surrounding property.
- f. All Borough roads used by the applicant for truck and/or equipment hauling for Oil or Gas Development will be kept and restored to the same or similar condition

- during and after such activity. Accordingly, prior to any Oil or Gas Development, the Borough and the applicant shall enter into an excess maintenance agreement, in a form acceptable to the Borough, in order to guarantee the repair and the restoration of any Borough road(s), which may be determined in the reasonable professional opinion of the Borough Engineer founded, in whole or in part, on the inspection report and the graphic documents in support of the inspection report, to be subject to damage as a result of and in the course of traffic generated by truck and/or equipment hauling from such activity. In the excess maintenance agreement, the applicant must assume explicitly its responsibility to repair and restore any Borough road determined to be damaged as a result of traffic generated by truck and/or equipment hauling from the Oil and Gas Well Site and in excess of the usual and customary extent due to general vehicular use. The reasonable professional opinion of the Borough Engineer as to damage(s) shall prevail hereunder.
- g. In addition to the aforesaid excess maintenance agreement and to secure the performance thereof, the applicant shall post a bond or other financial security in favor of the Borough and in a form acceptable to the Borough. The principal of the bond shall be determined by the Borough Engineer acting on behalf of the Borough. The bond to be posted by the applicant may be in a principal sum in excess of otherwise applicable PennDOT limits when the Borough Engineer has reasonably estimated that the cost of the repair and restoration of Borough roads will exceed the prevailing Penn Dot bonding limits.
 - h. The Applicant is responsible for the satisfactory and complete repair and restoration of damaged roads, as above determined, before the excess maintenance agreement can be terminated and the security released.
 - i. Notwithstanding any other provision herein set forth, the applicant shall, at all times, utilize the Borough roads only in a manner that permits unobstructed and safe passage for other members of the traveling public. The applicant shall covenant in the excess maintenance agreement to make immediate repair of any conditions on the road attributable to its use for truck hauling to and from an Oil or Gas Well Site, which restricts use of the road by the traveling public or causes or contributes to an unsafe condition, including the removal of mud and dirt from the road.
 - j. Where truck traffic generated by Oil or Gas Development is heavy in the proximity of school bus stops, the applicant will provide flagmen to ensure the safety of children waiting for or leaving school buses.
 - k. The access driveway off the public road to an Oil or Gas Well Site shall be gated at the entrance to prevent illegal access. An Oil or Gas Well Site assigned address shall be clearly visible on the access gate for emergency 911 purposes. In addition, the sign shall include the current well name and number, name of the applicant and the telephone number for a person responsible who may be contacted in case of emergency.
 - l. Access of Oil or Gas Well Site roads directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy

Permit approval. Prior to initiating any work at an Oil or Gas Well Site, the Borough shall be provided a copy of the Highway Occupancy Permit.

- m. The applicant shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes. The applicant shall comply in all respects with the Borough's "Burning Ordinance."

10. Noise

The applicant shall take the following steps to minimize noise resulting from an Oil or Gas Well Site.

- a. Prior to the commencement of any use, development, construction, drilling and/or improvements at an Oil or Gas Well Site, the applicant shall establish the continuous seventy-two hour ambient noise for all level of frequencies at all boundaries of the property on which the Oil or Gas Well Site is located with prior approval of the testing times and dates by the Borough Council.
- b. Measurement Equipment - All noise level measurements for all level of frequencies shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements for all level of frequencies shall be taken using the FAST response time and A-weighting.
- c. The applicant shall provide the Borough documentation of the established ambient noise level for all level of frequencies prior to the commencement of any use, development, construction, drilling and/or improvements at an Oil or Gas Well Site.
- d. Between the hours of 7 PM and 7 AM (local time), the decibel level shall not exceed ambient noise level for all level of frequencies that was established above under item 10(b) any point outside the boundaries of the property of an Oil or Gas Well Site by more than 3 decibels.
- e. Between the hours of 7 AM and 7 PM (local time), the decibel level shall not exceed ambient noise level that was established above under item 10(b) for all level of frequencies any point outside the boundaries of the property of an Oil or Gas Well Site by more than 5 decibels.

11. Engines.

A Compressor and any other power driven equipment shall utilize sparkless electric motors. All electrical installations and equipment shall conform to Borough ordinances and the Pennsylvania Uniform Construction Code.

12. Fencing

- a. If 24-hour onsite supervision and security are provided, security fencing shall not be required at oil or gas well sites during the initial drilling, or re-drilling operations.
- b. Upon completion of drilling or re-drilling security fencing consisting of a permanent chain link fence shall be promptly installed at the oil or gas well site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the oil or gas well site.
- c. Security fencing shall be at least 6 feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide.
- d. Emergency Responders shall be given means to access oil or gas well site in case of an emergency.
- e. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three-hundred sixty-five days a year.

13. Emergency Response Plan:

- a. The applicant shall submit an Emergency Response Plan to the Borough Council for its review and approval as to its adequacy to protect the public health, safety, and general welfare in the event of an emergency or catastrophic event.
- b. Prior to drilling operations, applicant shall provide to the Borough Council, Police Department, Fire Department and Zoning Officer, a copy of the approved Emergency Response Plan.
- c. Not less than 60 days prior to drilling operations, the applicant shall, at its sole cost and expense, provide to Emergency Responders, appropriate site orientation with adequate information and training on dealing with any potential dangerous conditions that may result from development activities and shall be made available at least annually during the period when the applicant anticipates drilling activity within the Borough. Emergency Responders shall be provided with a complete, detailed list and location of all gases, chemicals, waste products and hazardous material produced, stored and maintained on the site.

13. Lights:

No person shall permit any exterior lights located on any Oil or Gas Well Site to be directed in such a manner so that they shine directly on a public road, a protected use, an adjacent property or property in the general vicinity of the Oil or Gas Well Site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads, protected uses, and adjacent dwellings and buildings. Exterior lights shall be turned off except when personnel are working on site or motion sensors are activated.

14. Signage, Site Identification:

At the entrance gate to each Oil or Gas Well Site where the access road intersects with the Borough, County or State owned road and there shall be signage clearly posted and visible posted that includes the following information.

- a. Applicant name
- b. Unit name
- c. Borough assigned address
- d. Emergency contact phone number

This information shall be updated from time to time to ensure the information is always accurate and current.

15. Operating Times:

All site preparation and pre-production operations on an Oil or Gas Well Site shall be permissible Mondays through Saturdays (with the exception of federal and/or state holidays) between the hours of 7 AM and 7 PM, or as otherwise authorized by the Borough. The active drilling phase is exempt from this paragraph.

16. Water Flow Test:

The applicant shall submit to the Borough a copy of a water flow test showing evidence of the gallon-per-minute flow rate and the per-minute recovery rate of all water wells, springs or other sources providing water to any protected structure within two thousand (2,000) feet of a proposed Oil or Gas Well prior to the commencement of any drilling.

17. Water Quality Test:

The applicant shall submit to the Borough a copy of a water quality test on all water wells, developed springs, and surface waters, within two thousand (2,000) feet of a proposed Oil or Gas Well prior to the commencement of any drilling. The required water testing shall at minimum be for the following substances:

Methane, Ethane, Barium, Chloride, Total Dissolved Solids, pH, Lead, Arsenic, Iron, Manganese, Strontium, Sodium, Hardness (calcium & magnesium), Sulfate, Nitrate, Oil & Grease, Detergents / Surfactants, Total Coliform Bacteria, Turbidity, Alkalinity, 21 VOCs/MTBE, Radium, Radon, Uranium, Gross Alpha and Beta.

18. Water Impoundment Facility

Any proposed construction of any fresh water or waste water impoundment facility shall be subject to the following additional requirements.

- a. Said facility must be not less than one thousand (1,000) feet from a property line and/or from bodies of water.

- b. A copy of the PA DEP permit for approval of impoundment facility must be provided at the time of the submission of the conditional use application
- c. Chain link fencing must be installed around any impoundment and shall be at least eight (8) feet in height.
- d. Thirty (30) days advance written notice to the Borough must be provided when transitioning from a fresh water to a waste water impoundment and the applicant must provide a copy of the revised PA DEP permit.

19. Environmental Pollution Liability Coverage:

The applicant shall purchase and maintain in force insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least Five Million (\$5,000,000) dollars per loss, with an annual aggregate of at least Fifteen Million (\$15,000,000) dollars. In the alternative, applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by the Borough.

- a. Coverage shall include coverage for apply to pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits;
- b. The applicant shall maintain coverage until such time, as in the judgment of the Borough it is no longer necessary.
- a. Coverage shall apply to sudden and accidental pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits;
- b. The applicant shall maintain continuous coverage as long as the facility is in operation.

20. Fee Reimbursement.

In submitting the Conditional Use Application, the applicant agrees to reimburse the Borough for all reasonable and direct professional consulting fees incurred by the Borough related to the site inspection, including but not limited to, the Borough Engineer, Borough Solicitor and any other reasonable and direct consulting fees incurred for the review and approval process, and for any specialized work called for in the permit and its conditions. An escrow account shall be established by the applicant with an initial deposit of \$10,000 for the draw down by the Borough to pay for related fees incurred during the review and approval process of the conditional use application. Whenever the balance

within the escrow account is less than \$5,000, upon notification from the Borough, the applicant will deposit the required amount funds into the account to restore a balance of \$10,000.

902.36 OUTDOOR WOOD-FIRED BOILER:

An Outdoor Wood-Fired Boiler shall require approval as a special exception use as an accessory structure, permitted only in the C-1 District. Outdoor Wood-Fired Boiler shall only be located within a rear yard of a property. An Outdoor Wood-Fired Boiler shall comply with the following standards

- A. The property must have a lot area of not less than three (3) acres.
- B. A safe flue or chimney shall be provided which has a minimum termination height of twenty-five (25) feet above the natural ground level upon which the outdoor wood-fired boiler is located and be provided with a spark arresting device designed and approved for that purpose.
- C. A fan or blower attached to the appliance to increase the efficiency of the Outdoor Wood-Fired Boiler.
- D. An outdoor wood-fired boiler shall be located not less than two hundred (200) feet from any property line and not less than forty (40) feet to any principal structure or building located upon the property.
- E. The outdoor wood-fired boiler shall have an orange hang tag that signifies that it meets the EPA's standards for Phase 1 air emission levels of 0.60 pounds of fine particulates per million BTU heat input and qualifies for the EPS's voluntary program.
- F. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated within this Section shall apply unless the manufacturer's instructions more restrictive, in which case the manufacturer's instructions shall apply.
- G. The owner of the outdoor wood-fired boiler shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- H. All outdoor wood-fired boilers may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through May 1; and subject to meeting the requirements of this Section.
- I. No homemade outdoor wood-fired boilers will be allowed.
- J. Only natural clean wood may be burned in outdoor wood-fired boiler. Regardless of the manufacturer's instructions an outdoor wood-fired boiler shall not be used to burn any of the following materials:
 - Any material that does not meet the definition of clean wood.
 - Furniture

- Garbage
 - Tires
 - Lawn clippings or yard waste
 - Wet or soggy wood
 - Material containing plastic
 - Material containing rubber
 - Waste petroleum products
 - Paints and paint thinners
 - Chemicals
 - Any hazardous waste
 - Coal
 - Glossy colored paper
 - Construction and demolition debris
 - Plywood
 - Particleboard
 - Salt water driftwood
 - Manure
 - Animal carcasses
 - Asphalt products
- K. All storage of materials to be burnt in the outdoor wood-fired boiler shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- L. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

902.37 OUTDOOR STORAGE (COMMERCIAL)

Outdoor storage, as defined in Article 2, shall be enclosed with a chain link fence eight (8) feet in height. A Soil Erosion and Sedimentation Control Plan and Stormwater Management Plan shall be required for all areas of impervious surface to be provided for such storage. A complete listing of all types of machinery, material and items to be stored therein shall be attached to the required Zoning Application. No hazardous substance, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Where such storage areas abuts on the side or rear property line of any R District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the storage area from adjoining properties, shall be constructed and maintained in good condition along such boundary. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. Outside lighting shall be directed away from adjacent properties.

902.38 PLACE OF WORSHIP:

The minimum lot size for a Place of Worship located in a Residential Zoning District shall be not less than twenty thousand (20,000) square feet. A parking area shall accommodate all parking spaces as required in Article 12 of this Ordinance. Unless superseded by a PennDOT

Highway Occupancy Permit, access driveways shall be not greater than twenty-five (25) feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60) feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines. Where the parking area abuts existing residences on the side or rear property line, a buffer area, consisting of shrubbery or evergreen trees, being not less than four (4) feet in height at the time of planting, shall be provided.

902.39 PUBLIC RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities shall conform to the following regulations:

- A. No outdoor recreation activity, excluding trails and nature paths, shall be conducted closer than thirty-five (35) feet to any property line.
- B. A buffer area, at least ten (10') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

902.40 PUBLIC USES AND QUASI-PUBLIC USES:

Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being not less than six (6) feet in height along with a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years. Outside lighting shall be directed away from adjacent properties.

902.41 PUBLIC UTILITY BUILDINGS AND STRUCTURES

Public utility facilities as defined in Article 2 shall conform to the following regulations for properties containing such uses:

- A. Access and parking shall be provided only in relationship to the maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate eight (8) feet in height shall surround the building or structures of such facilities.
- C. Outside lighting shall be directed away from adjacent properties.
- D. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.
- E. A buffer area not less than ten (10) feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities shall be required.

902.42 RESTAURANTS AND TAVERNS

Unless superseded by the issuance of a PennDOT Highway Occupancy Permit, access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet from an intersection, as measured from the right-of-way lines from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

902.43 RESTAURANT, FAST FOOD

Unless superseded by the issuance of a PennDOT Highway Occupancy Permit, access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet from an intersection, as measured from the right-of-way lines from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes. Lanes shall not cross any principal pedestrian access to the building or site. To avoid internal traffic congestion, the site layout shall provide a minimum queuing distance of 150 feet for vehicles between start of lane order to service window and a minimum queuing distance of fifty (50) feet from start of lane to order.

902.44 RIPARIAN BUFFER:

In all Zoning Districts, a minimum setback of one hundred (100) feet from any Watercourse, (as defined in Article 2) shall be required for any form of development and/or improvements. Stormwater detention facilities, floodproofing structures and/or similar devices shall be excluded

902.45 SEXUALLY ORIENTED BUSINESS

No Sexually Oriented Business, as so defined in Article 2 of this Ordinance, shall be located less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a fence, not less than eight (8) feet in height and screened by a variety of evergreen trees which shall be planted not

more than six (6) feet apart and being not less than eight (8) feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

902.46 SINGLE STRUCTURE WITH MULTIFAMILY DWELLINGS:

Such structures shall contain a lot area of not less than two thousand five hundred (2,500) square feet for each dwelling. A minimum lot width of not less than one hundred (100) feet shall be required. Each side yard shall have a setback of not less than fifteen (15) feet. Two off-street parking spaces shall be provided for each unit.

902.47 SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS")

A. DESIGN AND INSTALLATION

1. Design Safety Certification

The design of a Small WECS shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer's from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

2. All components of a small WECS shall be designed and constructed to be in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code Uniform.

3. Controls and Brakes

A small WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

4. Electrical Components

a. All electrical components of a small WECS shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.

b. The maximum turbine power output shall be limited to 10 KW.

c. All on-site electrical wiring associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines.

d. A Small WECS shall not cause disruption or loss of radio, telephone, television or similar signals, and shall be required to mitigate any harm caused by the operation of the system.

- e. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, or generator where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- f. Anchor points for any guy wires for a small WECS shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

B. VISUAL APPEARANCE

1. A visual analysis of a small WECS as intended to be installed shall be provided with conditional use. The visual analysis shall include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points.
2. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
3. A small WECS's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
4. A small WECS shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:
 - shall not project above the top of ridgelines.
 - shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

C. LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS:

1. A small WECS shall be located on a lot with a minimum size of not less than two (2) acres.
2. The maximum turbine height for a small WECS that is installed as a free standing structure shall be as follows:
 - 65 feet on parcels between two and five acres.
 - 80 feet on parcels of five or more acre.

A roof-mounted system shall not extent more than ten (10) feet above the

structure or building on which it is mounted

3. Setback requirements. A small WECS that is installed as a free standing structure shall not be located closer to a property line than two and a half (2.5) times the turbine height as measure from the center of the base and/or concrete pad to which it is attached.
4. Only one small WECS per legal lot shall be allowed.

D. CLIMB PREVENTION/LOCKS

1. Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:
 - Tower-climbing apparatus located no closer than 15 feet from the ground.
 - A locked anti-climb device installed on the tower.
2. A locked, protective fence at least six feet in height shall enclose the tower and electrical equipment to prevent entry by non-authorized persons.

E. NUISANCE ISSUES:

1. Audible sound from a Small WECS shall not exceed fifty (50) dBA, as measured at the perimeter of any property boundary line upon the property which it is located. Methods for measuring and reporting acoustic emissions from the operations of a Small WECS shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of the Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
2. Reasonable efforts shall be made to preclude shadow flicker to any building off-site located upon a property not owned by the owner of the Small WECS.

F. ABANDONMENT

A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

902.48 TOWNHOUSES

Townhouses shall be subject to the following provisions.

- A. Minimum lot size for the development of Townhouses shall be two (2) acres.
- B. Maximum net residential density shall not exceed 6 units per (1) acre.
- C. Minimum Lot Width shall be two-hundred (200) feet.

- D. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.
- E. Minimum lot width per dwelling unit shall be not less than twenty (20) feet.
- F. Minimum lot depth per dwelling unit shall be not less than one-hundred (100') feet.
- G. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- H. Minimum front yard setback shall be not less than thirty (30) feet.
- I. No side yard setbacks shall be required for attached interior Townhouse units. A minimum side yard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of Townhouses.
- J. Minimum rear yard setback shall be not less than thirty (30) feet.
- K. Minimum width of each dwelling unit shall be not less than twenty (20) feet.
- L. Maximum building height shall be 2¹/₂ stories or thirty-five (35) feet.
- M. Minimum distance between principal structures shall be not less than thirty (30) feet.
- N. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.
- O. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet.
- P. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- Q. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

902.49 WAREHOUSE AND DISTRIBUTION FACILITIES

All materials shall be stored within a completely enclosed building and yard areas shall be kept clear of junk, trash or other types of debris. Unless superseded by a PennDOT Highway Occupancy Permit, access drives shall not exceed twenty-five (25) feet in width; parking and loading areas shall conform to the regulations of Article 11 of this Ordinance. No warehouse activities, including parking and/or loading areas, shall be allowed within fifty (50) feet of any property line.

902.50 WAREHOUSE (SELF-STORAGE)

These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained

within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25) feet between buildings for traffic circulation, parking and fire lane purposes. All outside lighting shall be directed away from adjacent properties.

902.51 WIND ENERGY FACILITY

A. INFORMATION TO BE SUBMITTED

The applicant for a Wind Energy Facility shall be required to submit the following information:

1. The applicant and landowner's name and contact information. Please note that the Conditional Use Application must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.
2. The tax map numbers, existing use and acreage of the site parcel.
3. A copy of the deed to the property.
4. A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and height of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
5. A survey map at an appropriate scale showing the proposed location of the wind energy facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of 2,000 feet or less from any property boundary.
6. Standard drawings of the wind turbine structure, including the tower, base and footings, drawings of access roads, and including an engineering analysis and certification of the Wind Turbine, showing compliance with the applicable Borough Building Code.
7. The make, model, picture and manufacturer's specifications, including noise decibels for all level of frequencies. Data pertaining to the Wind Turbine's safety and stability, including safety results from test facilities. The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
8. A completed Environmental Impact Statement in accordance with Section 806 of this Ordinance.

9. A project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from other locations, to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 6 inches, and the base map used shall be a published topographic map showing man-made features, such as roads and buildings.
10. No fewer than four, and no more than the number of proposed individual wind turbines, plus three color photos, no smaller than 8" by 10", taken from locations within a three-mile radius from the site and to be selected by the Borough Council, and computer-enhanced to simulate the appearance of the as-built site facilities as they would appear from these locations.
11. Copies of all proposed leases required to be secured by the applicant, shall be provided, if the applicant is not the sole owner of the parcel or parcels on which the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
12. Copies of all easements, existing and proposed upon the site shall be provided by the by the applicant. Said easements shall be clearly illustrated upon the site plan.
13. Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located, including the name and mailing address of the owners of record.

B. APPROVAL STANDARDS

In addition to all other applicable criteria and requirements for approval of a conditional use as set forth in this Ordinance, the following standards shall apply:

1. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
2. To limit unauthorized access, a fence eight feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - Tower-climbing apparatus located no closer than 15 feet from the ground.
 - A locked anti-climb device installed on the tower.
3. Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
4. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
5. All power transmission lines from a wind turbine to on-site substations shall be

underground.

6. Prior to issuance of a building permit, the applicant shall provide the Borough proof of a level of insurance to be determined by the Borough Council in consultation with the Borough's insurer, to cover damage or injury that might result from the failure of a tower or towers of a wind turbine or any other part or parts of the generation and transmission facility. Said insurance must be maintained for the life of the Wind Energy Facility, until such time that all components of the Wind Energy Facility are decommissioned and/or removed.
7. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a local telephone number with 24 hour, 7 days a week coverage.
8. Any Wind Energy Facility found to be unsafe by the local enforcement officer or agent of the Borough shall be repaired by the owner to meet federal, state and local safety standards or removed within six months. If any Wind Energy Facility is not operated for a continuous period of 12 months, the Borough will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Borough deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice from the Borough.
9. The owner of a Wind Energy Facility shall have it inspected at least every two years for structural and operational integrity by a licensed professional engineer, and shall submit a copy of the inspection report to the Borough. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide written to the Borough with a written schedule for the repairs or maintenance.
10. A Wind Energy Facility shall comply with all applicable provision under the Pennsylvania Uniform Construction Code and shall secure a building permit from Exeter Borough.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

1. Use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.
2. Combine transmission lines and points of connection to local distribution lines.
3. Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.

4. All wiring between wind turbines and the wind energy facility substation shall be underground.
5. The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities and shall provide evidence of a signed interconnection agreement, or letter of intent, with the interconnecting utility company.

D. SETBACKS:

1. The minimum setback distance between each wind turbine and overhead utility or transmission lines, other wind turbine, electrical substations, meteorological towers, and public roads shall be equal to no less than 1.1 times the sum of proposed structure height plus the rotor radius.
2. The minimum setback distance for each wind turbine to any property line shall be not less than 1,500 feet.
3. The minimum setback distance for each wind turbine to off-site structures shall be not less than five (5) times the Hub Height, as measured from the center of the Wind Turbine base to the nearest point on the foundation of an off-site structures or 1,500 feet, whichever is greater.
4. All Wind Turbines shall be set back from the nearest public road a distance of not less than 1.1 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.
5. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

E. NUISANCE ISSUES:

1. Individual Wind Turbines shall be located so that the level of noise for all level of frequencies produced by Wind Turbine operation shall not exceed 50 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. No individual Wind Turbine shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
3. Reasonable efforts shall be made to preclude shadow flicker to any Building on a Non-participating Landowner's property.

F. ENVIRONMENTAL AND VISUAL:

1. Wind Energy Facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
2. The design of the wind turbines buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
3. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines to minimize the visual contrast from any public access.
4. The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 300 feet.
5. Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas, to the greatest extent feasible.
6. Avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, b) horizontal perching opportunities on the towers or related structures or c) soil where weeds can accumulate.
7. A Wind Turbine shall be set back at least 1,500 feet from any bodies of water including but not limited to lakes, ponds, streams, creeks and rivers.
8. All reasonable efforts shall be made to avoid development of sites which contain wetlands. Wind turbine shall be set back of not less than 1.1 times the Turbine Height, from identified wetlands and its delineated boundaries. The above setback distance may be altered based upon the findings under Section 806, Environmental Impact Statement of this Ordinance.
9. Wind Energy Facilities shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wild life habitat, including but not limited to bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having a jurisdictional review or stewardship over the protection of wildlife shall be required.

G. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A Wind Energy Facility and all related components necessary for its operation shall be removed from the site upon its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the Wind Energy Facility and restoring the site:

1. The anticipated and/or estimated life of the project;
2. The estimated decommissioning costs in current dollars;

3. The method and schedule for updating the costs of decommissioning and restoration;
4. The method of ensuring that funds will be available for decommissioning and restoration; and
5. The anticipated manner in which the project will be decommissioned and the site restored.
6. The Borough Council shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the commercial communications tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
7. The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

ARTICLE 10
NONCONFORMING LOTS, USES STRUCTURES AND BUILDINGS

SECTION 1001 NONCONFORMITY – TYPES:

For the purposes of this Ordinance, nonconformities shall be defined and classified by types, as follows:

1001.1 Nonconforming Use:

"Nonconforming use" means a use, whether of land or a structure, which does not comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or such amendment.

1001.2 Nonconforming Structure:

"Nonconforming structure" means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or such amendment. Nonconforming structures include, but are not limited to, nonconforming signs.

1001.3 Bulk Nonconformity:

"Bulk nonconformity" refers to the bulk of a structure which does not comply with the applicable size, height or other bulk provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed in compliance with such provisions prior to the enactment of this ordinance or such amendment.

1001.4 Area Nonconformity:

"Area nonconformity" refers to that aspect of a structure or use on a zoning lot which is not in compliance with the applicable yard, coverage or other area provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure or use lawfully existed in compliance with such requirements prior to the enactment of this Ordinance or such amendment.

SECTION 1002 CONTINUATION

Nonconforming uses, nonconforming structures, bulk nonconformities and area nonconformities may be continued except as otherwise set forth in this Article, but no nonconforming use or structure shall be enlarged, reconstructed, structurally altered or changed except as permitted by the provisions of this Article.

SECTION 1003 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The owner or occupant of the premises occupied by a nonconforming use or structure may apply for a Certificate of Nonconformity from the Zoning Officer. The owner or occupant shall bear the sole responsibility to provide required documentation to substantiate the issuance of a Certificate of Nonconformity. The Zoning Officer may issue a Certificate of Nonconformity where he finds that a use or structure, although not in compliance with the requirements presently applicable thereto, is a nonconforming use or structure.

SECTION 1004 AREA AND BULK REQUIREMENTS COMPLIANCE:

No bulk nonconformity or are nonconformity shall be increased or changed in any way to depart further from the presently applicable requirements. Whenever a nonconforming use is permitted to be enlarged or expanded under the provisions of this Ordinance or pursuant to judicial decision, such enlargement or expansion shall not be permitted to violate, or to depart further from compliance with the area and bulk regulations applicable to permitted uses in the zone in which it is located.

SECTION 1005 CHANGES OF NONCONFORMING USES AND STRUCTURES

Nonconforming uses and structures shall be changed only in accordance with the following subsections:

1005.1

A nonconforming use or structure shall not be extended to displace a conforming use or structure.

1005.2

Structures, buildings or uses, either main or accessory, shall not be combined for the purpose of extending a nonconforming use or creating a different nonconforming use.

1005.3

When authorized by the Zoning Hearing Board as a special approval, a nonconforming use may be changed to another nonconforming use if the Board finds that all of the following-standards are met:

- a. The proposed change shall be less objectionable in external effects than the previous nonconforming use, and will be more consistent physically with its surroundings.
- b. There will be no increase in traffic generation or congestion including both vehicular and pedestrian traffic.

- c. There will be no increase in the danger of fire or explosion.
- d. There will be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration or electrical disturbances.
- e. There will be no increased threat to health by reason of rodent infestation or otherwise.
- f. There will be no reduction in minimum lot area requirements as a result of the proposed change.

SECTION 1006 ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE

A nonconforming structure or a nonconforming use shall not be enlarged except by special approval authorized by the Zoning Hearing Board in accordance with the following:

- a. Nonconforming Structure or Nonconforming Use: The area subject to a proposed expansion shall after enlargement conform to all area and bulk requirements applicable to conforming buildings in the zone in which it is located and to all applicable off-street parking and loading requirements.
- b. Subject to (a) above, the floor or land area of a nonconforming structure or use shall be enlarged not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.
- c. Not more than one enlargement of a nonconforming use shall be permitted.
- d. A nonconforming structure or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot is prohibited.
- e. A structure containing residential dwelling uses, both conforming and nonconforming, shall not be enlarged to increase the number of dwelling units unless in full compliance with all other applicable provisions of this Ordinance

SECTION 1007 REPAIR AND REHABILITATION

Nonconforming structures and structures containing nonconforming uses maybe normally maintained and repaired provided that there is no alteration which extends the area occupied by the nonconforming use. A structure containing nonconforming residential uses may be altered to improve interior livability, subject to no structural alterations which would increase the number of dwelling units or the bulk of the building

SECTION 1008 RESTORATION OF USE AND/OR STRUCTURE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be

restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 1009 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

1009.1 NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

1009.2 CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

1009.3 ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed to be abandoned if it is changed as set forth in Section 1009.2 or if it is discontinued for a period of one year or more without substantial evidence of intent to resume the nonconforming use, as by actions to rent the premises for such nonconforming use or otherwise.

1009.4 NONCONFORMING MOBILE HOMES

The removal of a mobile home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

- A. The property owner shall provide the Zoning Officer with written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.

- B. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.
- C. A new mobile home shall be located upon the lot and connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

ARTICLE 11
SIGN REGULATIONS

SECTION 1101 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign which exceeds eight (8) square feet in surface area. Real estate signs and construction signs shall be exempt from securing a zoning permit. A zoning permit shall be required for the establishment, erection or reconstruction of any sign, with the following exceptions:

1. Real Estate Sign (temporary) not greater than twenty-four (24) square feet.
2. Construction Sign (temporary) not greater than twenty-five (25) square feet.
3. Identification Sign not greater than three (3) square feet.
4. Institutional Sign, not greater than eight (8) square feet.
5. Directional Sign, not greater than six (6) square feet.

SECTION 1102 SIGNS

1102.1 TYPE AND USE OF SIGNS

All signs shall be classified according to type and use as provided herein:

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. CONSTRUCTION SIGN: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firm associated with the project.
- E. REAL ESTATE SIGN: A temporary, which advertises the sale or rental of property.
- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors

entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

- H. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fundraisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

SECTION 1103 DESIGN AND CONSTRUCTION FEATURES OF SIGNS

All signs shall be classified according to construction types as provided herein:

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than eighteen (18) inches from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than eighteen (18) inches from the building or structure.
- D. ILLUMINATED SIGN: Any sign directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.
- E. ELECTRONIC MESSAGE BOARD SIGN: A sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change are electronically programmed and can be modified by electronic processes.
- F. WINDOW SIGN: A sign painted, stenciled, or affixed on a window
- G. AWNING SIGN: A sign that is attached to, affixed to, or painted on an awning or canopy of a building.
- H. ROOF SIGN: A sign erected upon, against, or directly above a roof or roof eaves, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eaves.
- I. PORTABLE SIGN: Any sign not permanently affixed in the ground or to a building whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer or other non-motorized mobile structure with or without wheels. A portable sign shall be governed by the same regulations applicable to a Free Standing Sign

Subject to other requirements of this Ordinance, the establishment, erection or reconstruction of a sign shall be in accordance with the following table:

**DESIGN AND CONSTRUCTION FEATURES OF SIGNS
PERMITTED BY ZONING DISTRICT**

TYPE OF SIGN	R-1	R-2	R-3	C-1	B-2	B-3	I-1
Free Standing Sign	X	X	X	X	X	X	X
Wall Sign				X	X	X	X
Projecting Sign:	X	X	X	X	X	X	X
Illuminated Sign:					X	X	X
Electronic Message Board Sign					X	X	X
Window Sign					X	X	X
Awning Sign:					X	X	X
Roof Sign ²						X	X
Portable Sign				X	X	X	X

X-Indicates Permitted in District

¹ Fifteen (15) Feet Maximum Height Extension above Roof Line

SECTION 1104 PERMITTED SIGNS BY ZONING DISTRICT

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. **IDENTIFICATION SIGN**: Such signs shall be permitted in all zoning districts.
- B. **BUSINESS SIGNS**: Such signs shall be permitted in B-2, B-3, C-1, and an I-1 Zoning Districts.
- C. **REAL ESTATE SIGNS**: Such signs shall be permitted in all zoning districts.
- D. **SUBDIVISION/DEVELOPMENT ADVERTISING SIGNS**: Such signs shall be permitted in all zoning districts.
- E. **INSTITUTIONAL SIGNS**: Such signs shall be permitted in all zoning districts.
- F. **ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN**: Such signs shall be permitted in all zoning districts.
- G. **BILLBOARD OR OFF PREMISE ADVERTISING SIGN**: Such signs shall be permitted in an I-1 zoning district.
- H. **SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS**: Such signs shall be permitted in all zoning districts.
- I. **POLITICAL SIGNS**: Such signs shall be permitted in all zoning districts.
- J. **EVENT SIGNS**: Such signs shall be permitted in all zoning districts.

SECTION 1105 AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. **IDENTIFICATION SIGN**: An identification sign shall not exceed three (3) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. **BUSINESS SIGN**: The maximum size of a business sign shall be governed by the following standards:
- The maximum size of a single business sign located in a B-2 District shall not exceed thirty-two (32) square feet, nor shall the total area of all signage upon the property exceed thirty-two (32) square feet.
 - The maximum area of a single business sign located in either a B-3 or I-I District shall be not exceed (2) square feet of signage for each linear foot of frontage, nor shall the total area of all signage exceed 2 square feet of signage for each linear foot of frontage. In the case of corner properties, the frontage along both sides shall be included in calculating the maximum square feet of permitted signage.
- C. **REAL ESTATE SIGN**: A temporary real estate sign shall not exceed twenty-five (25) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line or if attached to a building shall not be higher than the first story of the building to which it is attached. Said sign shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. **CONSTRUCTION SIGN**: A construction sign shall not exceed twenty-five (25) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall be temporary in nature and removed within thirty (30) days following the completion of construction activity.
- F. **INSTITUTIONAL SIGN**: An institutional sign for public and quasi-public facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed (1) square foot of sign area for each linear foot of frontage of the zoning lot on which the use occupies. In the case of corner properties, the frontage along both sides shall be included in calculating the maximum square feet of permitted signage.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5') feet shall be required for such signs when constructed as a free standing sign. The maximum height of such signs when constructed as a free standing sign shall not exceed six (6') feet. Directional and/or informational signs will not be permitted over a vehicular and/or pedestrian right of way, excluding those located upon immediate entrance to a parking garage as a height warning device and directional signs within a parking garage. An informational/directional sign may be illuminated, but shall not include any attributes of a flashing light or similar motion.
- H. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: A Billboard Sign or Off Premise Advertising Sign shall only be permitted in an I-1 District subject to the following regulations:
1. Area of Sign:
No advertising sign shall exceed three hundred (300) square feet in surface area.
 2. Number of Signs:
Not more than one (1) advertising sign shall be permitted on a lot having a frontage of one hundred (100) feet or less. One (1) additional sign is permitted for each additional one hundred (100) feet except that no lot or contiguous group of lots shall contain more than three (3) advertising signs.
 3. Advertising Signs on Limited Access Highways:
No advertising signs shall be permitted within the area extending six hundred sixty (660) feet on either side of the right-of-way line of any limited access highway.
 4. Advertising Signs Adjacent to Certain Uses:
No advertising sign shall be permitted within two hundred (200) feet of any residential district, nor within three hundred (300) feet of any public park, nor shall any advertising sign face any public or parochial school, library, church, hospital, or similar institutional use, located on an abutting lot.
 5. Signs Parallel to Right-of-Way:
No advertising sign shall be constructed parallel to, or at any angle of less than forty-five (45) degrees with, the right-of-way upon which it faces, except when such a sign is located at the intersection of two (2) streets.

SECTION 1106 HEIGHT RESTRICTIONS FOR FREESTANDING SIGNS

MAXIMUM HEIGHT OF FREE STANDING SIGNS BY ZONING DISTRICT							
ZONING DISTRICT	R-1	R-2	R-3	C-1	B-2	B-3	I-1
MAXIMUM HEIGHT	10	10	10	12	18	20	20

SECTION 1107 SETBACK FOR FREESTANDING SIGNS

The minimum front yard, side yard setback and/or rear yard setback for any freestanding sign in all Zoning Districts shall be not less than ten (10) feet. In the case of free-standing signs, the required setback distance, shall be measured from the outer most edge of the sign and not front the supporting structure. If an existing building has a front yard setback which is less than ten (10) feet, any proposed new sign shall be attached flat against the building as a wall sign.

SECTION 1108 SIGNS RELATED TO NONCONFORMING USES

Identification, institutional and business signs related to nonconforming uses may be continued in use, including repair and/or replacement of the same, but shall not be enlarged. Where the nonconforming use is lawfully changes to another nonconforming use there shall be permitted a new sign, not greater than one (1) square foot of signage per linear distance of frontage. If the property is located upon a corner lot, the front linear feet of both sides fronting upon a street shall be included in calculating the maximum permitted area of the new sign. The sign may be erected at a different location provided it meets all applicable regulations for the zoning district in which it is located.

SECTION 1109 AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall, awning or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

SECTION 1110 VERTICAL CLEARANCE

A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1111 ILLUMINATED SIGNS

Signs illuminated by reflected light shall have the lighting source shielded in a manner that no direct light shines onto abutting properties or in the normal line of vision of the public using nearby streets or sidewalks:

SECTION 1112 PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C.* Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.

*** Zoning approval for signage is limited to the lot on which the sign is proposed to be erected. Any signage which extends beyond the lot and into a public right-of way shall require the approval of Exeter Borough Council**

- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20') feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

ARTICLE 12
OFF-STREET PARKING AND LOADING

SECTION 1201 PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.

SECTION 1202 SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and sixty two (162) square feet, being nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles.

SECTION 1203 DIMENSIONS AND DESIGN

The dimension and design of off-street parking areas, including parking garages, shall comply with the following:

- A Stall width shall be not less than nine (9) feet.
- B Stall depth shall be not less than eighteen (18) feet.
- C The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking shall be as follows:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	Twelve (12) feet
30 degrees	Eleven (11) feet
45 degrees	Thirteen (13) feet
60 degrees	Eighteen (18) feet
90 degrees	Twenty (20) feet

- D The minimum width for aisles providing access to stalls with two-way traffic shall be twenty-four (24) feet.
- E Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1204 SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50) feet in depth, twelve (12) feet in width and provide an overhead clearance of not less than fourteen (14) feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1205 ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10) feet in width for residential uses and not less than twenty (20) feet, or greater than thirty (30) feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35) feet from the intersection of streets, as measured along the right-of-way lines, unless a greater distance is required for a specific use as contained within Article 9, Supplemental Regulations.

SECTION 1206 LOCATION OF OFF-STREET PARKING AREAS

The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- A. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership.
- C. The lot to be used for off-street parking shall be not less than four hundred (400) feet to any lot line on which the principal structure is located.

SECTION 1207 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area for five (5) or more vehicles shall be graded for proper drainage and shall be surfaced so as to provide a pavement structure of bituminous asphalt, or concrete. Excluding points of ingress or regress, the parking area shall be curbed. All stormwater shall be contained within the boundaries of the property. Methods for containment may include:

- 1. The design and construction of catch basins to collect and discharge stormwater into a public storm sewer.
- 2. The design and construction of rain gardens or similar systems designed to retain all stormwater within the parking area for infiltration into the ground.
- 3. A combination of the above.

An off-street parking area for five (5) or more vehicles shall require a complete design and layout of the proposed parking area, sealed by a licensed professional engineer attesting that the subject design and construction of the parking area shall fully comply with the above provisions. Any engineering review costs incurred by Exeter Borough shall be reimbursed by the applicant.

SECTION 1208 SCREENING AND LANDSCAPING

A. SIDEYARDS AND REAR YARDS

The side and rear yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than five (5) feet in depth, containing ornamental grass, shrubbery, plants and/or a similar vegetative cover that are a minimum of three (3) feet in height at the time of planting.
2. Such borders shall also be screened by a substantial, tight fence, six (6) feet in height, or in lieu of a fence, an evergreen hedge not less than five (5) feet in height at the time of planting with a spacing distance of not greater than four (4) feet between each planting.

B. FRONT YARDS

The front yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than ten (10) feet in depth shall be provided between the parking areas and the abutting street right-of-way except for the location of access drives to the property. Said planting strip shall contain ornamental grass, shrubbery, plants or a similar vegetative cover.
2. Said planting strip shall also contain one (1) shade tree for each forty (40) linear feet of planting strip. Said trees shall be not less than eight (8) feet in height at the time of planting.

C. INTERIOR LANDSCAPING

Off-street parking areas that contain twenty (20) or more parking spaces, in addition to the compliance with regulations contained under items A and B of this Section, shall provide interior landscaping to said parking area. Said landscaping shall be not less than five (5%) percent of the total area that is paved and utilized for parking and or loading. Interior landscaped areas shall contain ornamental grass, shrubbery, plants or a similar vegetative cover and a minimum of one (1) shade tree not less than eight (8') feet in height at the time of planting.

SECTION 1209 LIGHTING

Any lighting used to illuminate off-street parking or loading areas shall be sized and directed to avoid adverse impact and spillover onto adjacent properties.

SECTION 1210 DRIVEWAYS

- A. Residential: All driveways shall have a minimum setback distance of ten (10 feet to any sideyard or rear yard property line. Townhouses, with exception of end units, shall be excluded from this provision.
- B. Nonresidential Uses: All driveways shall have a minimum setback distance of fifteen (15) feet to any sideyard or rear yard property line.

SECTION 1211 PARKING IN YARD AREAS

Required parking for residential properties shall be permitted within the required front, rear and/or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5) feet to the nearest point of a side yard or rear yard. No vehicle shall be parked in a front yard area in a manner in which the vehicle extends beyond the boundary of the front property line or otherwise obstructs pedestrian traffic.

Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard property line.

SECTION 1212 EXISTING STRUCTURES AND USES

Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the off-street parking or off-street loading requirements, so long as a structure or use is not changed, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum required in this Ordinance.

SECTION 1213 CHANGES OF STRUCTURES OR USES

Whenever the existing use of a building, structure or land is proposed to be changed to a new use, off-street parking and/or off-street loading facilities shall be provided as required for such new use. However, if said building or structure was erected or the use of the land established prior to the effective date of this Ordinance, additional off-street parking or off-street loading facilities shall be mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.

SECTION 1214 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half ($1/2$) shall be disregarded and any fraction equal to or greater than one-half ($1/2$) shall be construed to require a full space.

SECTION 1215 MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1216 OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

1. Residential Structure: Two (2) spaces for each dwelling unit.
2. Boarding House or Rooming House: Two (2) spaces for each guestroom.
3. Personal Care Facility: Two (2) spaces for each person residing therein based upon the maximum number persons permitted under its State license.
4. Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.
5. Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
6. Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
7. Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) persons, based upon the maximum number of persons which the facility is licensed to serve.
8. Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner, plus one for each staff member.
9. Methadone Treatment Facility: Twelve (12) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility, plus one (1) additional space for every one hundred (100) square feet of gross floor area.
10. Clubs/Lodges (Private) One (1) space for every one hundred (100) square feet of gross floor area.
12. Public Uses: One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.
12. Public Utility Facilities: Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) space for each employee assigned to work at such facility.
13. Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus

an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.

14. Retail Businesses: One (1) space for every two hundred (200) square feet of gross floor area.
15. Restaurants and Taverns: One (1) space for every two and one half (2^{1/2}) seats, plus two (2) spaces for every three (3) employees based upon the maximum working shift.
16. Fast Food Restaurants: One (1) space for every eighty (80) square of service or dining area. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide stacking spaces for the drive-through window services in conformance with Section 802.28 of this Ordinance.
17. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area.
18. Animal Hospital: Five (5) spaces for every veterinarian.
19. Animal Kennel: One (1) space for each kennel and three (3) additional spaces for staff.
20. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
21. Offices: One (1) space for every two hundred (200) square feet of gross floor area.
22. Funeral Homes: Twenty (20) spaces for each viewing parlor.
23. Self-Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
24. Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
25. Automotive Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet of open sales or display area.
26. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.

27. Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
28. Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every two hundred (200) square feet of gross floor area.
29. Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
30. Hospitals/Nursing Homes: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
31. Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every five hundred (500) square feet of gross floor area; plus one (1) space for each employee on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.
32. Sexually Oriented Businesses
 - a. Adult Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces for every three (3) employees based upon the maximum working shift.
 - b. Adult Entertainment: One (1) space for every one hundred (100) square feet of gross floor area, plus:
 - one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
 - two (2) additional spaces for every three (3) employees based upon the maximum working shift.
 - c. Massage Parlor: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.

SECTION 1217 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1215 of this Ordinance shall provide one (1) off-street parking space for every two hundred (200) square feet of gross floor area or lot area.

SECTION 1218 OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1219 PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A commercial facility shall include any business whose operations are open to the general public. A facility which provides public accommodations shall include, but may not be limited to the following:

- places of lodging
- establishments serving food or drink
- places of exhibition or entertainment
- places of public gathering
- sales or rental establishments
- service establishments, stations used for specified public transportation.
- places of public display or collection
- places of recreation
- places of education
- social service center establishments, and places of exercise or recreation.

SECTION 1220 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9¹/₂) feet.
4. An off-street parking area shall be designed to provide convenient, accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.

Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

SECTION 1221 SIGNAGE FOR HANDICAPPED PARKING

Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so a vehicle cannot obscure them.

SECTION 1222 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1215 and/or Section 1216 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

<u>TOTAL NUMBER OF SPACES</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL

ARTICLE 13
FLOOD PLAIN MANAGEMENT

SECTION 1301 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

SECTION 1302 INTENT

The intent of the regulations as set forth in this Article to:

- Promote the general health, welfare, and safety of the community.
- Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- Minimize danger to public health by protecting water supply and natural drainage.
- Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- Comply with federal and state floodplain management requirements.

SECTION 1303 APPLICABILITY

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Exeter Borough unless a Permit has been obtained from the Floodplain Administrator. A Permit shall not be required for minor repairs to existing buildings or structures.

SECTION 1304 ABROGATION AND GREATER RESTRICTIONS

The regulations within this Article supersede any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

SECTION 1305 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Article, which shall remain in full force and effect, and for this purpose the provisions of this Article are hereby declared to be severable.

SECTION 1306 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or

natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

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

SECTION 1307 DEFINITIONS

Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

Specific Definitions

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").
3. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
4. Basement - any area of the building having its floor below ground level on all sides.
5. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
6. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
7. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
8. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the

- lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
9. Flood - a temporary inundation of normally dry land areas.
 10. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
 11. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
 12. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
 13. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
 14. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
 15. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
 16. Historic structure – any structure that is:
 - Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

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

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

or

Directly by the Secretary of the Interior in states without approved programs.

17. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
18. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
19. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
20. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
21. New construction - structures for which the start of construction commenced on or after May 16, 1977 and includes any subsequent improvements to such structures. Any construction started after May 16, 1977 and before October 4, 2011, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of the permit issuance.
22. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
23. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and

duties.

24. Recreational vehicle - a vehicle which is built on a single chassis; not more than 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
25. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
26. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
27. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
28. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
29. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
30. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

31. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
32. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage or "repetitive loss." regardless of the actual repair work performed. The term does not, however include either:
 - Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
 - Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
33. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
34. Violation - means the failure of a structure or other development to be fully compliant with the applicable flood plain management regulations of Exeter Borough as set forth in this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) and within this Article is presumed to be in violation until such time as that documentation is provided.

SECTION 1308 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Zoning Officer is hereby appointed to administer and enforce this Article and is referred to herein as the Floodplain Administrator.

SECTION 1309 PERMITS REQUIRED

A Permit shall be required before any construction or development is undertaken within any area of Exeter Borough.

SECTION 1310

DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN
ADMINISTRATOR

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Article and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances.
- E. He/she shall make as many inspections during and upon completion of the work as are necessary. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Mayor and the Borough Council for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof. Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by Exeter Borough. Such application shall contain the following:
1. Name and address of applicant.
 2. Name and address of owner of land on which proposed construction is to occur.
 3. Name and address of contractor.
 4. Site location including address.
 5. Listing of other permits required.
 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this Article and all other applicable codes and ordinances;
 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 3. adequate drainage is provided so as to reduce exposure to flood hazards.
 4. structures will be anchored to prevent floatation, collapse, or lateral movement.
 5. building materials are flood-resistant.
 6. appropriate practices that minimize flood damage have been used.
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.

- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
 4. The following data and documentation:
 - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area (See Section 1320(B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than

one (1) foot at any point.

- d. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

- e. detailed information needed to determine compliance with Section 1325 (F). Storage, and Section 1326, Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections 1325 (F). and 1326 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.
 - f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
5. Applications for Permits shall be accompanied by a fee, payable to Exeter Borough based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

SECTION 1312 REVIEW BY COUNTY CONSERVATION DISTRICT

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

SECTION 1313 REVIEW OF APPLICATION BY OTHERS

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the

Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

SECTION 1314 CHANGES

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

SECTION 1315 PLACARDS

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit the date of its issuance and be signed by the Floodplain Administrator.

SECTION 1316 START OF CONSTRUCTION

Work on the proposed construction or development shall begin within 180 days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

SECTION 1317 ENFORCEMENT

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to Exeter Borough of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Article may be declared by the Borough Council to be a public nuisance and abatable as such.

SECTION 1318 APPEALS

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board convene a hearing in accordance with the procedures set in Article 16, SECTION 1606, HEARINGS.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

SECTION 1319 IDENTIFICATION OF FLOODPLAIN AREAS

The identified floodplain area shall be any areas of Exeter Borough, classified as special

flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated May 16, 1977 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Exeter Borough and declared to be a part of this ordinance.

SECTION 1320 **DESCRIPTION AND SPECIAL REQUIREMENTS**
OF IDENTIFIED FLOODPLAIN AREAS

Identified floodplain area shall consist of the following specific areas:

A. Floodway Area

1. Description - the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.

This term shall also include floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Special Requirements:
 - a. Any encroachment that would cause any increase in flood heights shall be prohibited.
 - b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Special Floodplain Area

1. Description - the areas identified as Zones AE and A1-30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.
2. Special Requirements:
 - a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated

that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

C. Approximate Floodplain Area

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.
2. Special Requirements:
 - a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - b. When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by Exeter Borough.

D. Shallow Flooding Area

1. Description - the areas identified as Zones AO and AH in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet.
2. Special Requirements - Establish drainage paths to guide floodwaters around and away from structures on slopes.

SECTION 1321 CHANGES IN IDENTIFICATION OF AREA

The identified floodplain area may be revised or modified by the Exeter Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

SECTION 1322 BOUNDARY DISPUTES

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Exeter Borough Planning Commission and any party aggrieved by this decision or determination may appeal to the Exeter Borough Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1323 TECHNICAL PROVISIONS

Section 1323.1 General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Technical or scientific data shall be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:

1. Any development that causes a rise in the base flood elevations within the floodway; or
2. Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.

SECTION 1324 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation in accordance with Section 1321.C.2.b of this Article.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet above the highest adjacent grade of the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation or completely floodproofed to the regulatory flood elevation in accordance with 1321.C.2.b of this Article.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least one and one-half (1 ½) feet above the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI

or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

5. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

C. Space Below the Lowest Floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Accessory Structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 100 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

SECTION 1325

DESIGN AND CONSTRUCTION STANDARDS

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 1326, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

International Building Code (IBC) 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

SECTION 1326 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,
2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
3. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid

- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

- B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.
- C. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:
1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,
 2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

SECTION 1327 SPECIAL REQUIREMENTS FOR SUBDIVISIONS

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 1328 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.

- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 - 1. placed on a permanent foundation.
 - 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
 - 3. anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the unit(s) proposed installation.

SECTION 1329 SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES

- 1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements for manufactured homes in Section 1328.

SECTION 1330 PROHIBITED USES

The development of the following uses and/or activities including new construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- a. Hospitals
- b. Nursing Homes (Public or Private);
- c. Jails, Prisons, or any similar detention facility; and
- d. Manufactured home park or manufactured home subdivision.

SECTION 1331 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 1331.1 Existing Structures

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 1331.2 shall apply.

Section 1331.2 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC.
- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article

SECTION 1332 VARIANCES

Section 1332.1 General

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board of Exeter Borough may, upon request, grant relief from the strict application of the requirements.

Section 1332.2 Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board of Exeter Borough in accordance with the procedures contained in Section 1318 of this Article and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.

- B. No variance shall be granted for any construction, development, use, or activity which is prohibited under Section 1330.
- C. No variance shall be granted for any construction, development, use, or activity within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.
- D. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Section 1326, Development Which May Endanger Human Life.
- E. If granted, a variance shall involve only the least modification necessary to provide relief.
- F. In granting any variance, the Zoning Hearing Board of Exeter Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- G. Whenever a variance is granted, the Zoning Hearing Board of Exeter Borough shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- H. In reviewing any request for a variance, the Zoning Hearing Board of Exeter Borough shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.
 - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. That the granting of the variance will
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- I. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board of Exeter Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1% annual chance flood.

ARTICLE 14
ENFORCEMENT AND ADMINISTRATION

SECTION 1401 ZONING OFFICER

1401.1 APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Exeter Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by Exeter Borough, which shall at minimum include a working knowledge of municipal zoning.

1401.2 DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Borough Council, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (F) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (G) Notify the Zoning Hearing Board and/or the Borough Council of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Zoning Hearing Board or the Borough Council is either required or requested shall be a prerequisite for any application being forwarded to either the Zoning Hearing Board or the Borough Council for consideration.

- (H) Participate in proceedings before the Zoning Hearing Board, Planning Commission or Borough Council and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.
- (I) In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.

SECTION 1402 ZONING PERMIT

1402.1 ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board, Planning Commission or Borough Council is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written approval from the Zoning Hearing Board in the form of a Special Exception, Variance or an Administrative Appeal, upon written approval from the Borough Council in the form of a Conditional Use Permit or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit; however a building permit shall be required. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure; however a building permit shall be required.

1402.2 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property shall be accompanied by two (2) sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.

- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1402.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one (1) copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One (1) copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1402.4 TIME PERIOD FOR PROCESSING APPLICATION

A properly completed zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1402.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one (1) year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

1402.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

SECTION 1403 ENFORCEMENT PROCEDURES

1403.1 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- A. The name of the owner of record and any other person against whom Exeter Borough intends to take action.
- B. The location and/or address of the property in violation.
- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1506 (M) shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1403.2 CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Borough Council or, with the approval of the Borough Council, an officer or agent of Exeter 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 proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Exeter Borough not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

1403.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1403.4 of this Ordinance.

1403.4 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Exeter Borough or the Zoning Officer, shall pay a judgment of not more than five-hundred (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred by Exeter Borough as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, Exeter 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 has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Exeter Borough.

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 judgment.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than Exeter Borough the right to commence any action for enforcement pursuant to this Section.

SECTION 1404 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Zoning Compliance, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Borough Council. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees and applicable supporting documentation.

**ARTICLE 15
AMENDMENTS**

SECTION 1501 AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before the Borough Council to provide the Borough Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Borough Council shall submit any required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Borough Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
 - 1. Notice of the public hearing shall be conspicuously posted by Borough Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.
 - 2. Notice of the public hearing shall be mailed by the Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent to property owners whose properties:

- are located within the property or area proposed to be rezoned.
- have a common property boundary with the property or area proposed to be rezoned.
- are located within a distance of two hundred (200) feet of any property boundary line of the property or area proposed to be rezoned.

The above information shall be based upon current tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of the Borough Council to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that amends in the Zoning Map.

3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

SECTION 1502 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1501 of this Ordinance. An application shall contain the following information as applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- (C) A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- (D) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area to be rezoned as evidenced by tax records within the Luzerne County Tax Assessor's Office.
- (E) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (F) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1503 CURATIVE AMENDMENTS

1503.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Luzerne County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

The public hearing before the Borough Council shall be conducted in accordance with the applicable procedures contained in Section 1606 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider in addition to the landowner's proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to

development and any adverse environmental impacts.

- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council

1503.2 INITIATED BY THE BOROUGH

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within one hundred eighty (180) days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1508 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a

substantially new duty or obligation imposed upon Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1504 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1501 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1505 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

ARTICLE 16
ZONING HEARING BOARD

SECTION 1601 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of three (3) residents of Exeter Borough appointed by the Exeter Borough Council by resolution. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

SECTION 1602 ALTERNATES TO ZONING HEARING BOARD

The Borough Council may appoint by resolution one resident of Exeter Borough to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1604 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Borough, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1604 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be for two (2) years.

SECTION 1603 REMOVAL OF MEMBERS

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Borough Council. Prior to any vote by the Borough Council, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote, if the member requests a hearing in writing.

SECTION 1604 ORGANIZATION OF BOARD

The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1606. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of Exeter Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit an annual report of its activities to the Borough Council.

SECTION 1605 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

SECTION 1606 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.

Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

1. The Zoning Officer.
2. The applicant.
3. The owner of record of the subject property before the Board, if different than that of the applicant.
4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property subject property before the Board and to the owner of record of any property within two hundred (200) linear feet of the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or side yard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary,

notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Exeter Borough Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board in accordance with a Fee Schedule as set forth in Section 1404 of this Ordinance. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the

hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Borough Council, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, provide written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five (45) days. The parties shall be entitled to make

written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1606(D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1606(A) and written notice of the decision shall be mailed to those parties identified under Section 1606(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

M. In any appeal of an enforcement notice under Section 1404.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.

N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

SECTION 1607 MEDIATION OPTION

1607.1

Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

1607.2

Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board,

the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 1608 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1503.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty (30) days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including but not limited to, the

granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit or the registration or refusal to register any nonconforming use, structure or lot.

- D. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- E. Applications for variances, pursuant to Section 1609 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1610 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

SECTION 1609 VARIANCES

1609.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1402 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1609.2 CRITERIA FOR GRANTING A VARIANCE

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

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impairs the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Unless approved as part of the variance request, an applicant for a proposed use or development shall comply with any applicable standards and/or criteria as set forth in Article 9, Supplemental Regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1610 SPECIAL EXCEPTIONS

1610.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1402 of this Ordinance.
2. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

1610.2 CRITERIA FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. The proposed use shall not jeopardize Community Development Objectives as set forth in this Ordinance and the Exeter Borough Comprehensive Plan, including any updates, revisions and/or amendments thereto.
2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.

3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
7. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall comply with any applicable standards and/or criteria as set forth in Article 9, Supplemental Regulations.
10. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1611 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1609 of this Ordinance may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

SECTION 1612 TIME LIMITATIONS

1612.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to 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 had 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 for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

1612.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

SECTION 1613 STAY OF PROCEEDINGS

1613.1

Upon filing of any proceeding referred to in Section 1608 of this Ordinance, 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 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 the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

1613.2

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 the 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.

1613.3

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.

1613.4

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 below to post a bond, the respondent 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.