

Modena Borough
Chester County, Pennsylvania

Zoning Ordinance

Adopted September 24, 2009

Resolution # 225

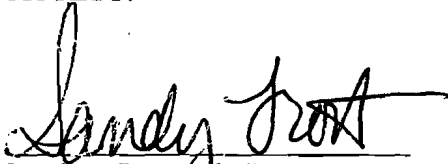
**Modena Borough
Update to Modena Borough Zoning ordinance and the SLDO**

BE IT RESOLVED, that the Borough of Modena has identified that the Modena Zoning Ordinance and parts of the Subdivision Land Use Ordinance, needed updated, to be effective for revitalization. It is further determined the process, with the assistance of the Planning Commission of Chester County to amend the Ordinances, has been completed, after two years of planning, public comment, hearings and finally to the Modena Borough Council.

BE IT FUTHER RESOLVED, the Borough of Modena, has adopted all updates, presented to the Modena Borough Council, to amend the Modena Borough Zoning Ordinance and sections of the Subdivision Land Use Ordinance.

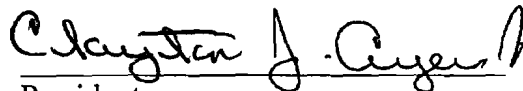
NOW, THEREFORE, BE IT RESOLVED THAT the Council of the Borough of Modena adopts all amendments, as presented and approved by Act 247, in public advertised hearings and than before a public advertised meeting of the Modena Borough Council, this day November 2, 2009.

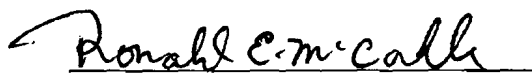
ATTEST:


Modena Borough Secretary

Date 11-2-2009

BY THE COUNCIL OF MODENA


President


Mayor

Modena Borough
Chester County, Pennsylvania

2009 ZONING ORDINANCE

Adopted September 24, 2009

Modena Borough Council

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Technical Assistance and Funding

This Zoning Ordinance was prepared by Modena Borough with technical assistance provided by the Chester County Planning Commission. Funding was provided, in part, through a grant from the Vision Partnership Program sponsored by the Chester County Board of Commissioners. The Ordinance has been prepared in conjunction with the principles of the County's policy plan, Landscapes, as a means of achieving greater consistency between local and county planning programs.

MODENA BOROUGH ZONING ORDINANCE

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Modena Borough Map – Steep Slopes and Floodplain

ARTICLE 1
PREAMBLE

SECTION 101 SHORT TITLE

This Ordinance shall be known, and may be cited as, “**The Modena Borough Zoning Ordinance 2009.**”

SECTION 102 PURPOSE

This Ordinance is enacted under and pursuant to the Municipalities Planning Code in order to promote, protect, and facilitate the general health, safety, and welfare and coordinated and practical community development and redevelopment, through:

- A. Provision for proper density of population and prevention of overcrowding of land and blight.
- B. Opportunities for development of a variety of residential dwelling types and non-residential uses.
- C. 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.
- D. Provision of adequate light, air, recreation, and public grounds.
- E. Provision for adequate parking and loading.
- F. Provision for safe and efficient travel by vehicles, bicycles and pedestrians.
- G. Provision of adequate water and sewer facilities, and other public facilities.
- H. Provision for the protection and preservation of natural, scenic, and historic resources.
- I. Provision for schools, public grounds, and other public improvements.
- J. Provision of emergency management preparedness and police protection.
- K. Protection against loss of health, life, or property from fire, flood, or other dangers.
- L. This Ordinance shall be drafted in accordance with an overall planning program, and with consideration for the character of the Borough, its various parts and the suitability of the various parts for particular uses and structures.

SECTION 103 COMMUNITY DEVELOPMENT OBJECTIVES

This Ordinance is enacted to implement the spirit and intent of the *Modena Borough Comprehensive Plan* (2004) and other applicable codes, ordinances, or studies, as amended, according to the following community development objectives:

- A. To preserve, protect, and enhance the unique character of Modena Borough.
- B. To understand and preserve archaeological, prehistoric, and historic resources.
- C. To provide well maintained and efficient public facilities and services while planning carefully for essential new and/or expanded facilities and services that meet the needs of the community.

- D. To preserve, conserve, and enhance the valuable natural resources of Modena.
- E. To protect, enhance, and sustain the quality and quantity of water resources; and to preserve the aesthetic and recreational assets of the watersheds.
- F. To have parks, recreation programs and facilities, and open space areas, which meet the needs of the people within the Borough.
- G. To provide a wide variety of housing opportunities, including housing for older residents, and special needs groups, and to meet the needs of various types of households and income levels, while assuring that the housing is safe.
- H. To have a stable, diversified economy that builds upon the community's character, public facilities, resources, and commercial and industrial base to increase employment opportunities and economic well-being.
- I. To maintain, improve, and provide a safe, efficient, and integrated transportation network that promotes expanded economic and community development and maintains the quality of life.
- J. To have orderly growth and development in appropriate areas of the Borough, while protecting the community character and environment; making efficient use of public facilities, services, and infrastructure; considering existing land use; and preventing development sprawl.
- K. To direct growth and development to areas with adequate infrastructure while protecting open space, forest lands, steep slopes, water resources, and environmentally sensitive areas.
- L. To discourage scattered, unplanned development.
- M. To promote growth management and conservation development techniques, which endorse a balance of development and preservation strategies.
- N. To encourage infill development that maintains neighborhoods.
- O. To encourage innovative residential development.
- P. To maintain a diversification in residential developments considering densities and housing supply.
- Q. To promote mixed-use residential development containing retail, office, and recreational uses.
- R. To implement regulatory methods for preserving open space and woodlands and protecting important or unique natural resources.
- S. To encourage nonresidential development that will provide a more diverse tax base, services for residents, and some local employment opportunities.

SECTION 104 AUTHORITY

This Ordinance has been drafted and adopted in accordance with the provisions of Article 6, "Zoning" of the Municipalities Planning Code.

SECTION 105 INTERPRETATION AND SCOPE

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the purposes of this Ordinance. From and after the effective date of this Ordinance, the use, construction, and development of all land, buildings, structures, signs or portions

thereof, shall be subject to and in conformance with the regulations herein. Any existing buildings, structures, land, uses, or signs not in conformity with the regulations herein shall be considered nonconforming, but may be continued or changed subject to the regulations herein regarding nonconformities.

SECTION 106 CONFLICT

It is not intended by this Ordinance to abrogate, annul or interfere with, any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued there under, except insofar as the same may be inconsistent or in conflict with any of the provisions of this Ordinance. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall prevail. Where the provisions of any statute, other ordinance or regulation shall impose greater restrictions than the provisions of this Ordinance, the greater restrictions shall prevail.

SECTION 107 REPEALER

The Modena Borough Zoning Ordinance of 1981 and amendments thereto, are hereby repealed.

SECTION 108 VALIDITY AND SEVERABILITY

If any article, section, subsection, paragraph, sentence, clause, phrase, term, or word of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof.

SECTION 109 EFFECTIVE DATE

This Ordinance shall be known and may be cited as the "Borough of Modena Zoning Ordinance of 2009." This Ordinance shall take effect and be in force from and after its adoption this twenty-fourth (24th) day of September 2009.

ARTICLE 2
DEFINITIONS

SECTION 201 INTERPRETATION

Unless otherwise expressly stated, the following words shall be construed throughout this Ordinance to have the meaning set forth in this Article.

- A. Words used in the present tense include the future.
- B. The singular includes the plural and the plural includes the singular.
- C. The masculine gender includes the feminine and the neuter.
- D. The words "shall" and "must" are mandatory.
- E. The word "may" is optional.
- F. The words "district" and "zone" shall be synonymous.
- G. The word "used" shall include the words "arranged", "designed", or "intended to be used".
- H. The word "person" includes an individual, corporation, partnership, public or private association or corporation, firm, trust, estate, governmental unit, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
- I. Where terms, phrases, or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.

SECTION 202 DEFINITIONS

For the purposes of this Ordinance, certain words and phrases shall have the following meanings:

Abandonment. An intentional relinquishment of use and cessation of use for a period of one (1) year regardless of interest.

Access Driveway. A means of accessing required off-street parking or loading areas through a one or two way driveway providing a defined safe and orderly point of access across sidewalks, pathways, curbs, and buffer areas.

Accessory Use, Building, or Structure. A use, building, or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building, or structure.

Adult Commercial Use. Adult commercial uses shall include the following:

- A. A store or shop where the principal use is devoted to the display and selling of pornographic materials which are pictures, drawings, photographs, films, or other depictions or printed matter and paraphernalia which, if sold knowingly to an individual under the age of eighteen (18) years of age, would violate the criminal laws of the Commonwealth of Pennsylvania in effect at the time thereof.
- B. Adult entertainment establishments such as cabarets, nightclubs, movie theaters, bars or similar establishments providing live or media entertainment.
- C. Any other business, establishment, or club which offers its patrons services, entertainment, or retail goods or commercial services characterized by an emphasis on activities or matter depicting, describing, relating to, or displaying sexual or erotic activities.

All Weather Paved Surface. An improved pavement surface capable of facilitating the movement and parking of motor vehicles constructed of materials such as graded stone, macadam, bituminous concrete, Portland cement concrete, uni-stone pavers, or other permeable surfaces approved by the Borough Engineer.

Alluvial Soils. Soils consisting of alluvium deposits by floods, as defined by the US Department of Agriculture, Natural Resource Conservation Service, Soil Survey.

Alteration. Any change, addition, or modification in construction or type of occupancy or any change in structural members of a building, such as walls or partitions, columns, beams, joists, girders or rafters.

Amendment. An amendment to the Modena Borough Zoning Ordinance in accordance with the Pennsylvania Municipalities Planning Code.

Applicant. A landowner(s) or developer(s), his heirs, successors or assigns, who has submitted an application for development.

Area. See Lot Area, Floor Area or Building Area.

Auto Repair or Auto Body Shop. A building or structure used as the principal building, housing a business or service for profit, providing storage vehicles for repair, service, painting, or other similar use.

Bank or Financial Institution. Any building wherein the primary occupation or use is concerned with such businesses as banking, savings and loan associations, credit unions, loan companies, mortgage companies, or investment companies.

Basement. A level that may be partly underground and has at least one-half of its height, as measured from finished floor to finished ceiling, below the average grade of adjoining ground. To be considered a story for the purpose of height measurement, the vertical distance between the ceiling and average grade of adjoining ground must be greater than four (4) feet or used for business or dwelling purposes, after-hour recreation, utility use or garage.

Best Management Practices (BMP). Measures employed to control stormwater runoff. BMPs include structural and non-structural practices that prevent adverse impacts to streams and other watercourses and protect watersheds from the damaging affects of uncontrolled stormwater runoff. The primary reference for implementation of BMPs in the Borough shall be the Pennsylvania Stormwater BMP Manual, 2006, published by the PA Department of Environmental Protection.

Borough Council. The Borough Council of Modena Borough, Chester County, Pennsylvania as elected.

Buffer. An area to be used as a physical and visual barrier, consisting of a mound, berm, or strip of land maintained as an effective barrier separating parcels or uses of land along with associated landscaping and screening.

Build-to Line. A line which dictates the placement of a building or structure from the street right-of-way on which the building or structure fronts.

Building. A combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

Building Coverage. The aggregate ground surface covered by the maximum horizontal cross section of a building and all accessory buildings or structures thereto, excluding steps, uncovered porches, gutters and eaves.

Building Footprint. The area of a structure measured from the exterior surface of the exterior walls at grade level on a lot.

Building Height. The vertical distance measured from the average finished grade of a building to a point midway between the highest and lowest points of the roof, excluding chimneys, spires or antennas.

Building, Line. A line established within a lot, measured from the street right-of-way line and parallel thereto, defining the minimum distance in which no building may be constructed as established by the required front yard setback. In the case of an interior lot not fronting a street for its entire width, the building line shall be a line parallel to the street right-of-way measured from the property line nearest the street, defining the minimum distance in which no building may be constructed.

Building, Principal. A building in which is conducted, designed to be conducted or intended to be conducted, the primary use of the lot on which it is located.

Bulk. A term used to describe the size of buildings and their relationship to each other, to open areas such as yards and to lot lines, and includes the size, height and floor area of buildings.

Business or Professional Office. An office used for real estate sales, insurance sales, and offices for doctors, attorneys, engineering, architecture, accounting, or other similar use.

Cartway. The portion of a street right-of-way, paved or unpaved, delineated and intended for vehicular use.

Commercial Communication Antennas or Facilities. A structure that includes one or more of the following: transmitting, receiving, or relay tower, communication equipment and antenna, and support structures and accessory buildings or structures and related equipment that is licensed by the Federal Communications Commission (FCC) for the specified purpose of television, radio, or telephone communication beyond that which would be used for normal personal or residential use. Such uses shall include a digital, cellular, television, radio, microwave tower, wireless internet, or similar technology.

Conditional Use. A use which is not wholly appropriate to a zoning district, but may be suitable to a particular area within the district. Conditional uses are allowed or denied by Borough Council after considering standards and criteria set forth in this Ordinance.

Construction. The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

Commercial. A use of land or improvements thereto for the purpose of engaging in retail or service activities for profit.

Common Wall. A common fire wall located on the boundary between two (2) properties that separates attached structures such as between Twins or Townhouses.

Convenience Store. A retail activity designed to serve a local market which may involve a delicatessen, the sale of dry goods, small appliances, household goods, supplies, and other similar products.

Day Care Center.

- A. **Adult Day Care Center:** A for-profit or non-profit facility where daytime supervision is provided for adults not related to the caregiver, where tuition, fees, or other forms of compensation may be charged, and where the facility is not being used as a family residence. Services provided to clients may include nursing, personal care, nutrition, social services, activities, and emergency care. Adult day care centers are regulated by the Pennsylvania Department of Aging.
- B. **Child Day Care Center:** A for-profit or non-profit facility which exclusively provides supplemental parental care and/or instruction to children not related to the caregiver or operator, where tuition, fees, or other forms of compensation may be charged, where the facility is not being used as a family residence, and which is licensed or approved to provide child care by the Commonwealth of Pennsylvania.

Deck. A structure that is an unroofed platform supported by pillars or posts, either freestanding or attached to the principal structure, that shall meet all applicable setbacks for the zoning district in which the structure is located and shall be considered as a permeable surface so long as the deck surface is open (allowing for water to pass between gaps in the deck surface) and the ground surface below the deck allows for the infiltration of water.

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

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

Disturbance. Construction, land development, or other human activity including but not limited to the following: moving, depositing, stockpiling or storage of soil, rock, or other natural materials; grading, excavation, or removal of soil or rock; removal of trees or timber harvesting; and other similar activities.

Drive-Through Service. An establishment where by design, physical facilities, services, or packaging procedures, encourages or permits customers to receive services, or obtain goods while remaining in their vehicles.

Driveway. A private cartway located on private property providing vehicular access from such property to and from a public or private street.

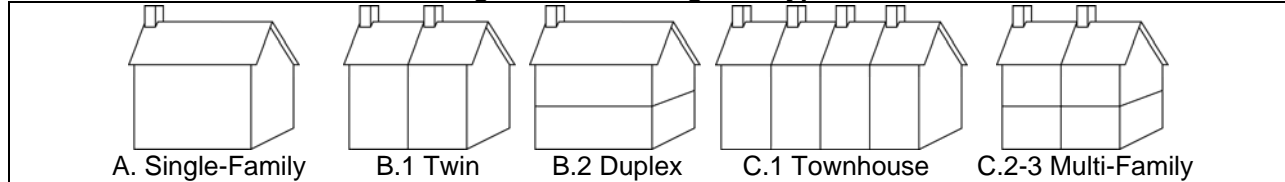
Dwelling Unit. A structure or part of a structure designed or used as living quarters for one family, intended to be maintained as an independent household unit, with separate cooking and sanitary facilities.

Dwelling Unit Types. Dwelling units may be arranged in the following manner. Reference to such arrangement may be made by an applicant without using the specific terminology contained herein. (See Figure 2-1)

- A. **Single-Family.** A detached building designed for and occupied exclusively as a residence for one (1) family, having independent access and open space on all sides.
- B. **Two-Family.** A building designed for and containing two (2) separate dwelling units, each with independent access and separated by a common party wall. Two-family structures may be referred to in one (1) of the following two (2) configurations or some other similar building type:
 - 1. **Twin (Semi-Detached).** A building consisting of two (2) units separated by a vertical common wall. Each unit has one (1) side yard opposite the side with the common wall.
 - 2. **Duplex.** A building consisting of two (2) units separated by a horizontal common party wall.
- C. **Multi-Family.** A building designed for and occupied exclusively as a residence for three (3) or more families living independently. Multi-family units may be arranged in the following configurations: townhouses, quadraplexes, apartment building, upper floor dwelling unit, or other similar use, as follows:
 - 1. **Townhouse (Single-Family Attached).** A single-family attached dwelling unit in a row of at least three (3) such units in which each unit has its own front a rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or two vertical common fire-resistant walls. Units with two (2) common walls have no side yards and end units have one (1) side yard opposite the side with the common wall.

- 2. Apartment Building. A building or part of a building containing three (3) or more dwelling units separated by common party walls.
- 3. Quadraplex. A building that contains four (4) attached dwellings in one (1) building in which each unit has two (2) open exposures and shares two (2) walls with adjoining units.
- D. Upper Floor Dwelling. A dwelling unit above a nonresidential use within the same building, constituting a separate, living area containing independent cooking and sleeping facilities for one (1) family, physically separated from any other dwelling unit.

Figure 2-1: Dwelling Unit Types



Easement. A specific interest in land, held by a party other than the property owner, that entitles the owner to a limited use or right.

Educational Use. Use of land or building(s) for the establishment and maintenance of a public or private college, secondary, or elementary school, or other educational institution for the primary purpose of instruction and learning during daytime hours. A use requiring certification, licensing, or review by the Pennsylvania Department of Education.

Employee. For the purpose of establishing the number of parking spaces, employees shall mean the maximum of workers on duty at any one time. In cases where shifts are involved, the number of workers shall be the maximum of both shifts that are working at any one time.

Family.

- A. A single person.
- B. Any number of persons related by blood, marriage or adoption, including foster children and including not more than two (2) other persons, for example, boarders, lodgers or domestic help.
- C. No more than three (3) unrelated persons living together as a single cooperative household unit, however, excluding occupants of a rooming/boarding house or dormitory.
- D. A group of individuals with disabilities living together as the functional equivalent of a family and entitled to a reasonable accommodation to allow them adequate housing choices pursuant to the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. §§ 3601 et. seq.) and the Pennsylvania Human Relations Act (43 P.S. §§ 951-963). The Zoning Officer or other official Borough representative shall have the authority to determine whether a group of individuals is living together as the functional equivalent of a family for purposes of this Section.

Farmers Market. A primary or accessory use of a parcel or tract of land for the sale of perishable food products including, but not limited to locally grown fruits and vegetables.

Fence or Wall. A structure serving as an enclosure, barrier or boundary, made of posts, stakes, boards, wire, rails or similar materials, or a structure made of brick, stone, wood, earth, or a combination thereof to serve as a freestanding uninhabited structure to secure or divide a property from another, or part of a property from the remaining part of the same property.

Flood. The temporary inundation of normally dry land areas. (FEMA)

Flood Elevation, Regulatory. The one-hundred (100) year flood elevation, plus a freeboard safety factor of one and one-half (1½) feet.

Flood, One Hundred Year. A flood that, on average, is likely to occur once every one-hundred (100) years (i.e., that has a one (1) percent chance of occurring each year, though the flood may occur in any year). (FEMA)

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 the surface waters from any source. For the purpose of this Ordinance, the floodplain area shall include the area as delineated by Article 11. (FEMA)

Flood Proofing. Any combination of structural and non-structural 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. (FEMA)

Floodlight/Spotlight. Lighting used for illuminate a larger area, as opposed to a specific feature such as a sign, for security or viability reasons.

Floor Area. The total enclosed area in the horizontal plane of a principal structure, and all accessory structures.

Floor Area, Habitable. The sum of the gross horizontal areas of all rooms used for habitation, exclusive of hallways, stairways, basements not included on height calculations, cellars, attics, bathrooms, closets, unheated areas, rooms without one window or sky light, garages and accessory buildings.

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. (See also Timber Harvesting Operation.)

Freeboard. A margin of safety which takes into account the inaccuracies commonly associated with calculating and mapping floodplains and the effects of future floodplain and watershed development on flood heights. An alternative to the basic NFIP elevation requirement, it may result in lower flood insurance rates at some future date. (FEMA)

Funeral Home. A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Glare. Light caused by either the direct visibility of an exposed light source or by the reflection of a light source that is sufficient to cause annoyance, discomfort, or loss in visual performance or visibility.

Gallery. A retail store for the display and sale of artistic items or crafts including, but not limited to photographs, paintings, sculptures, pottery, jewelry, glassware, and other similar items.

Garage, Residential. An accessory structure or part of a principal building, which is used for the storage of vehicles or other property of the owner or tenant of the property.

Greenhouse. An accessory structure used for the regulation of the temperature and/or moisture of the environment or providing protection from the elements for the purposes of propagation and cultivation of plants indoors within a structure made largely of glass or other translucent materials on a supporting structure.

Green space. An area of land and/or water, substantially free of structures and paved areas, permanently restricted for common enjoyment and recreational use by general public, but not including individually owned private yards.

Group Home. A licensed community-based living unit functioning as a single household and providing rehabilitative services and residential services to persons who, due to age, disability or handicap as defined by the Federal Fair Housing Act, as amended, (42 U.S.C. §§ 3601, et seq.) are not able to live without professional care or supervision. Group homes do not include a disciplinary facility confining adjudicated delinquents or convicted criminals, parolees or supervised probationers under the custody of the courts or county, state or federal correctional agencies.

Home Occupation (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, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.

Hotel, Motel, Inn. A building or buildings arranged or intended for sheltering tourists or transient guests for compensation.

House, Rooming, Boarding, Lodging. A building or part thereof, occupied by four (4) or more unrelated individuals, sleeping in separate quarters for rent.

Impervious Surface. Land that is occupied by buildings, structures, streets, asphalt, concrete, driveways, parking areas, swimming pools, and other man-made cover that prohibits the percolation and infiltration of water into the soils.

Indoor Recreation Facility. A facility or use that offers an area and/or equipment for rent or use to the general public for recreational purposes including but not limited to the following uses: basketball, volley ball, racquetball, tennis, ice skating, bowling alley, swimming pool, weight training gym, or other similar use.

Industrial, Heavy. A productive enterprise that results in the emission of steam, gas, noise, dust or waste particles, or waste materials, which is engaged in the manufacturing of products, the extraction or excavation of material, the production of chemicals or processes using chemicals, that does not involve a retail activity on the premises. Examples include smelting, mining, chemical manufacturing of products, dry cleaning plant, dyeing plant, and similar uses.

Industrial, Light. A productive enterprise not resulting in the emission of steam, gas, noise, dust or waste particles, and includes, but is not limited to the manufacturing or assembly of products from previously processed and prepared materials, the processing, cleaning, testing, or repair of materials or goods, processing of foodstuffs, or a packaging facility, that does not involve a retail activity on the premises. Examples include package distribution service, assembling of products, printing or publishing establishment, warehouses, and similar uses.

Institutional Use. A use for a common public purpose including but not limited to libraries, nursing homes, community centers, and educational uses.

Invasive Species. Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species. Invasive trees, shrubs, vines, or herbaceous species include, but are not limited to:

Norway Maple (*Acer platanoides*), Tree-of-Heaven (*Ailanthus altissima*), Paper Mulberry (*Broussonetia papyrifera*), White Mulberry (*Morus alba*), Empress Tree (*Paulownia tomentosa*), White Poplar (*Populus alba*), Multiflora Rose (*Rosa multiflora*), Japanese Barberry (*Berberis thunbergii*), European Barberry (*Berberis vulgaris*), Autumn Olive (*Eleagnus umbrella*), Border Privet (*Ligustrum obtusifolium*), Common Privet (*Ligustrum vulgare*), Morrow's Honeysuckle (*Lonicera morrowii*), Tartarian Honeysuckle (*Lonicera tatarica*), Japanese Honeysuckle (*Lonicera japonica*), Common Buckthorn (*Rhamnus cathartica*), Wineberry (*Rubus phoenicolasius*), Japanese Spiraea (*Spiraea*

japonica), Linden Viburnum (*Viburnum dilatatum*), Guelder Rose (*Viburnum opulus*), Oriental bittersweet (*Celastrus orbiculatus*), Leatherleaf Climatis (*Clematis terniflora*), Mile-a-Minute Weed (*Polygonum perfoliatum*), Kudzu (*Pueraria lobata*), Garlic Mustard (*Alliaria petiolata*), Canada Thistle (*Cirsium arvense*), Crown Vetch (*Coronilla varia*), Tall Fescue (*Festuca elatior*), Purple Loosestrife (*Lythrum salicaria*), Sweet Clover (*Melilotus affinalis*), Japanese Stilt Grass (*Microstegium vimineum*), Reed Canary Grass (*Phalaris arundinacea*), and Johnson Grass (*Sorghum halepense*).

Junkyard. Any area and/or structure used for the collection, storage or sale of discarded materials or where three (3) or more automobiles are deposited or stored outdoors without current license and inspection

Land Development.

- A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts, or parcels of land for any purpose involving:
1. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.

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 proprietary interest in land.

Landscaping. The planting of turf-grass or other appropriate ground cover or the planting of deciduous and evergreen trees and shrubbery, other than for agricultural purposes, and including the maintenance and replacement thereof, for control of erosion, retention of precipitation, protection against elements or promotion of human comfort and welfare.

Laundromat. An establishment providing self-service washing, drying, or dry-cleaning machines on the premises for rental use to the general public or as a service for sale to the general public.

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, which shall include the total land surface contained within the limits of the property lines bounding the lot. The term lot shall also mean parcel, plot, property or any similar term.

Lot, Corner. A parcel of land at the junction and fronting or abutting on two or more intersecting streets.

Lot, Reverse Frontage. A lot extending between and having frontage on two (2) generally parallel streets with vehicular access from only the minor or lesser degree street.

Lot Width. The mean horizontal distance between the side lot lines, measured parallel to the street line. Where the street is curved or angled, one width shall be measured as a straight line.

Manufacturing. An establishment engaged in the mechanical or chemical transformation of materials or substances into new products, such as the assembling of component parts or the creation of products from previously processed and prepared materials.

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 or parts of a structure affecting the exit requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain electric wiring or mechanical or other work affecting public health or general safety.

Mixed Use. Where more than one principle use is located on an individual lot or within a single structure as permitted by this Ordinance, such as a building with a commercial use on the first floor with apartments on the second floor.

Mobile Home. A transportable, single-family dwelling unit intended for permanent occupancy, , contained in one or more sections designed to be jointed into one integral unite 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 construction so that it may be used with our without a permanent foundation. This term shall not apply to recreational vehicles or travel trailers.

Mobile Home Lot. A parcel of land in a mobile home park or subdivision, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home either leased or held in private ownership.

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

Municipal Use. A use including but not limited to a municipal building (Borough Hall), public works, park, utility, police, fire department, or other similar facility.

Municipalities Planning Code (MPC). The Pennsylvania Municipalities Planning Code, Act 247 of 1968 (P.L. 805), as amended.

Museum. An institution in the service of society and of its development, open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education, enjoyment, the tangible and intangible evidence of people and their environment, including but not limited to: paintings, photographs, artifacts, collectables, crafts, and other similar items.

Nonconforming Lot. A lot which does not conform to the applicable area and bulk regulations of the zoning district in which it is located, where such lot lawfully existed prior to the effective date of this Ordinance, or any amendment thereto.

Nonconforming Structure. A structure or building, or part thereof, which does not conform with the applicable regulations of zoning district in which it is located, including, but not limited to, those relating to density, impervious surfaces, building coverage, building height, and setbacks, where such structure or building was lawfully in existence prior to the effective date of this Ordinance or amendments thereto.

Nonconforming Sign. Any sign which does not conform to the applicable provisions of Article 16, Signs, where such sign was lawfully in existence prior to the effective date of this Ordinance or amendments thereto.

Nonconforming Use. A use, whether of a structure or land, or any combination thereof, which does not conform to the applicable use regulations of the district in which it is located where such use lawfully existed prior to the effective date of this Ordinance, or any amendment thereto.

Obstruction. Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or floodprone area, which may impede, retard, or change the

direction of the flow of water either in itself or by catching or collecting debris carried by such water, or is placed where the flow of the water might carry the same downstream to the damage of life and property.

Oldfields. An area undergoing natural succession characterized by the presence of herbs, shrubs, and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.

Outdoor Café. An outdoor area of an associated restaurant or tavern, used for the express purpose of furnishing food and beverages to the public to be consumed on the premises, directly abutting and on the same lot as the principal building in which the associated restaurant or tavern is located.

Outdoor Display. The keeping of goods or raw materials in an outdoor area temporarily for the express purpose of presenting items for sale to patrons.

Outdoor Recreation Area. A parcel, tract, or area of land that is designated and intended for the use or enjoyment of residents and the general public, that is intended for limited development such as the construction of public restrooms, playgrounds, and similar structures, while primarily including open spaces, woodlands, natural areas, ball fields, and other outdoor facilities that are publicly or privately owned and/or operated.

Outdoor Storage. The keeping of goods or raw materials, not intended for sale, for present or future use in an outdoor area, including but not limited to vehicles stored for repair, raw materials, building products, and the like.

Opaque Window. A window that precludes visibility into a building or structure through tinting or reflectivity.

Open Space Preserve. A parcel or area of land that is designated and intended for the preservation of undeveloped land, which has a legally binding document precluding future development of said land, including but not limited to a conservation easement or other similar arrangement.

Park. A parcel or tract of land designated and used by the public for active or passive recreation.

Parking Area. An area designed and/or used for the parking of vehicles, including parking spaces, aisles, maneuvering space, interior islands, and buffer strips, but not including access driveways or loading and unloading areas.

Parking Lot. An off-street all weather paved surface area designed solely for the parking of motor vehicles, including parking spaces, aisles, access driveways, and maneuvering space.

Parking Space. A space designed for the parking of one (1) motor vehicle.

Pathway. A cleared way for pedestrians and/or cyclists that may or may not be paved or otherwise improved.

Permeable Surface. A surface that presents an opportunity for precipitation to infiltrate into the ground, such as cobblestones, spaced pavers, tiling, and other methods of permeable paving.

Personal Service Shop. A building or portion of a building in which the services of a person permitted to practice a specific profession are offered to the general public. Examples of such uses include barbers, beauticians, optometrists, photographers, tailors, and similar uses.

Porch. A structure attached to or a part of a primary structure that may or may not have a roof or be enclosed. (See Figure 2-2)

A. Roofed Porch. A porch that has a roof and may have railings.

- B. Enclosed Porch. A porch that has a roof and is enclosed by a combination of railings, walls, and permanent or detachable glass or wire screening.

Figure 2-2: Porch



This enclosed porch has become a part of the primary structure



Principal Dwelling. The primary use of a parcel in a residential zoning district. Except as otherwise permitted by this Ordinance, there shall be only one principal dwelling (building) on each lot.

Principal Use. The primary use of a lot. Except as specifically permitted by this Ordinance, there shall be only one principal use on each lot.

Produce Market. A commercial use primarily consisting of an open-air market offering items for sale limited to produce, baked goods, or handmade products, where the owner(s) of the operation sells goods they produce directly to consumers.

Property. A lot or tract of land.

Property Line. A line representing the boundary of a lot, used to delineate ownership.

Public Hearing. A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

Public Meeting. A public forum held pursuant to public notice.

Public Notice. Notification of a public meeting shall be published in a newspaper(s) of general circulation in the municipality indicating the time, place, and nature of the public hearing. Such notice shall be published once a week for two (2) successive weeks prior to the date fixed for the hearing. The first (1) publication shall not be more than thirty (30) days and the second (2) publication shall not be less than seven (7) days from the date of the hearing, in accordance with requirements of the Municipalities Planning Code.

Railroad Transfer Station or Freight Terminal. A use incorporating a rail yard to transfer freight cars from one train to another and/or a rail yard for transferring materials into or onto rail cars.

Recreation Areas. Required open space on a lot in conjunction with a multi-family building for the use and enjoyment of the tenants of the use.

Redevelopment. Reconstruction, reuse, adaptation, or reconfiguration of an existing improved, developed property, as of the effective date of this Ordinance.

Religious Use. A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, burial, recreational or other uses not normally associated with worship.

Restaurant. An establishment furnishing food and/or beverages to the public for consumption on or off the premises, or both.

Retail Store. A commercial establishment, having its primary function to provide goods and merchandise to the general public where such goods and merchandise are available for immediate purchase and removal of the product from the premises by the customer. Examples of goods and merchandise include, but are not limited to, the following: dry goods, variety and general merchandise, specialty shop, pharmacy, clothing, flowers, food and beverages, household supplies, hardware, musical instruments, and other electronic entertainment equipment and similar items.

Right-of-Way (Street Right-of-Way). The total width of any land reserved or dedicated as a street, alley, crosswalk, or for other public purposes.

Riparian Buffer. An area of land adjacent to a watercourse, that may contain trees and other vegetation, that forms a transition area between the aquatic and terrestrial environment. A riparian buffer provides the following benefits: reduces the amount of nutrients, sediments, pesticides, and other harmful substances that reach watercourses, wetlands, and other surface water bodies; provides for shading of the aquatic environment to moderate temperatures and protect fish habitat; provides organic matter which provides food and habitat for bottom dwelling organisms essential to the food chain; increases stream bank stability and reduces streambank erosion and sediment production; conserves natural features important to land and water features (e.g., headwater areas, groundwater recharge zones, streams, and prime wildlife habitat); and conserves natural, scenic, and recreation areas and promotes the functioning of greenways.

Screen/Screening. The use of plant materials, fencing, earthen berms, and/or other buffer area to aid in the concealment of such features as parking areas or to provide a barrier between incompatible land uses.

Self Storage Facility. A facility including a structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Sewage System, On-Lot. A sanitary sewage treatment system that involves treatment by means of a septic tank or other approved method, which is normally owned, operated and maintained solely by the property owner, is confined to the property on which the dwelling unit exists, and is approved by appropriate regulatory agencies.

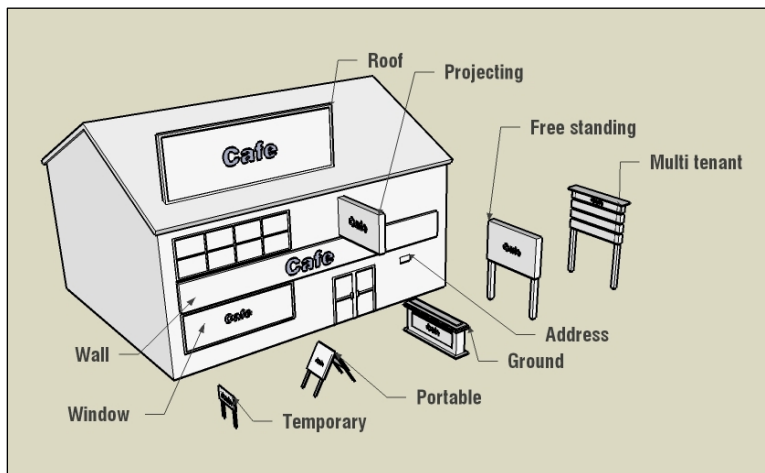
Sewage System, Public. A sanitary sewage collection and treatment system in which sewage flows or is pumped to an areawide treatment facility that is owned and operated by a municipality or municipal authority.

Sign. Any object, device, display, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including but not limited to words, letters, figures, design, symbols, fixtures, colors, or illumination. (See Figure 2-3) Sign types identified by this Ordinance include the following:

- A. **Address Sign.** A sign limited to the provision of the official numerical identification address of the property on which it is located.
- B. **Abandoned Sign.** A sign erected on, or related to, the use of a property which becomes vacant and unoccupied for a period of six (6) months or more, or any sign which relates to a time, event, or purpose which has past.
- C. **Development Sign.** A permanent sign that identifies the name and/or address of a subdivision, development, or complex.
- D. **Directional Sign.** A sign which is designed and erected solely for the purpose of traffic or pedestrian direction, including signs marking parking areas (enter, exit, etc.), circulation direction, rest rooms, and pickup and delivery areas.
- E. **Flashing Sign.** Any illuminated sign in which the artificial light is not maintained stationary and/or constant in intensity or color at all times when such sign is in use, including, but not limited to moving, rotating, flashing, oscillating, shuttered, or other similar sign.
- F. **Freestanding Sign.** A non-mobile, permanent, detached sign which shall include any sign supported by poles, uprights, or braces placed upon, or in, or supported by the ground and not attached to any building.
- G. **Ground Sign.** A sign, other than a freestanding sign, placed directly on the ground, but permanently attached thereto, without supports or pylons, independent from any building or structure.
- H. **New Construction Sign.** A temporary sign, indicating that the premise is in the process of being subdivided and/or developed for the construction of dwellings or other buildings and/or uses that may include the name of the subdivision, development, or developer.
- I. **Nonconforming Sign.** See "Nonconforming Sign" definition earlier in this Article.
- J. **Off-premise Sign.** A sign which directs attention to or communicates about a business, service, commodity, or other use or activity conducted, sold, or offered at a location other than the premises on which the sign is located.
- K. **Official Traffic Sign.** Signs erected by the Commonwealth of Pennsylvania Department of Transportation or the Borough of Modena which are designed to regulate traffic, describe road

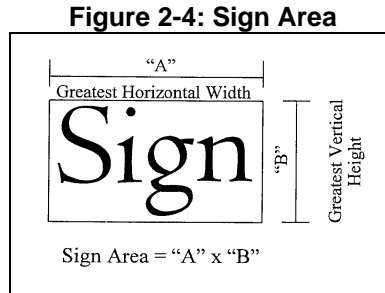
- conditions, or supply direction, including but not limited to: route number signs, stop signs, street name signs, or other traffic signs when approved by an official governmental agency.
- L. **Permanent Sign.** A sign that is permanently affixed to a building, structure, or the ground.
 - M. **Portable Sign.** A temporary sign which is self-supporting without being firmly embedded in the ground, or is fixed on a movable stand or mounted on wheels, or made moveable in some other manner.
 - N. **Political Sign.** A temporary sign pertaining to political views, an individual seeking election or appointment to a public office, or a forthcoming public election or referendum.
 - O. **Projecting Sign.** A sign attached to the wall of a building or other structure, which extends perpendicular from the structure.
 - P. **Real Estate Sign.** A temporary sign indicating the sale, rental or lease of the premises on which the sign is located.
 - Q. **Roof Sign.** A sign located upon or above the roof of any building or structure and/or a sign with its primary support on the roof of a structure. For purposes of this definition, roof shall include any pent roof, parapet or structure designed to provide roof-like architectural details for buildings.
 - R. **Temporary Sign.** A sign that is not permanently affixed or mounted to the ground or a structure and/or which is intended to be displayed for a limited time. Such signs may include specific types of temporary signs or temporary signs to be placed at the property owners discretion for personal expression or interest.
 - S. **Wall Sign.** Any sign affixed to the wall of a building, or other exposed face thereof in a plane parallel to the face of said wall, or other exposed face, and which sign is mounted at a distance not greater than twelve (12) inches measured perpendicular to said wall or other exposed face.
 - T. **Window Sign.** A sign which is visible to persons in vehicles or to pedestrians, on adjoining property or public sidewalks, and is located on the outside or inside of a window in a building or structure, to direct attention to a use conducted in or product sold in the structure, including, but not limited to, a sign affixed to or painted upon the interior or exterior surface of a window or otherwise displayed through or upon a window. For purposes of this definition, "window" means any translucent and/or transparent surface in a building or structure. Window Signs may be either temporary or permanent.

Figure 2-3: Sign Types



Sign Area. (See Figure 2-4)

- A. The area of a sign shall include all lettering, wording, and accompanying designs and symbols, together with the background whether open or enclosed, on which they are displayed but not to include any supporting framework, bracing, or decorative trim which is incidental to the copy content of the display itself. The sign area for a double faced sign shall be measured for one face of the sign.
- B. In the case of an open sign made up of individual letters, the sign area shall be that of the smallest rectangle or other geometric shape which encompasses all of the letters and/or symbols.



Special Exception. A use in one or more districts for which the Zoning Hearing Board may grant a special use permit pursuant to the provisions of this Ordinance.

Special Permit. A special approval which is required for hospitals, nursing homes, jails, and new mobile home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

Steep Slopes. See requirement in Section 1104 of this Ordinance.

Stormwater. Water runoff during a rain event or snowmelt that causes erosion, pooling, flooding, and other hazardous situations.

Stormwater Management. A permanent structure or earthwork designed to control surface water runoff from causing erosion or flooding conditions, including but not limited to retention and detention basins.

Street. The word "street", includes any avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Streets are classified in accordance with function as follows:

- A. **Arterial.** A street which has as its primary function the movement of relatively high volumes of through-traffic at high speeds, with access points that are limited and controlled.
- B. **Major or Minor Collector.** A street which has as its primary function the movement of traffic to major facilities and arterial streets at moderate rates of speed.
- C. **Local Distributor.** A street which has as its primary function the movement of traffic to and from abutting properties.
- D. **Alley.** A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting a street.

Street Line. The edge of the existing legal right-of-way line of a public road or street that defines the edge of the area within which roadway improvements and expansion can take place.

Street Frontage. The width of a lot adjacent to a street at the streetline.

Street Wall. The continuous or semi-continuous wall of buildings adjoining a sidewalk or pathway at the edge of the street right-of-way, created by front yard setbacks or a build-to line.

Structure. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including, but not limited to buildings, sheds, mobile homes, and other similar items.

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, transfer of ownership or building, or lot development. The subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access, or any residential dwelling, shall be exempted.

Subdivision and Land Development Ordinance. Subdivision and Land Development Ordinance of Modena Borough, Chester County, as adopted and amended.

Studio. The workshop of a musician, artist, sculptor, photographer, or craftsman, or a structure or part of a structure used for instruction for art, photography, video, music, dance, martial arts, or other similar use.

Supplemental Dwelling Unit. An accessory dwelling unit to a primary dwelling as permitted by this Ordinance.

Swimming Pool. A reasonably permanent pool or open tank capable of containing or containing water to a depth greater than twenty-four (24) inches for the purpose of swimming and/or other water related recreational activities. Farm ponds, basins or other man-made bodies of water are not swimming pools, unless specifically designed for that purpose.

Traditional Neighborhood Development (TND). A development designed and developed in accordance with Section 102 and Article 7 of the Pennsylvania Municipalities Planning Code.

Temporary Community Event. A temporary event including but not limited to, special events, flea markets, public exhibits, municipal activities, street fairs, community festivals, and the like.

Theater. A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Timber Harvesting Operation. The disturbance for commercial purposes, and in compliance with an approved timber harvesting plan, of more than one half (0.5) acre of woodland on any lot, whether during a single timber harvesting operation or cumulatively in successive operations within a three (3) year period. The removal of dead or diseased trees or non-native invasive species, the cutting of trees for personal firewood use or as a part of a Christmas tree farming operation, or the clearing of an area in accordance with an approved subdivision or land development plan or building permit shall not be considered a timber harvesting operation. Forestry, as defined by the Pennsylvania Municipalities Planning Code, as amended, shall be considered a timber harvesting operation and shall require the submittal and approval of a timber harvesting plan. (See also Forestry)

Timber Harvesting Plan. A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a forester with demonstrable expertise in forest management and shall be in accordance with the timber harvesting requirements of Section 1109 of this Ordinance.

Utility. A parcel, tract, or area of land used for a public service including, but not limited to sewage treatment plant, public water facility, or other similar use.

Use, Accessory. A use of a building, structure, or land that is not a principal permitted use, but which is entirely incidental and subordinate to the principal permitted use on the same lot.

Use, By-Right. A use that is permitted in a zoning district without the need for a special exception, variance, or conditional use permit.

Use, Conditional. A use which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Conditional uses are allowed or denied by the Borough Council after a public hearing and review and comments from the Planning Commission.

Variance. Permission, approval or authorization granted by the Zoning Hearing Board after compliance with the applicable provisions of this Ordinance constituting a modification of or deviation from the exact provisions of this Ordinance as applied to a specific parcel of property and not to be construed as a precedent.

Wall. See Fence.

Warehousing. A building or use primarily for the storage of goods and services, but not for direct retail sales.

Watercourse. A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, whether natural or artificial, with perennial or intermittent flow, as depicted on the most current USGS Quadrange Map, or more accurate information, as available. Field verification to determine evidence and location of natural channelized flow may be required for specific determinations.

Water Supply System, On-Site. A system for supplying safe potable water from a single source to a single dwelling unit on the same lot.

Water Supply System, Public. A system for supplying safe potable water in sufficient quantities for the proposed use, administered by a municipality, municipal authority or public utility, as defined and regulated by the Pennsylvania Public Utilities Commission.

Wetland. Those areas that are inundated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. More specifically, any area meeting the official wetland definition of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection. Where a discrepancy exists between the wetland definitions of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

Wetland Margin. A transitional area measuring fifty (50) feet from the outer boundary of an identified wetland.

Wholesale. Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or to establishments acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Woodland. A tree mass or plant community in which the tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, canopy. Specifically, woodlands consist of

a contiguous area one quarter (1/4) acre or greater, having more than one (1) viable tree with a diameter at breast height (DBH) of six (6) inches or greater per one thousand (1,000) square feet. The extent of the woodland plant community shall be measured from the outer-most drip line of all trees in the community. Woodlands do not include orchards and oldfields.

Yard. An open area within a lot that lies between a lot line and any principal structure on the lot. The minimum required yard depth as set forth in each zoning district shall be unoccupied by buildings or structures except as provided within this Ordinance.

Yard, Front. A yard extending the full width of the lot and situated between the front lot line and the nearest portion of any principal building. The depth of the front yard shall be measured at right angles to the street line or if the lot is not rectangular, then parallel to the side lot lines.

Yard, Rear. A yard extending across the full width of the lot, lying between the rear line of the lot and the nearest point of any principal building. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or if the lot is not rectangular, then parallel to the side lot lines.

Yard, Side. A yard between the side lot line and any principal building, extending from the front yard to the street or rear lot line, as the case may be. The width of a side yard shall be measured at right angles to the side line of the lot.

Zoning Hearing Board. The Zoning Hearing Board of Modena Borough, Chester County, Pennsylvania.

Zoning Officer. An individual appointed by the Borough Council on an annual basis to administer the provisions of the Modena Borough Zoning Ordinance who shall not hold any elective office within Modena Borough.

Zoning Permit. A permit issued indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance, which authorizes an applicant to proceed with said use, building or structure.

ARTICLE 3

ESTABLISHMENT OF ZONING DISTRICTS AND MAP

SECTION 301 ZONING DISTRICTS

A. Base Districts. For the purposes of this Ordinance, Modena Borough is hereby divided into the following zoning districts:

- Article 4: R-1 Residential District
- Article 5: R-2 Residential District
- Article 6: R-3 Residential District
- Article 7: R-4 Residential District
- Article 8a: TC-1 Town Center District
- Article 8b: TC-2 Town Center Overlay District
- Article 8c: NC Neighborhood Commercial District
- Article 9a: IC Industrial-Commercial
- Article 9b: I Industrial District
- Article 10: R-OS Recreation-Open Space District

B. Overlay Districts. Article 9b, TC-2 Town Center Overlay District and Article 11, Natural Resource Protection. For the purposes of this Ordinance, Article 9b and the sections in Article 11 shall be overlays to the underlying districts as shown on the Modena Borough Zoning Map. In those areas of the Borough where the TC-2 District or a section of Article 11 applies, the provisions of the section shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between the TC-2 Overlay District or a section of Article 11 and the underlying district(s), the more restrictive provision shall apply.

C. All land areas of Modena Borough shall be deemed by this Ordinance to be within a zoning district, and every parcel and building or structure in the Borough, except as provided by this Ordinance or other applicable law, shall be subject to the provisions specified for the district in which it is located.

SECTION 302 ZONING MAP

A. The boundaries of the zoning districts shall be as shown upon the map attached to and hereby made a part of this Ordinance, which shall be designated "The Modena Borough Zoning Map", as may be amended from time to time. This zoning map and all its associated notations shall be incorporated by reference into this Ordinance and shall be a part of this Ordinance.

B. Whenever the Borough amends the boundaries or other matters included on said Map, such changes shall be reflected on the Map following enactment of such amendment.

C. Applicable Federal Emergency Management Agency (FEMA) Floodplain Maps, available at the Borough Hall Building, are herein adopted as an "overlay" to the Zoning Map and shall be as much a part of this Ordinance as if fully described herein. Further, such areas of the Borough described as being flood prone as described in Article 11 of this Ordinance shall be subject to all Floodplain controls regardless of whether shown on such Floodplain Map.

SECTION 303 INTERPRETATION OF DISTRICT BOUNDARIES

A. The boundaries between districts, unless otherwise indicated, shall be either platted lot lines, or the centerline or edgeline of streets, watercourses, rights-of-way of railroads, power lines, public utilities, other rights-of-way, or such lines extended or parallel thereto. However, where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless

otherwise specified by dimensions on the Zoning Map, shall be determined by the use of the scale appearing on said map or as otherwise interpreted by the Zoning Officer.

- B. Where the boundaries of a single district are indicated as including directly opposite sides of a street, watercourse, or right-of-way of a railroad, power line or other public utility, or any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, watercourse, or right-of-way, of such railroad, power line, or other public utility lying within such portion of its length.
- C. In the event of dispute as to location of a district boundary line, the Zoning Officer shall investigate and render a decision, subject to the approval by the Borough Council. Appeals to this decision shall be taken to the Zoning Hearing Board in accordance with provisions of Article 18.

SECTION 304 DISTRICT BOUNDARY TOLERANCES

Where a district boundary line divides a lot held in single and separate ownership on the effective date of this Ordinance, the use regulations applying to the less restrictive district may extend into the portion of the lot in the more restrictive district to the nearest lot line. Full use shall be made of the area of the lot in the less restrictive district before extension into the more restrictive district. Any extension of a use into the more restrictive district shall follow the area and bulk requirement of that district.

SECTION 305 MUNICIPALLY OWNED PROPERTY

Wherever property is municipally owned, it shall be exempt from all regulations except those for setback and lot coverage provisions of this Ordinance.

ARTICLE 4

R-1 RESIDENTIAL DISTRICT

SECTION 401 PURPOSE

In addition to the general purposes listed in Article I, Section 102, and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the R-1 Residential District are designed to accommodate, encourage, preserve, and to provide for lower density residential development in certain areas of the Borough. For this purpose, development is restricted to primarily conventional low-density, single-family dwellings and related land uses.

SECTION 402 USE REGULATIONS

In the R-1 District, a building shall be erected, altered or used, and a lot or premises shall be used for only one of the following purposes and for no other:

A. Uses by Right.

1. Single-Family Dwelling.
2. Municipal Use.
3. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a Conditional Use when authorized by the Borough Council, subject to Article 17 of this Ordinance:

1. Institutional Use.
2. Park.
3. Outdoor Recreation Area.
4. Open Space Preserve.

C. Accessory Uses.

Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.

SECTION 403 AREA AND BULK REGULATIONS

The following regulations shall apply to all uses, in the R-1 District:

A. Lot Area and Width.

Minimum Standards

- | | |
|---|--------------------|
| 1. Single-Family Dwelling using on-lot sewage disposal. | |
| a. Minimum Lot Size: | 40,000 square feet |
| b. Minimum Lot Width at Building Setback Line: | 150 feet |
| 2. Single-Family Dwelling connected to public sewer. | |
| a. Minimum Lot Size: | 22,000 square feet |
| b. Minimum Lot Width at Building Setback Line: | 100 feet |

- 3. All other uses.
 - a. Minimum Lot Size: 40,000 square feet
 - b. Minimum Lot Width at Building Setback Line: 150 feet
- B. Yards. Front, side and rear yards shall be provided on each lot as follows:
 - 1. Front Yard. Shall not be less than thirty-five (35) feet in depth, subject to the other provisions of this Ordinance.
 - 2. Side Yards. Shall not be less than fifteen (15) feet; except that in the case of a corner lot, any yard which abuts a street shall not be less than twenty-five (25) feet in width.
 - 3. Rear Yard. Shall not be less than thirty (30) feet in depth.
- C. Building Coverage. Not more than twenty-five (25) percent of the area of each lot shall be occupied by buildings.
- D. Impervious Surface Coverage. Not more than thirty-five (35) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.
- E. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

SECTION 404 DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

ARTICLE 5

R-2 RESIDENTIAL DISTRICT

SECTION 501 PURPOSE

In addition to the general purposes listed in Article I, Section 102 and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the R-2 Residential District are designed to protect existing and already established areas in the Borough with single-family residential dwellings of a medium density character and to provide for future development in the Borough.

SECTION 502 USE REGULATIONS

In the R-2 District, a building shall be erected, altered or used, and a lot or premises shall be used for only one of the following purposes and for no other:

A. Uses by Right.

1. Single-Family Dwelling.
2. Municipal Use.
3. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a Conditional Use when authorized by the Borough Council, subject to Article 17 of this Ordinance:

1. Two-Family Dwelling.
2. Institutional Use.
3. Park.
4. Outdoor Recreation Area.
5. Open Space Preserve.

C. Accessory Uses.

Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.

SECTION 503 AREA AND BULK REGULATIONS

The following regulations shall apply to all uses in the R-2 District:

A. Lot Area and Width.

Minimum Standards

- | | |
|---|--------------------|
| 1. Single-Family Dwelling using on-lot sewage disposal. | |
| a. Minimum Lot Size: | 30,000 square feet |
| b. Minimum Lot Width at Building Setback Line: | 100 feet |
| 2. Single-Family Dwelling connected to public sewer. | |
| a. Minimum Lot Size: | 12,000 square feet |
| b. Minimum Lot Width at Building Setback Line: | 80 feet |

3. Two-Family Twin Dwelling connected to public sewer (requirements per dwelling).

- a. Minimum Lot Size: 6,000 square feet
- b. Minimum Lot Width at Building Setback Line: 40 feet

4. Two-Family Duplex Dwelling connected to public sewer.

- a. Minimum Lot Size: 12,000 square feet
- b. Minimum Lot Width at Building Setback Line: 80 feet

5. All other uses.

- a. Minimum Lot Size: 12,000 square feet
- b. Minimum Lot Width at Building Setback Line: 80 feet

B. Yards. Front, side and rear yards shall be provided on each lot as follows:

- 1. Front Yard. Shall not be less than thirty (30) feet in depth, subject to the other provisions of this Ordinance.
- 2. Side Yard. Shall not be than ten (10) feet, except that, in the case of a corner lot, any yard which abuts a street shall be not less than twenty (20) feet in width.
- 3. Rear Yard. Shall not be less than thirty (30) feet in depth.

C. Building Coverage. Not more than forty (40) percent of the area of each lot shall be occupied by buildings.

D. Impervious Surface Coverage. Not more than fifty (50) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.

E. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

SECTION 504 DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

- b. Minimum Lot Width. 80 feet
 - 2. Two-Family Twin Dwelling. Connection to public sewer is required (requirements per dwelling).
 - a. Minimum Lot Size. 6,000 square feet
 - b. Minimum Lot Width. 40 feet
 - 3. All other uses. Connection to public sewer is required.
 - a. Minimum Lot Size. 12,000 square feet
 - b. Minimum Lot Width. 80 feet
- B. Yards. Front, side and rear yards shall be provided on each lot as follows:
 - 1. Front Yard. Shall not be less than twenty-five (25) feet in depth, subject to the other provisions of this Ordinance.
 - 2. Side Yard(s).
 - a. Residential Use. Shall not be less than ten (10) feet in width, except that, in the case of a corner lot, any yard which abuts a street shall not be less than fifteen (15) feet in width.
 - b. All other uses and Multi-Family structure. For every primary structure other than a residential dwelling and for every multi-family structure, there shall be two (2) side yards of not less than fifteen (15) feet in width.
 - 3. Rear Yard. Shall not be less than twenty-five (25) feet in depth.
- D. Building Coverage.
 - 1. Multi-Family Use. Not more than fifty (50) percent of the area of each lot shall be occupied by buildings.
 - 2. All other uses. Not more than forty (40) percent of the area of each lot shall be occupied by buildings.
- E. Impervious Surface Coverage.
 - 1. Multi-Family Use. Not more than seventy-five (75) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.
 - 2. All other uses. Not more than fifty (50) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.
- F. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

SECTION 604 DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.

- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

4. Mobile Home Parks. Connection to public sewer is required.
 - a. The minimum tract size for a mobile home park shall not be less than two (2) contiguous acres.
 - b. Maximum gross density for development of a mobile home park shall not exceed five (5) dwelling units per acre.

B. Yards.

Front, side and rear yards shall be provided as follows:

1. Single-Family Dwelling.

- a. Front Yard. There shall be a minimum setback of twenty-five (25) feet.
- b. Side Yard. There shall be two (2) side yards, a minimum of ten (10) feet each.
- c. Rear Yard. There shall be a minimum setback of twenty-five (25) feet.

2. Two-Family Twin Dwelling.

- a. Front Yard. There shall be a minimum setback of twenty-five (25) feet.
- b. Side Yard. There shall be one (1) side yard, a minimum of ten (10) feet.
- c. Rear Yard. There shall be a minimum setback of twenty-five (25) feet.

3. Multi-Family Use.

Multi-family buildings shall be set back a minimum of twenty-five (25) feet from any lot line.

4. Mobile Home Park. Mobile home lots within a mobile home park shall be so designed that in no instance shall the exterior walls of mobile home units or additions thereto, come within twenty-five (25) feet of the exterior walls of an adjacent mobile home, or within twenty-five (25) feet of any lot line.

C. Building Coverage.

1. Multi-Family Use. Not more than forty (40) percent of the area of each lot shall be occupied by buildings.
2. All other uses. Not more than thirty (30) percent of the area of each lot shall be occupied by buildings.

D. Impervious Surface Coverage.

1. Multi-Family Use. Not more than fifty (50) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.
2. All other uses. Not more than forty (40) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.

E. Height Regulations.

1. Maximum height for mobile homes shall be fifteen (15) feet and twenty-five (25) feet for park office and service structures.
2. Maximum height for all other buildings or structures shall be three (3) stories or thirty-five (35) feet in height.

SECTION 704 ADDITIONAL REGULATIONS FOR MOBILE HOMES AND MOBILE HOME PARKS**A. Supplemental Area and Bulk Standards.**

Mobile home parks shall comply with the following standards:

1. Minimum Inhabitable Floor Area. Seven hundred (700) square feet, exclusive of additions and accessory structures.
2. Common Open Space. Mobile home parks shall include a minimum of fifteen (15) percent of the gross area as common open space for the enjoyment of park residents. A minimum of twenty-five (25) percent of the common open space shall be usable for active recreation. All common open space areas shall be administered and maintained by park management.
3. Service Buildings and Facilities. No mobile home park service building or associated facility shall be closer than fifty (50) feet to a public street right-of-way. Suitable uses related to service buildings may include management office and laundry facilities.

B. Improvement Standards. Mobile home parks and mobile homes shall be designed and constructed with respect to the following improvements:

1. Streets within mobile home parks shall conform to the minimum standards specified in the Modena Borough Subdivision and Land Development Ordinance.
2. Connection to a public sewage system and public water supply system shall be required.
3. The management of stormwater runoff shall be incorporated in mobile home park designs. Satisfactory erosion control measures shall be practiced during the construction of the park and thereafter exposed ground surface shall be suitably covered or planted. Storm drainage and control measures shall meet requirements as contained in the Modena Borough Subdivision and Land Development Ordinance.
4. The storage of and design of fuel systems, including liquefied petroleum gas systems and fuel oil supply systems, shall be in conformance with specifications in the Modena Borough Subdivision and Land Development Ordinance.
5. All other utilities and utility infrastructure, such as pipeline and wiring, shall conform to standards pertaining to utility installation in the Modena Borough Subdivision and Land Development Ordinance.
6. Landscaping shall be required as an essential feature of each mobile home park. The use of naturally occurring and existing vegetation shall be encouraged. Specific landscaping and buffering requirements are contained in the Modena Borough Subdivision and Land Development Ordinance.
7. Each mobile home lot will be provided with a walkway light located between the mobile home and parking area, where applicable. Lighting shall be in compliance with standards set forth in the Modena Borough Subdivision and Land Development Ordinance.
8. Mobile homes shall be fully skirted within ninety (90) days of placement on a mobile home lot. Skirting material shall be specifically designed for the purpose of skirting mobile homes. Skirted mobile homes shall be adequately vented and allow for access to all utility connections. In no instance shall the area beneath mobile homes be used for storage.

9. It shall be unlawful for any person to construct, alter or extend or operate a mobile home park in the Borough of Modena unless and until permit and licensing requirements stated in the Modena Borough Subdivision and Land Development Ordinance are satisfied.

SECTION 705 DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

ARTICLE 8a

TC-1 TOWN CENTER DISTRICT

SECTION 801a PURPOSE

In addition to the general purposes listed in Article I, Section 102 and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the TC-1 Town Center District are designed to provide for a mix of residential, small-scale service, retail, and office uses to serve the basic needs of the adjacent residential areas and the immediate community.

- A. Encourage economic development through the establishment of flexible standards that maintain the traditional Town Center environment.
- B. Promote the reuse of existing structures and infill development that promotes the visual character and architectural scale of a traditional Town Center while establishing a pattern for new development along North Brandywine Street.
- C. Encourage lively, human scaled development and activity areas through encouraging a mix of uses.
- D. Establish a walkable community by promoting pedestrian orientation of streets and buildings and providing a safe and convenient interconnected street and pathway network.
- E. Accommodate parking in a convenient manner that does not interfere with the pedestrian orientation of the street and minimizes the disruption of the potential building wall that is encouraged through the following regulations.
- F. Create an interconnected network of streets to effectively accommodate vehicle, pedestrian, and bicycle circulation, and to create a block structure with connections to adjacent zoning districts.

SECTION 802a USE REGULATIONS

In the TC-1 District all uses shall be connected to public sewer. A building shall be erected, altered or used, and a lot or premises shall be used for the following purposes and no other:

- A. Uses by Right.
 - 1. Mixed Use. In accordance with Section 1309.
 - 2. Personal service shop.
 - 3. Retail store.
 - 4. Restaurant.
 - 5. Bank or Financial Institution.
 - 6. Business or Professional Office.
 - 7. Studio.
 - 8. Gallery.
 - 9. Museum.
 - 10. Convenience Store.
 - 11. Laundromat.
 - 12. Municipal or Institutional uses.
 - 13. Park.
 - 14. Produce Market, in accordance with Section 1312.
 - 15. Day Care Center, in accordance with Section 1306.
 - 16. Religious Use.
 - 17. Single-Family Dwelling.
 - 18. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a conditional use when authorized by the Borough Council subject to Article 17 of this Ordinance.

1. Indoor Recreation Facility.
2. Theater.

C. Accessory Uses.

The following accessory uses shall be permitted:

1. Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.
2. Drive Through Service in accordance with Section 1307.

SECTION 803a AREA AND BULK REGULATIONS

The following regulations shall apply to all uses in the TC-1 District:

	<u>Minimum Standard (unless otherwise stated)</u>
A. <u>Minimum Lot Area.</u>	3,000 square feet
B. <u>Maximum Lot Area.</u>	15,000 square feet
C. <u>Lot Width.</u>	30 feet
D. <u>Build-to Line.</u>	Build to sidewalk or a maximum of fifteen (15) feet from the street right-of-way. On a corner lot, there shall be a build-to line on each side of a lot abutting a street.
E. <u>Side Yard(s).</u>	0 Feet
F. <u>Rear Yard.</u>	30 feet
G. <u>Impervious Surface Coverage.</u>	Not more than ninety (90) percent of the lot shall be covered with buildings, structures, parking, walkways, or other impervious surfaces.
H. <u>Green Space.</u>	Not less than ten (10) percent of each lot shall consist of pervious surfaces which shall be surfaced by grass, or landscaping including trees, shrubs, flowers or other plantings.
I. <u>Building Height.</u>	<ol style="list-style-type: none"> 1. Minimum. Primary Structures shall be a minimum of two (2) stories or twenty (20) feet in height at the Build-to Line. Minimum building height may be achieved through construction of either a two (2) story building or through the construction of a one (1) story building that meets the twenty (20) foot minimum height requirement at the Build-to

line through the general height of the building or through a façade that creates the illusion of a taller building at the Build-to Line. (See Figure 8a-1)

- 2. Maximum. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

SECTION 804a SPECIAL DESIGN STANDARDS FOR THE TC-1 DISTRICT

A. Buildings and Structures.

- 1. No more than thirty (30) feet of continuous street wall shall be created for any new building or structure on a side facing a public street, unless a break in depth of a minimum of three (3) feet is provided at intervals of twenty (20) feet accomplished through bay windows, building extensions, recessed doorways, or other architectural features. (See Figure 8a-2)
- 2. No building or structure shall be a windowless box. Building openings and windows shall constitute no less than thirty (30) percent of all exterior walls that face a public street or parking area. (See Figure 8a-3)
- 3. No building or structure shall have opaque windows. (See Figure 8a-4)
- 4. Blank walls shall not be permitted along any exterior wall. Walls or portions of walls where windows are not provided shall have architectural treatments that include one or more of the following: concrete or masonry plinth at the base of the wall, belt courses, projecting cornice, medallions, artwork or murals, decorative trimwork, lighting fixtures, or other similar decorative feature. (See Figure 8a-5)

B. Sidewalks.

- 1. Sidewalks are required within the TC-1 District along all street frontages with a minimum width of five (5) feet and shall be three (3) feet from the street right-of-way.
- 2. Sidewalks are required to connect the street frontage to all front building entrances, parking areas, open space, and any other area that generates pedestrian traffic.
- 3. Sidewalks shall connect to existing sidewalks or pathways on abutting tracts and to other nearby pedestrian destination points.

C. Off-Street Parking. See Section 1502.C, Special Parking Regulations.

SECTION 805a DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

**Figure 8a-1:
Façade at Build-to Line provides the illusion of a taller building and meets the minimum building height requirement**

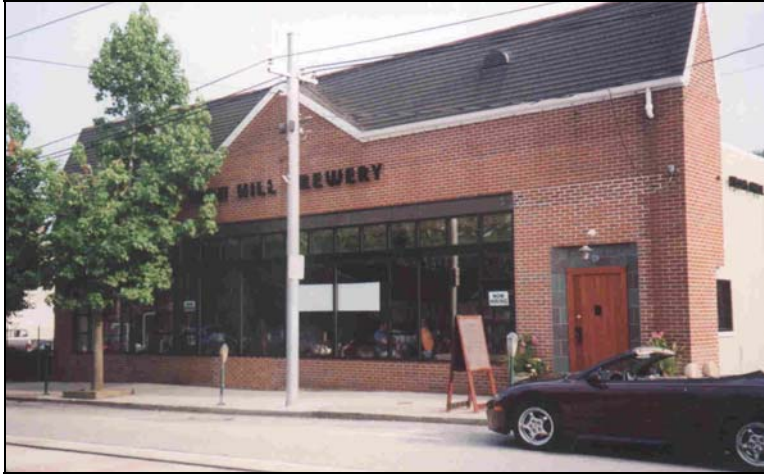


Figure 8a-2: Required Street Wall Interruption



Figure 8a-3: Window Ratio Requirement



Figure 8a-4: Opaque windows are not permitted



Figure 8a-5: Examples of architectural requirements to treat blank walls.



ARTICLE 8b

TC-2 TOWN CENTER OVERLAY DISTRICT

SECTION 801b PURPOSE

In addition to the general purposes listed in Article I, Section 102 and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the TC-2 Town Center Overlay District are designed to provide the opportunity for a mix of residential, small-scale service, retail, and office uses to serve the basic needs of the adjacent residential areas and the immediate community as an overlay to the IC Industrial - Commercial District.

- A. Encourage economic development through the establishment of flexible standards that reflect a traditional Town Center environment.
- B. Promote the reuse of existing structures and infill development that promotes the visual character and architectural scale of a traditional Town Center while establishing a pattern for new development along Union Street. (See Figure 8b-1)
- C. Encourage lively, human scaled development and activity areas through encouraging a mix of uses.
- D. Establish a walkable community by promoting pedestrian orientation of streets and buildings and providing a safe and convenient interconnected street and pathway network.
- E. Accommodate parking in a convenient manner that does not interfere with the pedestrian orientation of the street and minimizes the disruption of the potential building wall that is encouraged through the following regulations.
- F. Create an interconnected network of streets to effectively accommodate vehicle, pedestrian, and bicycle circulation, and to create a block structure with connections to adjacent zoning districts.

SECTION 802b USE REGULATIONS

In the TC-2 Overlay District all uses shall be connected to public sewer. A building shall be erected, altered or used, and a lot or premises shall be used for the following purposes and no other:

- A. Uses by Right.
 - 1. Personal service shop.
 - 2. Retail store.
 - 3. Restaurant.
 - 4. Bank or Financial Institution.
 - 5. Business or Professional Office.
 - 6. Studio.
 - 7. Gallery.
 - 8. Museum.
 - 9. Convenience Store.
 - 10. Laundromat.
 - 11. Municipal or Institutional uses.
 - 12. Park.
 - 13. Produce Market, in accordance with Section 1312.
 - 14. Day Care Center, in accordance with Section 1306.
 - 15. Religious Use.
 - 16. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following use shall be permitted as a conditional use when authorized by the Borough Council subject to Article 17 of this Ordinance:

1. Mixed Use, in accordance with Section 1309.

C. Accessory Uses.

The following accessory uses shall be permitted:

1. Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.
2. Drive Through Service in accordance with Section 1307.

SECTION 803b AREA AND BULK REGULATIONS

The following regulations shall apply to all uses in the TC-2 Overlay District:

		<u>Minimum Standard (unless otherwise stated)</u>
A.	<u>Minimum Lot Area.</u>	3,000 square feet
B.	<u>Maximum Lot Area.</u>	15,000 square feet
C.	<u>Lot Width.</u>	30 feet
D.	<u>Build-to Line.</u>	Build to sidewalk line or a maximum of fifteen (15) feet from the street right-of-way. On a corner lot, there shall be a build-to line on each side of a lot abutting a street.
E.	<u>Side Yard(s).</u>	0 Feet
F.	<u>Rear Yard.</u>	30 feet
G.	<u>Impervious Surface Coverage.</u>	Not more than ninety (90) percent of the lot shall be covered with buildings, structures, parking, walkways, or other impervious surfaces.
H.	<u>Green Space.</u>	Not less than ten (10) percent of each lot shall consist of pervious surfaces which shall be surfaced by grass, or landscaping including trees, shrubs, flowers or other plantings.
I.	<u>Building Height.</u>	
	1. Minimum	Primary Structures shall be a minimum of two (2) stories or twenty (20) feet in height at the Build-to Line. Minimum building height may be achieved through construction of either a two (2) story building or through the construction of a one (1) story building that meets the twenty (20) foot minimum height requirement at the Build-to line through the general height of the building or

through a façade that creates the illusion of a taller building at the Build-to Line. See Figure 8a-1.

- 2. Maximum No building or structure shall exceed Fifty (50) feet in height.

SECTION 804b SPECIAL DESIGN STANDARDS FOR THE TC-2 OVERLAY DISTRICT

All uses permitted by the TC-2 Overlay District shall comply with the Special Design Standards in Section 804a of the TC-1 District.

SECTION 805b DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

Figure 8b-1: TC-2 Overlay District Concept



ARTICLE 8c

NC – NEIGHBORHOOD COMMERCIAL DISTRICT

SECTION 801c PURPOSE

In addition to the general purposes listed in Article I, Section 102, and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the NC Neighborhood Commercial District are designed to provide for small-scale retail and convenience uses to serve the limited basic needs of the adjacent residential areas and the immediate community.

SECTION 802c USE REGULATIONS

In the NC District all uses shall be connected to public sewer. A building shall be erected, altered or used, and a lot or premises shall be used for only one of the following purposes and for no other:

A. Uses by Right.

1. Personal Service Shop.
2. Retail Store.
3. Convenience Store.
4. Bank or Financial Institution.
5. Restaurant.
6. Studio.
7. Laundromat.
8. Municipal Use.
9. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a Conditional Use when authorized by the Borough Council, subject to Article 17 of this Ordinance:

1. Institutional Use.
2. Day Care Center, in accordance with Section 1306.

C. Accessory Uses.

Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.

SECTION 803c AREA AND BULK REGULATIONS

The following regulations shall apply to all uses in the NC District, connection to public sewer is required:

A. Lot Area and Width.

Minimum Standards

- | | |
|--|-------------------|
| 1. Minimum Lot Size: | 5,000 square feet |
| 2. Minimum Lot Width at Building Setback Line: | 50 feet |

- B. Yards. Front, side and rear yards shall be provided on each lot as follows:
 - 1. Front Yard. Shall not be less than fifteen (15) feet in depth, subject to the other provisions of this Ordinance.
 - 2. Side Yards. Shall not be less than fifteen (15) feet.
 - 3. Rear Yard. Shall not be less than thirty (30) feet in depth.
- C. Building Coverage. Not more than thirty (30) percent of the area of each lot shall be occupied by buildings.
- D. Impervious Surface Coverage. Not more than forty (40) percent of the area of each lot shall be covered by buildings, structures, or other impervious surfaces.
- E. Height Regulations. No building or structure shall exceed three (3) stories or thirty-five (35) feet in height.

SECTION 804c DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

ARTICLE 9a

IC INDUSTRIAL - COMMERCIAL DISTRICT

SECTION 901a PURPOSE

In addition to the general purposes listed in Article I, Section 102 and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the IC Industrial - Commercial District are designed to provide for a mix of small-scale service and office uses and light industrial uses to serve the limited basic needs of the adjacent residential areas and the immediate community.

- A. Encourage economic development through the establishment of flexible standards.
- B. Promote the reuse of existing structures and infill development by providing for a mix of uses at a scale appropriate for the Borough.
- C. Encourage more human scaled development and activity areas through encouraging a mix of uses.
- D. Establish a walkable community by promoting pedestrian orientation of streets and buildings and providing a safe and convenient interconnected street and sidewalk network.
- E. Accommodate parking in a convenient manner that does not interfere with the rhythm of the street.
- F. Create an interconnected network of streets to effectively accommodate vehicle, pedestrian, and bicycle circulation, and to create a block structure with connections to adjacent zoning districts.

SECTION 902a USE REGULATIONS

In the IC District all uses shall be connected to public sewer. A building shall be erected, altered or used, and a lot or premises shall be used for the following purposes and no other:

- A. Uses by Right.
 - 1. Light Industrial.
 - 2. Heavy Industrial.
 - 3. Warehousing or Wholesale establishments.
 - 4. Auto Repair or Auto Body Shop, in accordance with Section 1304.
 - 5. Self-Storage Facility, in accordance with Section 1313.
 - 6. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a conditional use when authorized by the Borough Council subject to Article 17 of this Ordinance.

- 1. Parking lots, public or private, as a primary use. Parking lots shall meet the applicable regulations of Article 15, Off-Street Parking and Loading that deal with off-street parking facilities.
- 2. Indoor Recreation Facility.
- 3. Theater.
- 4. Funeral Home.

C. Accessory Uses.

Only the following accessory uses shall be permitted:

1. Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.
2. Drive Through Service in accordance with Section 1307.

SECTION 903a AREA AND BULK REGULATIONS

	<u>Minimum Standard</u> (unless stated)
A. <u>Minimum Lot Area.</u>	10,000 square feet
B. <u>Lot Width.</u>	40 feet
C. <u>Front Yard.</u>	15 feet
D. <u>Side Yard(s).</u>	10 feet; in the case of a corner lot, any yard which abuts a street shall be not less than fifteen (15) feet in width.
E. <u>Rear Yard.</u>	30 feet
F. <u>Impervious Surface Coverage.</u>	Not more than ninety (90) percent of the lot shall be covered with buildings, structures, parking, walkways, or other impervious surfaces.
G. <u>Green Space.</u>	Not less than ten (10) percent of each lot shall consist of pervious surface which shall be surfaced by grass, or landscaping including trees, shrubs, flowers or other plantings.
H. <u>Building Height.</u>	No building or structure shall exceed fifty (50) feet in height.

SECTION 904a SPECIAL DESIGN STANDARDS FOR THE IC DISTRICT

- A. Sidewalks.
1. Sidewalks are required within the IC District along all street frontages with a minimum width of five (5) feet and shall be three (3) feet from the street right-of-way.
 2. Sidewalks are required to connect the street frontage to all front building entrances, parking areas, open space, and any other area that generates pedestrian traffic.
 3. Sidewalks shall connect to existing sidewalks or pathways on abutting tracts and to other nearby pedestrian destination points.
- B. Off-Street Parking. See Section 1502.C, Special Parking Regulations.

SECTION 905a DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 8b, TC-2 Overlay District
- B. Article 11, Natural Resource Protection.
- C. Article 12, General Regulations.
- D. Article 13, Supplemental Use Regulations.
- E. Article 14, Signs.
- F. Article 15, Off-Street Parking and Loading.

ARTICLE 9b

I INDUSTRIAL DISTRICT

SECTION 901b PURPOSE

In addition to the general purposes listed in Article I, Section 102, and the Statement of Community Development Objectives in Article I, Section 103, the regulations for I Industrial District are intended to provide for and protect areas for general industrial manufacturing activity while limiting the use of such land by new residential development, and at the same time, to protect residences by separating them from such activities. Further, in accordance with a well-considered plan, these regulations are intended to promote stable industry and to strengthen the economic base while protecting local tax revenues.

SECTION 902b USE REGULATIONS

In the Industrial District all uses shall be connected to public sewer. A building shall be erected, altered or used, and a lot or premises shall be used for the following purposes and no other:

A. Uses By Right.

1. Any nonresidential use permitted in the TC-1 or IC Districts.
2. Light Industrial Uses.
3. Heavy Industrial Uses.
4. Forestry, in accordance with Section 1108.

B. Conditional Use.

The following uses shall be permitted as a conditional use when authorized by the Borough Council subject to Article 17 of this Ordinance.

1. Railroad Transfer Station or Freight Terminal.
2. Commercial Communication Antennae and Facilities in accordance with Section 1305.
3. Junkyard.
4. Public Utility.
5. Adult Commercial Use, in accordance with Section 1303.
6. Any other use of the same general character as the permitted uses.
7. Any lawful use not specifically provided for elsewhere in this Ordinance.

C. Accessory Uses.

Customary accessory uses which are clearly incidental to the principal building, structure or use are permitted in accordance with Section 1302.

SECTION 903b AREA AND BULK REGULATIONS

	<u>Minimum Standard</u>
A. <u>Minimum Lot Area.</u>	20,000 square feet
B. <u>Lot Width.</u>	125 feet
C. <u>Front Yard.</u>	30 feet
D. <u>Side Yards.</u>	30 feet

- E. Rear Yard. 40 feet
- F. Tower and Chimney Location. Any such structure shall be located a distance from any lot line of the height of the structure plus an additional ten (10) feet.
- G. Building Coverage. Not more than seventy (70) percent of the area of each lot may be occupied by buildings.
- H. Impervious Surface Coverage. Not more than ninety (90) percent of the lot shall be covered with buildings, structures, parking, walkways, or other impervious surfaces.
- I. Height Regulations. No building or structure shall exceed fifty (50) feet in height.
- J. Off-Street Parking. See Section 1502.C, Special Parking Regulations.
- K. Sidewalks.
 - 1. Sidewalks are required within the Industrial District along all street frontages with a minimum width of five (5) feet and shall be three (3) feet from the street right-of-way.
 - 2. Sidewalks are required to connect the street frontage to all front building entrances, parking areas, open space, and any other area that generates pedestrian traffic.
 - 3. Sidewalks shall connect to existing sidewalks or pathways on abutting tracts and other nearby pedestrian destination points.

SECTION 904b DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

ARTICLE 10

R-OS RECREATION - OPEN SPACE DISTRICT

SECTION 1001 PURPOSE

In addition to the general purposes listed in Article I, Section 102 and the Statement of Community Development Objectives in Article I, Section 103, the regulations for the R-OS Recreation - Open Space District are designed to provide for recreational use for residents and open space to protect remaining open areas that are largely unbuildable due sensitive natural features.

SECTION 1002 USE REGULATIONS

In the R-OS District, a building shall be erected, altered or used, and a lot or premises shall be used for only one of the following purposes and for no other:

A. Uses by Right.

In any R-OS District a building shall be erected, altered, or used, and a lot or premises shall be used, by right, for any of the following purposes, and for no other:

1. Open Space Preserve.
2. Park.
3. Outdoor Recreation Area.
4. Forestry, in accordance with Section 1108.

B. Uses by Conditional Use.

The following uses shall be permitted as a conditional use when authorized by the Borough Council subject to Article 17 of this Ordinance.

1. Municipal Use.
2. Utility.
3. Single-Family Dwelling.

C. Accessory Uses.

Customary accessory uses associated with the uses listed above shall be permitted in accordance with Section 1302.

SECTION 1003 AREA AND BULK REGULATIONS

The following regulations shall generally apply for all uses:

	<u>Minimum Standard</u>
A. <u>Minimum Lot Area</u>	One (1) acre
B. <u>Lot Width</u>	100 feet
C. <u>Yards</u>	No building or structure shall be located closer than thirty (30) feet from a lot line.

D. Building Coverage

- | | |
|----------------------------|--|
| 1. Single-Family Dwelling. | Fifteen (15) percent |
| 2. All other uses. | Not more than five (5) percent of the area of each lot may be occupied by buildings. |

E. Impervious Surface Coverage

- | | |
|--|--|
| 1. Single-Family Dwelling. | Twenty (20) percent |
| 2. All other uses. | Not more than fifteen (15) percent of the lot shall be covered with buildings, parking, walkways, or other similar surfaces. |
| 3. The Borough encourages the use of permeable paving surfaces for all parking areas, driveways, and other improvements within the R-OS District and discourages the use of macadam, concrete, or other impervious surfaces. | |

F. Building Height

No building or structure shall exceed two (2) stories or thirty-five (35) feet in height.

SECTION 1004 DESIGN STANDARDS

For additional standards applicable to this district refer to the following districts:

- A. Article 11, Natural Resource Protection.
- B. Article 12, General Regulations.
- C. Article 13, Supplemental Use Regulations.
- D. Article 14, Signs.
- E. Article 15, Off-Street Parking and Loading.

ARTICLE 11

NATURAL RESOURCE PROTECTION

SECTION 1101 PURPOSE

The following natural resource protection standards are established to protect the public health, safety, and welfare by minimizing adverse environmental impacts and are specifically authorized by Section 604 of the Municipalities Planning Code. These standards are intended to meet the following purposes:

- A. Promote and implement Sections 603(b)(1), 603(b)(5), 603(c)(7), 603 (g)(2), and 604(1) of Act 247 the PA Municipalities Planning Code (MPC), as amended, providing for the protection and preservation of environmentally sensitive areas, prime agricultural land, and natural resources through Zoning Ordinances.
- B. Delineate selected natural resources within the Borough and establish resource protection standards to assist the Borough in reducing the impact proposed uses will have on the environment.
- C. Conserve and protect valuable natural resources within the Borough in accordance with the following goals of the Modena Borough Comprehensive Plan (2004) and the Modena Borough Open Space, Recreation, and Environmental Resources Plan (2004):
 - 1. Natural Resources Goal. To preserve, conserve, and enhance the valuable natural resources of Modena.
 - 2. Water Resources Goal. To protect, enhance, and sustain the quality and quantity of water resources; and to preserve the aesthetic and recreational assets of the watersheds.

SECTION 1102 APPLICABILITY

Overlay Districts shall be used in accordance with the following:

- A. For the purposes of this Ordinance, the sections within this Article shall be overlays to the underlying districts as shown on the Modena Borough Zoning Map. In those areas of the Borough where a section of this Article applies, the provisions of the section shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between a section of this Article and the underlying district(s), the more restrictive provision shall apply.
- B. In the event that two (2) or more natural resources identified in this Article overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building, etc.) shall apply to the area of overlap.
- C. It shall be a violation of this Ordinance to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review, and approval of: applications for zoning or building permits; conditional use or special exception approvals; variances; or submission of plans for subdivision or land development.
 - 1. Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this Article and other applicable Borough ordinance provisions or federal or state regulations.
 - 2. Restrictions to the disturbance of resources shall apply before, during, and after construction on a site.

- D. Should the boundaries or delineations of any section of this Article be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable section of this Article shall continue to apply.
- E. Plan information required by Section 1109 shall be verified as correct by the Borough Engineer or other qualified professional as determined by the Borough.

SECTION 1103 FLOOD HAZARD

A. General Provisions.

1. **Statement of Intent.** The intent of this Section is to:
 - a. Promote the general health, welfare and safety of the community.
 - b. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 - c. Minimize danger to public health by protecting water supply and natural drainage.
 - d. Reduce financial burdens imposed on the community, its government units, and its residents, by preventing excessive development in areas subject to flooding.
 - e. Comply with federal and state floodplain management requirements.
2. **Applicability.** For the purposes of this Ordinance, the Floodplain Overlay District shall be an overlay to the existing underlying districts as shown on the Zoning Map and, as such, the provisions of the Floodplain Overlay District shall be imposed in addition to the requirements of the underlying zoning district(s).
 - a. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough, unless a Building Permit and/or Zoning Permit has been obtained from the Zoning Officer.
 - b. A Building Permit shall not be required for any minor repairs to existing buildings or structures.
3. **Abrogation and Greater Restrictions.** This Section supersedes any other conflicting provision 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 Ordinance, the more restrictive shall apply.
4. **Warning and Disclaimer of Liability.**

The degree of flood protection sought by the provisions of this Section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural cause, such as ice jams and bridge openings restricted by debris. This Section does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

This Section shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereafter.

B. Administration.

1. **Building Permits and/or Zoning Permits Required.** Building Permits shall be required before any construction or development is undertaken within any area of the Borough. Before a Building Permits application can be initiated, the applicant shall have received a zoning permit approval. A Zoning Permit shall be applied for on forms supplied by the Borough and in conformance with Borough procedures and Article 17, Administration.
2. **Issuance of Building Permit.**
 - a. The Zoning Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
 - b. Prior to the issuance of any Building Permit, the Zoning Officer shall review the application for a 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); 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. 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 Borough, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Regional Office.
 - d. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Borough prior to any alteration or relocation of any watercourse.
3. **Application Procedures and Requirements.** The applicant shall use Building Permit forms supplied by the Borough and shall follow the Borough's Building Permit application procedure.
 - a. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
 - 1) All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this 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.
 - 3) Adequate drainage is provided so as to reduce exposure to flood hazard.
 - b. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Zoning Officer to make the above determination:
 - 1) 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 one hundred (100) year flood.

- c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood.
 - d) Detailed information concerning any proposed flood proofing measures.
 - e) Supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section R106.1.3 and R104.7 of the 2003 IRC.
- 2) The following data and documentation:
- a) A document, certified by the Zoning Officer and Borough Engineer, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood, and uses the current flood elevations maps in accordance with Section 1103.C.1. 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.
 - b) Detailed information needed to determine compliance with Section 1103.D.3.g, Storage, and Section 1103.D.4, Development Which May Endanger Human Life, including:
 - i. The amount, location and purpose of any dangerous materials or substances 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 1103.D.4, during a one hundred (100) year flood.
 - c) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development".
 - d) 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.
4. 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 Zoning Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.
5. Review of Application by Others. A copy of all plans and application for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.
6. Changes. After the issuance of a Building Permit by the Zoning Officer, 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 Zoning Officer. Request for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for consideration.
7. Placards. In addition to the building permit, the Zoning Officer shall issue a placard which shall be displayed on the premises during the time construction or development is in

progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Zoning Officer.

8. Start of Construction and/or Development.

Work on proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing by the Zoning Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footing, piers, or foundations, erection of temporary forms, the installation of the piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request.

9. Inspection and Revocation.

a. During the construction or development period, the Zoning Officer 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. He shall make as many inspections during and upon completion of the work as are necessary.

b. In the discharge of his duties, the Zoning Officer shall have the authority to enter the building, structure, premises or development in the identified flood-prone area, upon presentation of proper credential, at any reasonable hour to enforce the provisions of this Ordinance.

c. In the event the Zoning Officer 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 Zoning Officer shall revoke the building permit and report such fact to the Borough Council for whatever action it considers necessary.

d. A record of all such inspections and violations of this ordinance shall be maintained.

e. The requirements of the 34 PA Code Chapter 401-405 and the International Building Code (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 International Residential Building Code (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

10. Fees. Applications for a building permit shall be accompanied by a fee, payable to the Borough and based on the Borough's adopted fee schedule.

11. Appeals. Appeals shall be in accordance with Section 1813 of this Ordinance.

C. Identification of Flood Plain Areas.

1. Identification.

The identified floodplain area shall be those areas of Modena Borough, Chester County, Pennsylvania, which are subject to the one hundred (100) year flood, as identified in the Chester County Flood Insurance Study (FIS) dated September 29, 2006 and the accompanying maps as prepared for 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.

2. Description of Floodplain Areas/District. The identified floodplain area shall consist of the following specific areas:
 - a. FW (Floodway Area). The areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the Federal Emergency Management Agency. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.
 - b. FF (Flood-Fringe Area). The remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

- c. FA (General Floodplain Area). The areas identified as Zone A in the FIS for which no one hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation 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 Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers 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 the Borough.

3. Changes in Identification of Area. The identified floodplain area may be revised or modified by the 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 Federal Emergency Management Agency (FEMA).
4. Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough Planning Commission and any party aggrieved by this decision may appeal to the Borough Council. The burden of proof shall be on the appellant.

D. General Technical Requirements.

1. General.
 - a. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the Borough.
 - b. With any FW (Floodway Area), the following provisions apply:

- 1) Within any FW (floodway area), no new construction, development, use, activity, or encroachment shall be permitted that would cause any increase in the one hundred (100) year flood elevation.
 - 2) No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- c. Within any identified (FA General Floodplain Area) floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
2. Elevation and Flood Proofing Requirements.

- a. Residential. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be one and one half (1 ½) feet or more above the one hundred (100) year flood elevation.

The design and construction standards and specifications contained in the 2003 International Building Code (Sec. 1612.4, 1603.1.6 and 3403.1) and in the 2003 International Residential Building Code (Sec. R323.1.4, R323.2.1, and R323.2.2) and American Society of Civil Engineers (ASCE) 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

- b. Non-Residential. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be one and one half (1 ½) feet or more above the one hundred (100) year flood elevation or be flood proofed up to that height.

Any non-residential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1 ½) feet above the one hundred (100) year flood elevation, shall be flood proofed in a completely or essentially dry manner in accordance with the w1 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), or with some other equivalent standard. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction or development are in conformance with the above referenced standards.

The design and construction standards and specifications contained in the International Building Code (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1.) and American Society of Civil Engineers (ASCE) 24 (Secs. 2.4 and Chap. 7) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

- c. Enclosed Areas.

- 1) Fully enclosed areas below the lowest floor (including basement) are prohibited.
- 2) Partially enclosed space below the lowest floor (including basement) 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 "partially enclosed space" also includes crawl spaces. 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 (2) 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.
- 3) Consideration may be given to the requirements of 34 PA Code (Chapters 401- 405 as amended) and the 2003 International Residential Building Code (Secs. R323.2.2 and R323.1.4) and the 2003 International Building Code (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3.)
- d. Accessory Structures. Structures accessory to a principal building need not be elevated or flood proofed 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.
 - 2) Floor area shall not exceed six hundred (600) square feet.
 - 3) The structure will have a low damage potential.
 - 4) The structure will be located so as to cause the least obstruction to the flow of flood waters.
 - 5) Power lines, wiring, and outlets shall be at least one and one-half (1 ½) feet above the one hundred year flood elevation.
 - 6) The following structures shall be prohibited: temporary structures, fences, utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., and sanitary facilities.
 - 7) 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 (2) 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.
3. Design and Construction or Development Standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:
- a. Uniform Construction Code Coordination. The standards and specifications contained in 34 PA Code (Chapters 401- 405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and/or supplement the requirements of this ordinance.

International Building Code (IBC) 2003 or the latest edition thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof: Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.
 - b. 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 Zoning Officer.
 - 5) Be used to the extent to which it does not adversely affect adjacent properties. The provisions contained in the International Building Code (Sec. 1801.1 and 1803.4) shall be utilized.
- c. Drainage Facilities. Storm drainage facilities shall be designed to convey the flow of stormwater 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. The provisions contained in the 2003 IBC (Appendix G401.5) shall be utilized.
- d. Water and Sewer Facilities and Systems.
- 1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 - 2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
 - 3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - 4) The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the International Building Code (Appendix G, Secs. 401.3 and 401.4), the 2003 International Residential Building Code (Sec. 323.1.6), the American Society of Civil Engineers 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code (Chapter 3) shall be utilized.
- e. 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.
- f. Streets. The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.
- g. 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 1103.D.4, 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. All other storage shall be completely enclosed within a dry flood proofed structure or shall be stored in a properly elevated area in accordance with this Section.
- h. Placement of Buildings and Structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water
- i. 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.

- 3) The design and construction requirements of the UCC pertaining to this Subsection as referred to in 34 PA Code (Chapters 401- 405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 and R323.1.1) and American Society of Civil Engineers 24-98 (Sec. 5.6) shall be utilized.

j. 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 change 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.
- 5) The provisions of the Unified Construction Code pertaining to this Subsection and referenced in the 34 PA Code (Chapters 401- 405 as amended) and contained in the 2003 International Building Code (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 International Residential Building Code (Secs. R323.1.7 and R501.3) and American Society of Civil Engineers 24-98 (Chapter 6).

k. Paints and Adhesives.

- 1) Paints or 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 quality.
- 3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a “marine” or water resistant paint or other finishing material.
- 4) The standards and specifications contained in 34 PA Code (Chapters 401- 405, as amended) the 2003 International Building Code (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 International Residential Building Code (Secs. R323.1.7).

l. Electrical Components.

- 1) Electrical distribution panels shall be at least three (3) feet above the one hundred year flood elevation.
- 2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- 3) The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401- 405) as amended and contained in the 2003 International Building Code (Sec. 1612.4), the International Residential Building Code (Sec. R323.1.5), the 2000 International Fuel Gas Code (Secs. R301.5 and R1601.3.8) and American Society of Civil Engineers 24 (Chapter 8) shall be utilized.

m. Equipment.

- 1) Water heaters, furnaces, air conditioning and ventilating units, other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.
- 2) The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Sec. R323.1.5) the 2000 International Fuel Gas Code (Secs. R301.5 and R1601.3.8) and American Society of Civil Engineers 24 (Chapter 8) shall be utilized.

- n. Fuel Supply Systems. Fuel supply 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 a flood water infiltration occurs.

4. 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.
 - 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.
 - 3) Will involve the production, storage, or use of any amount of radioactive substances.
 - 4) Shall be subject to the provisions of this section, in addition to all other applicable provisions.
- b. The following list of materials and substances are considered dangerous to human life:
 - 1) Acetone
 - 2) Ammonia
 - 3) Benzene
 - 4) Calcium carbide
 - 5) Carbon disulfide
 - 6) Celluloid
 - 7) Chlorine
 - 8) Hydrochloric acid
 - 9) Hydrocyanic acid
 - 10) Magnesium
 - 11) Nitric acid and oxides of nitrogen
 - 12) Petroleum products (gasoline, fuel oil, etc.)
 - 13) Phosphorus
 - 14) Potassium
 - 15) Sodium
 - 16) Sulphur and sulphur products
 - 17) Pesticides (including insecticides, fungicides and rodenticides)
 - 18) Radioactive substances, insofar as such substances are not otherwise regulated.
- c. Within any FW (Floodway Area), any structure of the kind described in Section 1103.D.4.a, above, shall be prohibited.
- d. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Section 1103.D.4.a, above, shall be:
 - 1) Elevated or designed and constructed to remain completely dry up to at least one and one half (1 1/2) feet above the one hundred year floor.
 - 2) Designed to prevent pollution from the structure or activity during the course of a one hundred year flood.
 - 3) 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 flood-proofing contained in the publication "Flood-Proofing regulations (U.S, Army Corps of Engineers, June 1972 as amended), or with some other equivalent watertight standard.

5. Special Requirements for Manufactured Homes.
 - a. Within any FW (Floodway Area), manufactured homes shall be prohibited.
 - b. Within any identified FA (General Floodplain Area), all manufactured homes and any additions thereto shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - c. Where permitted within any identified floodplain area, all manufactured homes and additions thereto shall be:
 - 1) Placed on a permanent foundation.
 - 2) Elevated so that the lowest floor of the manufactured home is one and one half (1 ½) feet or more above the elevation of the one hundred year flood.
 - 3) Anchored to resist flotation, collapse, or lateral movement.
 - 4) 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 2003 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.
 - 5) Consideration shall be given to the installation requirements of the 2003 International Building Code (Appendix G, Sec. 501.1-3) and the 2003 International Residential Building Code (Sec. R323.2, R323.3, R102.7.1, R105.3.1.1 and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, 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.

E. Activities Requiring Special Permits. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area in Modena Borough.

1. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure, or lot used, or intended to be used, for any of the following activities:
 - a. Hospitals
 - b. Nursing Homes
 - c. Jails or Prisons
2. The commencement of, or any construction or development of a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

F. Existing Structures In Identified Floodplain Areas.

1. Existing Structures. The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 1103.F.2, below, shall apply.
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 one hundred (100) year flood.
- b. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

G. Variances.

1. General. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, Modena Borough may, upon request, grant relief from the strict application of the requirements.
2. Variance Procedures and Conditions. Requests for variances shall be considered by Modena Borough in accordance with the procedures contained in Article 18 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 one hundred (100) year flood elevation.
 - b. Except for possible modification of the one and one half (1 ½) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to Section 1103.D.4, Development Which May Endanger Human Life.
 - c. If granted, a variance shall involve only the least modification necessary to provide relief.
 - d. In granting any variance, Modena 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 Ordinance.
 - e. Whenever a variance is granted, Modena 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.
 - f. In reviewing any request for a variance, Modena 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) Not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.
 - b) Not create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulation.
 - g. A complete record of all variance requests and related actions shall be maintained by Modena Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

- h. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

SECTION 1104 STEEP SLOPES

A. Statement of Intent.

It is the general intent of this Section to promote the health, safety and general welfare and to minimize negative environmental impacts by:

1. Conserving and protecting steep slopes from inappropriate development.
2. Protecting watersheds and limiting increases in stormwater runoff.
3. Regulating development in order to limit erosion and reduce the potential for increased run-off and downstream flood hazards.
4. Protecting the natural vegetative cover in Steep Slope Districts, thereby reducing runoff and flooding potential.
5. Protecting the quality of streams which would be threatened by indiscriminate grading and development in Steep Slope Districts.

B. General Provisions.

1. Compliance. No area within the Steep Slope district shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
2. Disclaimer of Liability. This Section shall not create liability on the part of the Borough or any officer or employee thereof for any damages that result from negligence of this Ordinance or any administrative decision lawfully made thereunder.

C. Identification of Steep Slope Districts.

1. Delineation of Steep Slope Districts.
 - a. Steep Slopes in the Borough of Modena shall be defined and regulated as anywhere on a site or property where slopes are twenty-five (25) percent or greater.
 - b. Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. For purposes of this Ordinance, slope shall be measured over three (3) or more two (2) foot contour intervals (six (6) cumulative vertical feet of elevation). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania.
2. Interpretation of Steep Slope District Boundaries.

An initial interpretation of whether a parcel is or parcels are included in a Steep Slope District shall be made by the Zoning Officer as the representative agent of the Borough. Should a dispute concerning any identified steep slope district boundary occur subsequent to the initial interpretation; upon appeal, the party contesting the location of the boundary shall have the burden of establishing that land does not lie within the Steep Slope District as delineated by Section 1104.C.1.

D. Use Regulations.

1. Uses by Right.

The following uses shall be permitted in the Steep Slope Districts so long as such use is in compliance with the base zoning district and all other provisions of this Section and Ordinance.

- a. Parks, Open Space Preserve, Outdoor Recreation Area, or other similar uses not requiring structures.
- b. Timber Harvesting, Forestry, and other agricultural uses when conducted according to conservation measures insuring protection from erosion.

2. Conditional Use.

Single-family dwellings or a portion thereof, may be permitted by conditional use, if the building is constructed in such a manner which does not substantially alter the existing grade and natural soil conditions, subject to the requirements of this Section and Article 17.

3. Special Exception.

Any of the following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to requirements of this Section and Article 18, Zoning Hearing Board.

Consideration for granting of special exceptions shall include the extent to which the requested uses will disrupt the stability of slope, soils, and natural vegetation, and contribute to erosion before and after construction.

- a. Recreation and conservation uses requiring structures.
- b. Sealed public water supply wells, provided they have been approved by the Department of Environmental Protection and all other applicable regulatory agencies.
- c. Sanitary or storm sewers, provided they have been approved by the Department of Environmental Protection and all other applicable regulatory agencies.
- d. Utilities easements and rights-of-way.
- e. Accessory uses and structures customarily incidental to any of the foregoing; and roads and access driveways only when no viable alternative alignment or location is feasible.

4. Prohibited Use.

- a. On-lot sewage disposal systems.
- b. Structures other than those associated with Sections 1104.D.2 and 1104.D.3.
- c. Removal of topsoil subject to Stripping of Topsoil in the Borough Subdivision and Land Development Ordinance.

E. Resource Protection Standards.

1. Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and the following requirements shall apply:
 - a. Disturbance. Not more than thirty (30) percent of steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 - b. Impervious Surface. The maximum impervious surface permitted on steep slopes shall be twenty (20) percent.

2. Forestry shall be permitted, when conducted in compliance with the required timber harvesting plan. Clearcutting of woodlands is prohibited on steep slopes.
3. Grading for the minimum portion of a road or driveway necessary for access to the principal use and sewer, water, and other utility lines shall be designed within the existing contours of the land to the extent possible unless it can be demonstrated that no other routing is feasible.
4. Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing grade, vegetation, and natural soils condition.
5. Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible.
6. Finished slopes of all permitted cut and fill within steep slopes shall not exceed twenty-five (25) percent slope.
7. All stockpiles of earth shall be seeded or otherwise stabilized to the satisfaction of the Borough Engineer or the Chester County Conservation District when stored for more than twenty-one (21) days. Cut and fill resulting in slopes twenty-five (25) percent or greater shall be protected with an erosion control blanket.
8. Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of the Subdivision and Land Development Ordinance and 25 Pa. Code §§ 102.1 – 102.51.
 - a. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of the Subdivision and Land Development Ordinance.
 - b. The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.

F. Administration of Steep Slope Districts.

1. Where the following information has not been previously submitted as part of a subdivision or land development plan application, such information shall be submitted to the Borough with any application for a building permit, zoning permit, variance, conditional use, or special exception, as applicable where steep slopes are identified:
 - a. The adequacy of access to the site for emergency vehicles shall be subject to review by the fire marshal or his designee. The necessary information shall be submitted by the applicant to the fire marshal or his designee for his review.
 - b. The grading plan and erosion and sedimentation control plans described in Section 1104.E.8, above.
 - c. An application in conformance with Section 1104.F.2, below.
2. Application. Applications shall include the following:
 - a. The location, dimensions, elevation, and natural features of the property.
 - b. Existing and proposed uses and development.
 - c. The applicant shall delineate steep slopes which are on a site in accordance with this Section.
 - d. An earthmoving plan which indicates existing and proposed final grades including contour lines of two (2) foot intervals and a clear delineation of the twenty-five (25) percent or greater slopes. Erosion and sedimentation controls in accordance with the Modena Subdivision and Land Development Ordinance shall also be indicated.
 - e. A site plan indicating existing and proposed buildings, structures, driveways, other impervious surfaces, storm drainage facilities, retaining walls, and onsite sewage disposal,

- as applicable. The site plan shall also locate and identify existing and proposed vegetation including trees, woodlands, hedgerows, landscaping materials, open areas, and their groundcover types.
- f. Plan, profile, and typical cross sections and elevations of the property, proposed buildings, structures, and the driveway and/or street providing public access, as well as architectural plans, elevations, and sections with the seal of a registered professional engineer thereon.
 - g. A statement, signed and sealed by a registered architect or registered professional engineer, explaining the following: the building methods to be used in overcoming: foundation and other structural or physical problems created by steep slope conditions; preserving the natural drainage; how the existing environment will be protected; the prevention soil erosion and excessive surface water runoff to neighboring properties and/or streets; the type of sewage disposal and water supply; and how materials will be delivered to the site with minimal impact on the environment.
 - h. A statement, signed by the landowner or legal representative stating that there is full understanding of any difficulties associated with construction and access involving steep slopes.
3. No plan shall be approved by the Borough Council without the Borough Engineer's review of this material and recommendation thereon.
 4. Amendment of Steep Slope District.

In the case of an alleged change in the District due to natural or other causes, except man-made, the party alleging the changes, other than the Borough of Modena, shall submit to the Zoning Officer a detailed on-site survey created by a professional engineer, pursuant to techniques approved by the Natural Resource Conservation Service, United States Department of Agriculture, showing in detail the changes alleged to have occurred which remove the land in question from the Steep Slope District. There shall also be submitted a detailed on-site survey by a registered professional engineer or surveyor delineating the exact location of the alleged new boundaries of the tract as a result of the claimed change.

SECTION 1105 RIPARIAN BUFFERS

A. Purpose.

1. To protect streambanks, water quality, sensitive soils, natural habitat and scenic vistas through the provision and protection of a vegetated strip of land surrounding the resource.
2. Regulating uses and structures, and providing transitional provisions, at or near watercourses, floodplains, wetlands and other bodies of water.
3. Establishing continuous vegetated strips along water bodies that serve to filter and remove pollution laden runoff from entering water bodies and protecting against streambank erosion and tree loss.
4. Promoting and protecting stabilized streambanks, which will reduce downstream transport of eroded sediment and pollutants.
5. Preserving species-rich vegetative communities along and adjacent to water bodies.
6. Providing shade for streams and other water bodies to reduce direct sunlight and lower water temperatures.

B. General Provisions.

1. These regulations apply only to those portions of a tract or lot delineated by this Section; portions not under this Section shall conform to the standards of the underlying zoning district.
2. An applicant filing an application for a subdivision or land development, building permit, zoning permit, variance, conditional use, or special exception where applicable, shall indicate riparian buffers. Field verification to determine evidence and location of natural channelized flow may be required for a specific determination.

C. Delineation.

1. Delineation of Riparian Buffer by type. (See Figure 11-1)
 - a. Identified Watercourses. Riparian buffers shall occupy a margin of land beginning at the top of each edge of the streambank of a watercourse and extending a minimum width of fifty (50) feet measured horizontally on a line perpendicular to the streambank of the watercourse, as approved by the Borough Zoning Officer, with the assistance of the Borough Engineer, at the discretion of the Borough.
 - b. Intermittent streams. Riparian buffers shall extend twenty (20) feet to either side of the center line of the channel.
 - c. Lakes and ponds. Riparian buffers shall extend twenty (20) feet from the mean water level edge.
2. Where steep slopes, twenty-five (25) percent and greater in accordance with Section 1104, are located within and extend beyond an identified riparian buffer, the riparian buffer shall be extended ten (10) feet beyond the riparian buffer required in Section 1105.C.1, above.
3. The riparian buffer zone shall not be designated along industrial ponds, sewerage treatment lagoons, man-made irrigation ditches, stormwater management basins and other artificial features with similar water quality or storage facility.

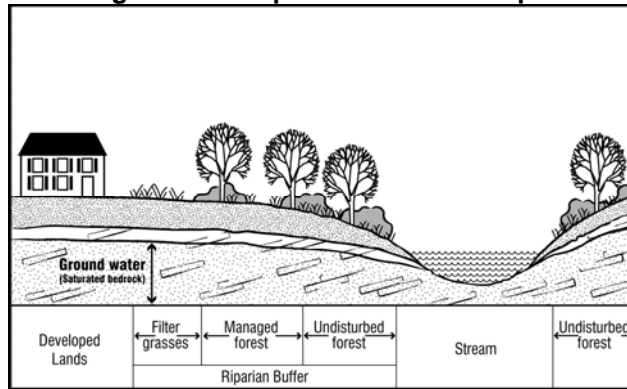
D. Resource Protection Standards.

1. Buffer Composition. A riparian buffer shall be a dense ground cover of grasses, shrubbery, and trees preserved with no buildings, structures, or impervious surface. This buffer shall not be cleared, regraded, filled, built upon, or otherwise altered; with the exception to restore such area to its natural state or for those uses or activities listed below. Riparian buffers shall be established and maintained in accordance with the following guidelines:
 - a. Vegetation may be established through natural succession. Selective planting may be incorporated on sites devoid of vegetation to stimulate native species and discourage invasive plant species; and/or
 - b. Planting plans may be prepared jointly by a PA registered Landscape Architect in consultation with other professionals having a practical knowledge of riparian ecosystems (such as horticulturists, wetland specialists, wildlife biologists, ecologists) such as the Chester County Conservation District, the Department of Environmental Protection, or the Department of Conservation and Natural Resources. All planting plans shall include a planting schedule that summarizes the quantity, size, type, and root condition of all plantings. All riparian buffer enhancements shall be installed using practices accepted by the American Association of Nurserymen. (The applicant is encouraged to involve local volunteer groups in the buffer planting.)
 - c. The preparation and planting procedures may include, but shall not be limited to, invasive plant removal and control; stream bank stabilization; the provision of animal browse protection, such as plastic tubes for seedling trees; erosion control matting; the provision

of any markers or signs identifying the riparian buffer; and mowing schedules for meadow grass establishment.

2. Permitted uses within riparian buffers. The following uses or activities and no other, shall be permitted within a riparian buffer:
 - a. Regulated activities permitted by the Commonwealth of Pennsylvania (i.e. permitted stream or wetland crossing). Maximum area disturbance permitted for this use shall be five (5) percent of the designated riparian buffer.
 - b. Provision for unpaved, ungraded, or natural trails parallel to the watercourse not to exceed six (6) feet in width. Such trail shall not come within ten (10) feet of any stream bank.
 - c. Clearing of a foot-path to the watercourse or trail access not to exceed six (6) feet in width, provided that a cleared line of sight to the watercourse through the buffer is not created.
 - d. Selective removal of a safety hazard, diseased trees, or invasive plant species;
 - e. Vegetation management in accordance with an approved planting plan in accordance with Section 1105.D.1.b, above.
 - f. A soil conservation project, including reforestation and streambank stabilization, approved by the Chester County Conservation District.
3. Within a riparian buffer the following stormwater management practices may be utilized:
 - a. Conservation design practices, as identified and approved by the Chester County Conservation District, to minimize stormwater generated and maximize pervious surfaces.
 - b. Comprehensive stormwater management practices that ensure development conditions are consistent with the natural characteristics of the receiving stream or waterbody.
 - c. Stormwater quality treatment practices, such as water quality inlets, bioretention facilities, and other such practices as needed to address water quality issues.
 - d. Stormwater management practices that disperse overland flow.
4. In no case shall a riparian buffer be reduced to less than ten (10) feet in width. Where a riparian buffer is permitted to be reduced to less than twenty (20) feet by variance or other legal means, the following measures shall be provided:
 - a. Best Management Practices (BMPs) such as level spreaders, meadow grass filter strips, or similar techniques to disperse overland flow prior to entering the protected buffer area where the width of the buffer is less than twenty (20) feet.
 - b. Comprehensive stormwater management practices to ensure that post-development conditions are consistent with the natural characteristics of the receiving stream, including stormwater quality BMPs.
 - c. Conservation design techniques that minimize the amount of stormwater runoff and maximize the use of pervious areas for infiltration of rainfall and stormwater.

Figure 11-1: Riparian Buffer Example



SECTION 1106 WETLANDS and WETLAND MARGIN PROTECTION REGULATIONS

All uses and activities established after the effective date of this Ordinance shall comply with the following standards.

A. Applicability.

Site alterations, regrading, filling or clearing of vegetation in a wetlands area prior to the approval of an application for a subdivision or land development, building permit, zoning permit, variance, conditional use, or special exception and all applicable permits, shall be a violation of this Ordinance.

B. Identification. An applicant shall identify and delineate wetlands on a site prior to the issuance of any subdivision or land development, building permit, zoning permit, variance, conditional use, or special exception approval, where applicable, in accordance with this Section and Section 1109. Wetlands boundaries shall be delineated through a full wetlands report conducted by a qualified scientist and such report shall certify that the methods used correctly reflect current accepted technical approaches. Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. The wetland report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present. In the event that a wetlands delineation validated by the U.S. Army Corps of Engineers is shown to vary from the wetlands boundary derived from the wetlands report, the Corps delineation shall govern.

C. General Regulations.

1. Wetland areas shall not be disturbed, altered, regraded, developed, filled, piped, diverted or built upon, except where state and federal permits have been obtained.
2. Federal and State Regulations. For proposed uses, activities or improvements which would entail the regrading or replacement of fill in wetlands, the applicant shall provide the Borough with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations for areas identified as wetlands on National Wetland Inventory (NWI) maps, U.S. Fish and Wildlife Service, or which meet these agencies' definitions of wetlands.
3. No more than twenty (20) percent of a wetland margin area shall be altered, regraded, filled or built upon. Additionally, any Department of Environmental Protection regulations concerning activities related to wetland margins shall be met.

SECTION 1107 WOODLANDS

The intent of this Section is to promote conservation of woodland resources in the Borough through resource identification, planning and development limitations. An applicant shall identify and delineate woodlands on a site prior to the issuance of any building permit or subdivision and land development approval in accordance with this Section and Section 1109.

A. Standards for Disturbance Allowance for Woodlands.

1. Unless undertaken as an approved timber harvesting activity conducted in compliance with the applicable requirements, woodlands shall not be regraded, cleared, built upon or otherwise altered, except in compliance with the following:
 - a. On lots or tracts of one (1) acre or less, no more than seventy-five (75) percent of woodlands shall be disturbed.
 - b. On lots or tracts greater than one (1) acre and smaller than five (5) acres, no more than sixty-five (65) percent of woodlands shall be disturbed.
 - c. On lots or tracts of five (5) acres or more, no more than fifty-five (55) percent of woodlands shall be disturbed.
2. In determining the extent of the woodland disturbance, it shall include the entire area within the drip line of any tree comprising a wooded area, where any portion of the drip line of such tree is subject to disturbance.
3. Where disturbance or removal of existing areas of woodlands occurs on any lot or tract, woodland replacement shall be required consistent with the Woodlands Replacement Standards in the Borough Subdivision and Land Development Ordinance.
4. Preserved woodlands may be used to provide vegetative buffers required by Article 12, General Regulations of this Ordinance.
5. A Timber Harvesting Plan may be required by the Borough, and shall include a description through text and maps of proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a licensed forester with demonstrable expertise in forest management, and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, land areas, and the tree removal process; and ensure site restoration.
6. Where woodlands overlap other protected natural resources, the more restrictive disturbance standard shall apply.

B. Guidelines for Determining Permitted Woodland Disturbance. In determining where permitted woodland disturbance will occur, the following factors shall be considered:

1. Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing woodland. Where possible, clear-cutting shall be minimized and trees shall be selectively removed.
2. Where possible, the remaining undisturbed woodlands and other vegetation shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife.
3. Woodland alterations that would threaten the growth of remaining trees shall be avoided.

SECTION 1108 FORESTRY / TIMBER HARVESTING

- A. Timber harvesting operation shall be undertaken in accordance with a timber harvesting plan prepared by a qualified Forester or equivalent professional (Forester) and approved by the Borough. Timber harvesting plans shall be submitted to the Borough for review for compliance with the standards set forth herein not less than twenty (20) days prior to commencement of the timber harvesting operation. Within twenty (20) days of submission of a timber harvesting plan to the Borough, and based on review for compliance with the standards set forth herein, the Zoning Officer shall indicate to the applicant approval or denial of the submitted plan or approval subject to reasonable conditions.
- B. Any timber harvesting plan submitted to the Borough for review and approval shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association, as applicable, and shall include a plan or plans indicating the following information:
1. Site location and boundaries of both the entirety of the property upon which the timber harvesting operation shall occur and the specific area proposed for timber harvesting.
 2. Significant natural features on the property including watercourses, floodplain, steep slopes, wetlands, and riparian buffers.
 3. Description of how long-term sustainability of the timber harvesting operation and regeneration of the woodlands will be achieved.
 4. The general location of the proposed operation in relation to municipal and state roads and any proposed accesses to those roads.
 5. Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings.
 6. Design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars.
 7. Design, construction, and maintenance of proposed stream and wetland crossings.
- C. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copies of all required permits shall be submitted to Modena Borough prior to commencement of the timber harvesting operation.
- D. The following management practices shall apply to all timber harvesting operations:
1. Felling or skidding across any public thoroughfare is prohibited without the express written consent of the Borough or PennDOT; whichever is responsible for the maintenance of said thoroughfare.
 2. No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway.
 3. Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.
 4. The operation shall not cause harm to the environment or any other property.
- E. In all woodlands, at least thirty (30) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation. Remaining canopy trees shall be well distributed throughout the area subject to the timber harvesting operation. At least thirty (30) percent of such

remaining canopy trees shall be comprised of higher value species as determined by a Forester or equivalent professional. Where any portion of a woodland occurs within a riparian buffer, in such portion of the woodland, at least fifty (50) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation, with such remaining trees well distributed and at least fifty (50) percent thereof comprised of higher value species as determined by a Forester or equivalent professional.

- F. The Borough Engineer, Zoning Officer, Code Enforcement Officer, and/ or a Forester or equivalent professional shall be permitted access to the site of any timber harvesting operation before, during, or after active timber harvesting to review, inspect and ascertain compliance with the provisions set forth herein.
- G. Upon determination that a timber harvesting operation is in violation of these regulations, each day where any violation occurs shall constitute a separate violation subject to the provisions of this Ordinance.

SECTION 1109 APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS

In order to meet the natural resource protection standards of this Article, the following information shall be submitted by the Applicant. Where a subdivision or land development review is required, such information shall be included with the application for such review in accordance with Section 407 of the Modena Subdivision and Land Development Ordinance.

- A. A site plan which clearly delineates the limits of all natural resources on the site as outlined in this Article including areas of floodplain, steep slopes, wetlands, wetland margins, riparian buffers, and woodlands, and the proposed use of the site including any existing or proposed structures. This site plan shall include the site's watershed and the water quality designation of the watershed in which the property in question is located.
- B. The limits of all encroachments and disturbances necessary to establish the proposed use on the site, including a grading plan showing existing and proposed contours at two (2) foot intervals.
- C. The identification of the minimum buildable area(s). The purpose is to ensure that sufficient area is provided for the general location of buildings, driveways, and other improvement while meeting the requirements of the natural resource protection standards.
- D. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the site plan as indicated in the following table in Figure 11-2. The figures in Column D (Proposed Disturbance) shall be less than or equal to the corresponding figures in Column C (Maximum Amount of Permitted Disturbance) for each protected resource.

Figure 11-2: Application of Natural Resource Protection Standards

Protected Resource	Column A Amount of Land in Protected Resource* (sq.ft.)	Column B Maximum Disturbance Allowance** (percent)	Column C Maximum Amount of Permitted Disturbance (sq.ft.)	Column D Proposed Disturbance of Resource (sq.ft.)
Floodplain		0%		
Steep Slopes:		30%		
Riparian Buffers:		5%		
Wetlands		0%		
Wetland Margins		20%		
Woodlands		See 1107		
Total				

* See Section 1102.D., herein.

** Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Borough.

ARTICLE 12

GENERAL REGULATIONS

SECTION 1201 APPLICABILITY

The provisions of this Article present certain additional regulations and standards that are common to all zoning districts, unless stated as pertaining to a specific District or use herein. These regulations shall apply in addition to those established by the applicable District. In the event that the provisions of this Article conflict with other provisions of this Ordinance, the more restrictive provision shall apply.

SECTION 1202 BUILDINGS, STRUCTURES, LOTS, and YARDS

All buildings, structures, lots, and yards shall, in addition to the applicable District regulations, comply with the following regulations, as applicable: (See Figure 12-1 below)

A. Buildings and Structures.

1. No more than one (1) single family dwelling shall be permitted on any lot. One (1) or more accessory structures may be located on a lot, subject to the District regulations and in accordance with Article 13, Supplemental Use Regulations.
2. In the case of attached residential units or buildings, commercial, or industrial buildings where there are a row of connected buildings or structures, yard requirements shall apply to the entire building or structure.
3. Exception of more than one principal structure. In the TC-1, TC-2, and Industrial Zoning Districts, more than one structure housing a permitted principal use may be erected on a single lot, provided that that applicable area and bulk requirements of the district are met for each structure as though situated on separate lots.
4. Exception of more than one principal use. Except in the TC-1, TC-2, and Industrial Zoning Districts, only one principal use shall be permitted on a single lot.
5. Exemption from Building Height.

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, observation towers, transmission towers, chimneys, smokestacks, flagpoles, radio and television towers, and masts except as regulated otherwise by this Ordinance.

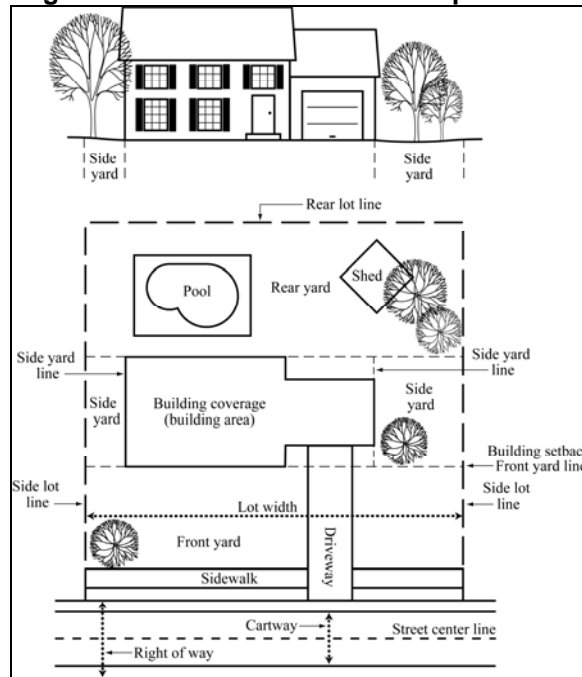
6. Porches.
 - a. A porch becomes part of the primary structure, counted towards the building coverage, if an enclosed porch becomes heated and/or air conditioned or when the percent of the window or open area to wall area becomes less than fifty (50) percent, and shall thereby meet all requirements for the primary structure including setbacks, impervious surface, building code, and all other applicable requirements.
 - b. All porches shall meet the applicable yard setbacks for the associated use and zoning district in which it is located.

B. Lots.

1. No lot shall be reduced in size so that the minimum lot area and/or dimensional requirements of this Ordinance are no longer met.

2. Every principal building shall be built upon a lot with frontage upon a public or private street improved to meet Borough standards or for which such improvements have been ensured by the posting of a performance guarantee pursuant to the Subdivision and Land Development Ordinance.
 3. Minimum Lot Width. No principal building shall be erected on any part of a lot which has a width of less than is specified in the appropriate District, where applicable.
 4. An existing lot that does not comply with the minimum lot area standards shall not be subdivided.
 5. A lot that does not comply with the minimum dimensional standards shall not be subdivided so as to further increase the nonconformity or create a new nonconforming condition.
- C. Yards. Where a minimum depth of a yard setback (front, side, or rear) is specified in a District, an open space of at least the specified depth shall be provided between the street line(s) or lot line(s) and the nearest point of any building or structure, except when permitted elsewhere in this Ordinance.
1. Projections into Yards.
 - a. No structure of any other item shall be placed so that it intrudes upon the required clear sight distance at a street intersection or such would intrude into a road right-of-way,
 - b. Zoning district yard requirements shall not apply to a fire escape, arbor, open trellis, patio, sidewalk, flagpole, or unroofed steps.
 - c. A deck, porch, awning, or movable canopy may project into any yard not more than fifteen (15) feet, but shall not be closer than five (5) feet from the property line.
 2. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on both road frontages.

Figure 12-1: Yard and Setback Requirements



SECTION 1203 FENCES and WALLS

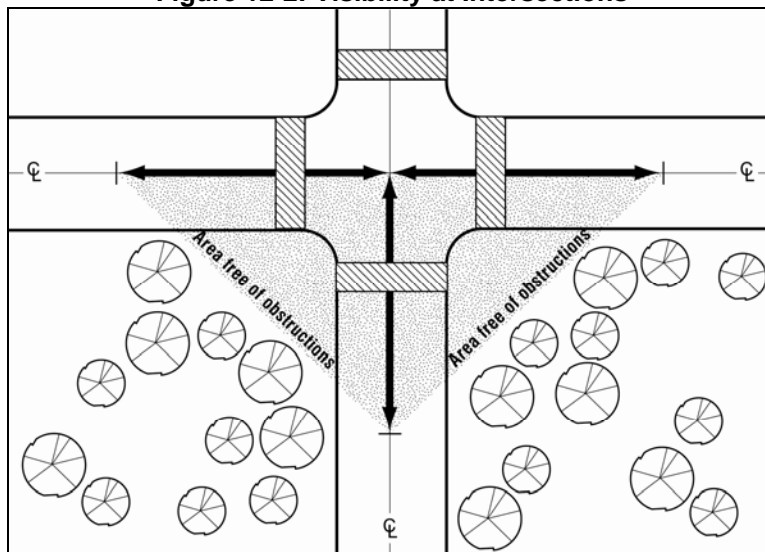
- A. Unless otherwise restricted by this Ordinance, a fence or wall with a maximum height of four (4) feet may be erected, installed, or constructed within the required Front Yard of a lot, and shall be set back a minimum of five (5) feet from the street right-of-way.
- B. Unless otherwise restricted by this Ordinance, a fence or wall with a maximum height of six (6) feet may be erected, installed, or constructed within the required Side Yards or Rear Yard of a lot.
- C. The finished side of any fence, if applicable, shall face the abutting properties.
- D. No fence or wall shall be erected, installed, or constructed which:
 - 1. Obstructs sight distance at street intersections, whether public or private, or at the point where any driveway intersects a public or private street.
 - 2. Obstructs or impedes water flow in any perennial or intermittent stream, drainage easement, or other drainage course.
- E. No fence or wall shall be erected, installed, or constructed prior to the issuance of the permits required by Article 17, Administration.

SECTION 1204 VISIBILITY AT INTERSECTIONS

The following shall apply to all zoning districts: On a corner or at a point of entry on a public road, nothing shall be erected, placed or allowed to grow in a manner which obscures the vision of traffic (See Figure 12-2):

- A. Above the height of two and one-half (2½) feet measured from the centerline grades of the intersecting streets; and
- B. Within the area bounded by the street lines of such corner lots and a line joining points on these street lines fifty (50) feet from their point of intersection.

Figure 12-2: Visibility at Intersections



SECTION 1205 LIGHTING

The intent of the provisions in this Section is to minimize the off-site impact of lighting while providing for lighting that is sufficient for safe use of a property. The following standards shall apply in regard to outdoor lighting in the Borough:

A. Purpose.

1. Provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns.
2. Protect drivers and pedestrians from the glare of non-vehicular light sources.
3. Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.
4. Promote energy efficient lighting design and operation.

B. Applicability.

1. Outdoor lighting shall be required for the purpose of safety and personal security in areas of public assembly and traverse, including, but not limited to:
 - a. Parking areas of multi-family, commercial, and industrial uses.
 - b. Loading facilities of commercial and industrial uses.
 - c. At the ingress and egress of parking areas for multi-family, commercial, and industrial parking areas.
 - d. At street intersections.
 - e. The Borough Council may require lighting to be incorporated for other uses where security and safety reasons warrant.
2. Outdoor lighting may be used for additional purposes such as security and safety for residential, commercial, and industrial uses.
3. The requirements herein apply to all uses and situations mentioned above, as well as, but not limited to, signs, security, landscaping, and residential lighting.

C. Plan Submission.

1. Lighting Plans shall be submitted to the Borough for review and approval with all applications for conditional uses, special exceptions, variances, and subdivision and land development plans. Additionally, the Borough Zoning Officer may require the submission of a lighting plan with any building permit application. The required lighting plan shall include the following information:
 - a. A site plan containing a layout of the proposed fixture locations and type.
 - b. Catalogue cuts and photometrics for each light fixture, the method of energizing each light fixture, a listing of the hours of operation and a plan showing the photometrics for the entire site, based upon the proposed placement of the light fixtures. A description of glare reduction devices, lamps, control devices, mounting heights, pole foundation details, and mounting methods, as appropriate for each fixture, should also be included.
2. Post-approval alterations to lighting plans shall be submitted to the Borough for review and approval.

3. The Borough reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this Ordinance and, if appropriate, to require remedial action at no expense to the Borough.

D. Illumination Levels. Lighting, where required by this Ordinance, shall have intensities and uniformity ratios in accordance with, but not limited to, Figure 12-3.

Figure 12-3: Illumination Levels

Use/Task	Illumination (Avg)*	Uniformity Ratio** (Avg/Min)
Pedestrian Walkways	0.2 – 0.4 Avg	5:1
Local Commercial Streets – Intersections of Streets-Parking Areas	0.4 – 1.0 Avg	6:1
Local Residential Streets – Intersection of Streets-Parking Areas	0.4 – 0.6 Avg	4:1
Parking: Multi-Family	0.6 Min – 0.8 Max	4:1
Parking: Commercial/Industrial	0.6 Min – 1.2 Max	4:1
Illuminated Signs	0.6 – 1.0 Avg	6:1
Recreational Uses/Parks	0.6 – 0.8 Avg	4:1

*Illumination levels are maintained horizontal footcandles on the task, e.g., pavement or area surface.

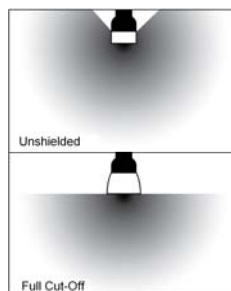
**Uniformity ratios dictate that average illumination values shall not exceed minimum values by more than the product of the minimum value and the specified ratio (e.g., for commercial parking, high activity, the average footcandles shall not be in excess of 3.6 [0.9 x 4]).

Abbreviations: Avg – Average; Min – Minimum; Max – Maximum

E. Design Standards.

1. Fixtures shall be of a type and design appropriate to the lighting application.
2. For the lighting of predominantly horizontal surfaces such as, but not limited to, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, loading docks, cul-de-sacs, active and passive recreational areas, building entrances, sidewalks, paths, site entrances and parking areas, fixtures shall be aimed straight down and shall meet IESNA “full cutoff” criteria (no light output emitted above ninety (90) degrees at any lateral angle around the fixture and no more than ten (10) percent light output above eighty (80) degrees). (See Figure 12-4)

Figure 12-4: Full Cut-Off Lighting



3. For the lighting of non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays, flags and statuary, the following requirements shall apply:
 - a. The use of lighting fixtures that are installed and aimed so as to project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway shall be prohibited.
 - b. Fixtures shall meet IESNA “full cutoff” criteria unless permitted with the approval of the Borough Council, based upon acceptable glare control and their consistency with the character of the surrounding area.
4. “Dusk-to-dawn lights,” shall not be permitted where they are visible from other uses unless fitted with a reflector to render them full cutoff.

F. Control of Glare.

1. Floodlighting and outdoor lighting in all districts, whether or not required by this Ordinance, shall be diffused, directed, shielded, located, designed, and maintained in such a manner as not to present any hazardous situations for passing vehicular or pedestrian traffic or create a nuisance by objectionable light projected beyond its lot line onto a neighboring use or property.
2. The intensity of illumination projected onto a residential use from another property shall not exceed 0.1 vertical footcandle, measured line-of-sight at the property line.
3. All fixtures shall be equipped with light directing or shielding of a type and design appropriate to the lighting application, for the purpose of redirecting offending light or reducing direct or reflected glare, and no glare shall be discernable beyond its lot line onto adjacent properties.
4. Floodlights and spotlights shall not be aimed, installed, or directed so as to project into the windows of neighboring residential uses, and shall not be directed skyward or onto a roadway.
5. Vegetation screens shall not serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
6. All non-essential lighting, including display, aesthetic, parking, and sign lighting, shall be required to be turned off or reduced by seventy-five (75) percent after business hours or 11 p.m., whichever is earlier, leaving only the necessary lighting for site security. Lighting proposed to remain on after 11 p.m. for a specific safety purpose shall be approved by the Borough.
7. No outdoor lighting shall have blinking, flashing, or fluttering lights or devices that cause changing intensity, brightness, or color, except for seasonal decorative lighting.
8. Externally illuminated signs shall be lit by fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and aimed to place the light output on and not beyond the sign or billboard.
9. Except for public street lights and traffic signals, freestanding light fixtures shall not exceed twenty (20) feet in height.

10. All lighting standards and necessary equipment shall be approved by the appropriate utility.

11. All outdoor lighting fixtures and ancillary equipment shall be maintained as to continuously meet the requirements of this Ordinance.

G. Installation.

1. Electrical feeds for lighting standards shall be run underground, not overhead.

2. Pole mounted fixtures for lighting horizontal tasks shall be aimed straight down.

H. Nuisance Glare and Inadequate Illumination Levels.

1. When the Borough judges an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this Ordinance, the Borough may cause notification of the person(s) responsible for the lighting and require appropriate remedial action.

2. If the infraction so warrants, the Borough may act to have the problem corrected as in Section 1205.H.1 above at the expense of the owner violating the Ordinance.

SECTION 1206 OUTDOOR STORAGE AND DISPLAY

A. Outdoor storage of man-made products shall be screened from view of public right-of-way and adjacent residential uses. Screening shall be in accordance with Section 1207.

B. All organic refuse or garbage shall be stored in durable, vermin-proof containers. In multi-family uses over five (5) units, commercial, and industrial uses, garbage storage shall be centralized to expedite collection and screened from adjacent uses.

C. Outdoor display and storage areas shall occupy less than one-half (1/2) the allowed building coverage in the district in which it is located.

D. Vehicles and Vehicle Parts.

No more than one (1) vehicle which is unregistered or unlicensed under the Pennsylvania Vehicle Code, or without current and valid state inspection, or which would not, in its current condition, pass a Pennsylvania inspection as required by the Pennsylvania Vehicle Code to operate the vehicle on public streets shall be permitted to be stored on a lot in any district, unless otherwise provided by this Ordinance and the Borough Property Maintenance Code. No vehicle shall be stored on blocks or in a consistent state of repair. Any such unlicensed or unregistered vehicle shall be covered by a protective cover specifically designed for protecting automobiles from the elements.

E. Outdoor Display. In the TC or I Zoning Districts, merchandise available for retail sale may be displayed in a neat and orderly fashion outside of the retail establishment that is selling the merchandise, provided:

1. The merchandise shall not be placed so as to interfere with pedestrian or vehicular traffic or within required parking spaces.

2. No merchandise shall be placed within four (4) feet of the edge of cartway.

3. For purposes of this Ordinance, a four (4) foot wide clear sidewalk path shall be maintained at all points.

4. No merchandise shall be displayed outdoors that is pornographic, includes explicit depictions of violence, or is otherwise unsuitable for viewing by children.
 5. No merchandise shall be displayed outdoors in a manner that is intended to or has the effect of interfering with vehicular traffic or is distracting to motorists.
 6. The outdoor display of merchandise shall not interfere with the sight lines of traffic and shall not impair the visibility of any public or private sign.
 7. No merchandise shall be displayed outdoors in a manner that will result in the merchandise falling into the street or sidewalk, blowing, spilling, or otherwise becoming disorderly, hazardous or a nuisance.
 8. All merchandise displayed outdoors shall be removed and placed indoors at the close of business each day.
 9. No additional signage in excess of that approved for the property shall be attached to or placed in conjunction with the merchandise being displayed.
 10. Any merchandise that is placed on the public sidewalk or right-of-way in violation of this provision or that otherwise constitutes a hazard to the public may be removed by the Borough Zoning Officer or police officer with or without notice to the owner.
 11. Longer-term outdoor display for a permitted use which traditionally requires such need, may be authorized at the discretion of the Zoning Officer if the applicant can demonstrate that indoor storage is not practical or feasible, including, but not limited to the following criteria:
 - a. Extensive modification to or expansion of the existing commercial structure would be necessary to accommodate the internal storage of materials for sale, such as the addition of space to house large materials such as trees or shrubs, or quantities of gravel or other materials for a landscaping business.
 - b. The day to day movement of goods for sale to be placed outside are significant due to the size or weight of such goods would take extraordinary effort, time, equipment, or personal. Examples include, but are not limited to: large outdoor furniture, sculptures, or similar items.
- F. Industrial and Commercial Uses Requiring Substantial Amounts of Land for Outdoor Storage or Display. For Industrial and Commercial uses, storage of materials, equipment or vehicles, but not including parking and similar activities, shall generally be carried on within a building and shall meet the provisions of this Article and other applicable regulations of this Ordinance, except that additional outdoor storage and display area for a permitted industrial or commercial use may be authorized for those uses requiring substantial amounts of land area for outdoor storage or display where all of the following conditions are met and such uses shall be exempt from the provisions of Section 1206.C.
1. The industrial or commercial use involved traditionally employs long-term outdoor storage including uses such as lumberyard, landscaping, nursery/greenhouse, and automobile retail sales, service, or repair.
 2. Such storage is needed for the successful operation of the use, and the proposed site is suitable for outdoor storage.
 3. The applicant can demonstrate that indoor storage is not possible.
 4. The storage shall comply with all applicable setback requirements and shall cover only that percentage of total lot area that is deemed practical and feasible in the opinion of the Zoning

Officer. Wherever feasible, outdoor storage shall be located to the side or rear of the property.

5. The storage area shall be screened from view from any public right-of-way or any residential district or use by buildings, walls or an effective screen through a Class C buffer, as required by Section 1207.A.3.
 6. Among uses that shall not be considered appropriate for inclusion under this provision for outdoor storage are retail store, personal service shop, car wash facility, business or professional office or office use, educational use, and automotive accessories.
- G. Any establishment which furnishes shopping carts as an adjunct to shopping shall provide defined areas within the building and parking area for storage of said carts. Each designated storage area shall be enclosed by a barrier at least six (6) inches higher than the parking area surface, and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during non-operating hours.
- H. Storage and Waste Disposal of Hazardous Materials shall be in conformance with Section 1211.

SECTION 1207 BUFFERING AND SCREENING

A. Applicability.

Proposed commercial, institutional, or industrial uses adjacent to a structure with an Upper Floor Dwelling in the TC-1 or TC-2 District shall be exempt from buffering and screening requirements. Buffer classifications shall be required as follows:

1. Class A Buffer. Where any proposed commercial, institutional, or industrial use directly abuts a residential use or district.
2. Class B Buffer. Where any multi-family use abuts a single family residential use, or off-street parking areas abuts a single family use or residential zoning district.
3. Class C Buffer. Outdoor storage, mechanical equipment, garbage/refuse containers, off-street loading facilities.
4. Class D Buffer. Perimeter landscaping for off street parking areas.
5. Other uses determined to be potential conflicts shall provide the Buffer Class specified by the Borough Council, upon recommendation by the Planning Commission.

B. Buffer Class Standards.

After determining the required buffer class, the applicant shall select an appropriate planting option listed below. Plantings are not required to be aligned on property or right-of-way boundaries, rather, the applicant is encouraged to site plantings as necessary to achieve the optimal screening level. Plant materials shall be selected from the Plant Materials List in Appendix and the use of primarily native vegetation shall be encouraged. Figure 12-5 provides a general schematic of the requirements for a vegetative screen.

1. Class A Buffer: Complete Vegetative Screening. The vegetative portion of the complete vegetative screen shall be composed of a mixture of evergreen and deciduous plants and trees arranged to form both a multi-level visual screen. Vegetation shall be planted in order to achieve a complete (approximately one hundred (100) percent) visual barrier in a maximum time frame of three (3) to five (5) years. A minimum of fifty (50) percent of the

- planted species shall be evergreen in order to provide for screening in winter conditions. A minimum of twenty-five (25) percent of planted species shall be deciduous.
- a. For a list of acceptable trees and shrubs for screening, see Appendix A. All planting and/or landscaping plans shall be subject to review and approval by the Borough Council.
 - b. The complete vegetative screen shall provide three levels of visual barriers: 1) High Level; 2) Low Level; and 3) Ground Level:
 - 1) High Level. The high level screen shall consist of a combination of evergreen and deciduous trees planted with evergreen specimens no less than eight (8) feet in height and a minimum of two (2) inch caliper for deciduous materials. The planted species should be such that the expected height at maturity shall not be less than twelve (12) feet for evergreen species and twenty (20) feet for deciduous species. The tree species shall be planted in alternate rows a minimum of five (5) feet apart, with each planting offset by six (6) to eight (8) feet.
 - 2) Low Level. The low level screen shall consist of deciduous and evergreen shrubs or hedges, planted at an initial height of not less than three (3) feet, and planted at intervals of no greater than five (5) feet apart.
 - 3) Ground Level. Earthen mounding, a minimum of two (2) feet in height, shall be used when necessary to supplement the vegetative buffer screen. Variations in the sizes and shapes of earthen berms shall be encouraged to give a more natural appearance. Slopes greater than three (3) to one (1) shall be avoided.
2. Class B Buffer. Partial Vegetative Screening. The vegetative portion of the partial vegetative screen shall be composed of a mixture of evergreen and deciduous plants and trees arranged to form a visual screen. Vegetation shall be planted in order to achieve a partial (approximately fifty (50) percent) visual barrier in a maximum time frame of three (3) to five (5) years. A minimum of fifty (50) percent of the planted species shall be evergreen in order to provide for screening in winter conditions. A minimum of twenty-five (25) percent of planted species shall be deciduous.
- a. The vegetative screen shall consist of a combination of evergreen and deciduous trees planted with evergreen specimens no less than eight (8) feet in height and a minimum of two (2) inch caliper for deciduous materials. The planted species should be such that the expected height at maturity shall not be less than twelve (12) feet for evergreen species and 20 feet for deciduous species.
 - b. For a list of acceptable trees and shrubs for vegetative buffers, see Appendix A. All planting plans shall be subject to review and approval by the Borough Council.
 - c. The portion of any off-street parking area that conforms to the Class B buffer shall be exempt from the perimeter planting requirement in Section 1207.B.4.
3. Class C Buffer: Mechanical equipment, vehicles, garbage/refuse containers, and off-street loading facilities shall be screened from adjacent properties from which the equipment is visible so that no part of the item may be seen from such properties. The screening shall be in the form of either fencing, a vegetative screen, earthen berms, or a combination there of, in conformance with the following provisions:
- a. Screening shall use native and non-invasive species of plants selected from the Plant List in Appendix A, unless otherwise authorized by the Borough.

- b. Screening shall provide a year round buffer by incorporating a variety of deciduous and evergreen species to produce a seventy-five (75) percent opaque buffer within one (1) year of planting. Evergreen species shall represent not less than seventy-five (75) percent of the total plantings in the vegetative screen. The minimum height of vegetation in the initial planting shall be no less than six (6) feet.
 - c. The design of the screening shall be reviewed and approved by the Borough Zoning Officer prior to installation.
 - d. Vegetative screens and buffers shall be continually maintained by the property owner as long as the item which requires the screening remains in the stated location. All non-surviving plants shall be replaced within six (6) months of the initial planting.
 - e. Fencing shall have a minimum height of six (6) feet and maximum height of eight (8) feet and the finished side of the material shall face the abutting property.
4. Class D Buffer: Required perimeter buffer strips for off-street parking:
- a. One (1) tree per every three (3) spaces from the Plant List in Appendix A.
 - b. A low “wall” of vegetation or evergreen hedge of thirty-six (36) to forty-two (42) inches in height and seventy-five (75) percent opacity, shall be placed at any portion of a parking area that is adjacent to a street, unless Section 1207.B.4.c, below, is constructed.
 - c. The requirement in Section 1207.B.4.b, above, may be substituted by the installation of a fence or masonry wall as follows (See Figure 12-6):
 - 1) Fences or masonry walls shall not exceed four (4) feet in height, and may consist of a combination of wall and fencing.
 - 2) Fences shall not exceed fifty (50) percent opacity (openings). Vertical wrought iron fencing is preferred.
 - 3) Masonry walls should be constructed of brick, stone, or a combination thereof, should have a distinctive top cap, and shall not be solely constructed of poured concrete.
 - 4) Permanent planting in accordance with Section 1207.B.4.b, above maybe incorporated into a masonry wall to meet the height requirement.
 - 5) Planters on fences are permitted and landscaping in addition to fencing or walls is encouraged.

Figure 12-5: Sample Screening Figure

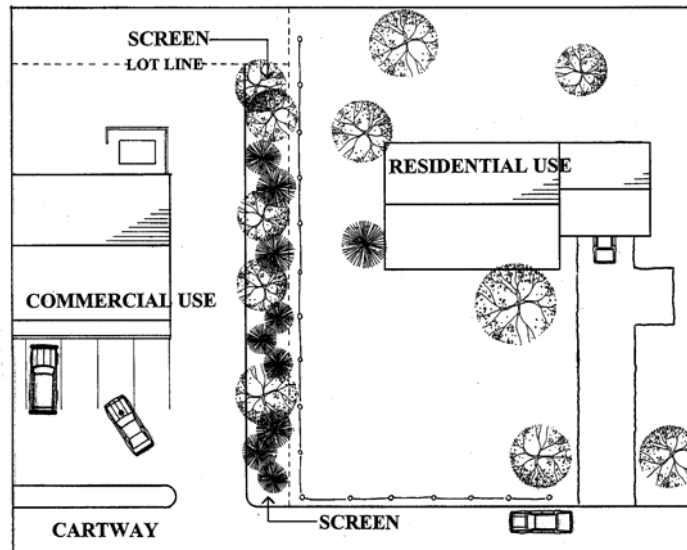


Figure 12-6: Fencing and Masonry Walls Example

C. Plant Materials.

1. Each plant option listed in Section 1207.B, above, may use any of the plant materials listed in Appendix A. The use of native plant species, as indicated in Appendix A, is strongly encouraged. For reasons of permanency and resistance, a mixing of two (2) or more species of plant materials shall be required in meeting the requirements of this Section. Borough Council, upon recommendation by the Planning Commission, may permit other plant types if they are hardy to the area, are not subject to blight or disease, and are of the same general character and growth habit as those listed in Appendix A. All planting materials shall meet the standards of the American Association of Nurserymen.
2. Existing plantings, woodlands, hedgerows, topography, or man-made structures can reduce or eliminate the buffering requirements if they partially or completely achieve the same level of screening as the planting requirements outlined in this Section. This determination shall be made at the discretion of the Borough Council, upon recommendation by the Planning Commission.
3. Existing trees within the required buffer yard greater than three (3) inches in caliper or greater than eight (8) feet in height may be preserved to the extent feasible. Such trees may be counted towards required plant materials, as determined by the Borough Council, upon recommendation by the Planning Commission, unless diseased, unstable, or an invasive species.
4. Required plantings for buffering chosen shall not interfere with pre-existing overhead wiring or other pre-existing overhead permanent structures.

D. General Regulations.

1. In no case shall a screen interfere with motorist visibility, in accordance with Section 1204.
2. Earthen berms no higher than three (3) feet may be used in conjunction with the planting requirements to augment height requirements, where necessary.

3. The type of plant materials to be used shall be subject to review and approval by the Borough Council upon the recommendation of the Planning Commission in compliance with the Plant List in Appendix A; and generally contain a minimum of fifty (50) percent evergreen plantings.
4. No plantings shall be placed with their center closer than five (5) feet to a property line for bushes or shrubs, or ten (10) feet for trees.
5. Any tree or shrub which dies within one (1) year of planting shall be replaced. Any tree or shrub which within one (1) year of planting, or replanting, is deemed, in the opinion of an agent authorized by the Borough, not to have survived or grown in a manner characteristic of its type, due to other than man-made interference, shall be replaced.
6. All buffer areas shall be maintained by the property owner and kept free of debris, rubbish, weeds, and tall grass.
7. All planting in the buffer areas shall be installed and thereafter maintained by the property owner. Required buffer plantings shall not be removed without the prior approval of the Borough. If such plantings are removed, the Borough may require that they be replaced, in kind, at the expense of the property owner.
8. Where buffering is required, a landscape plan for the new use or development shall be submitted to the Borough which displays all proposed plantings required to buffer the use or development and how the requirements of this Section have been achieved on that property for that particular use or development.
9. Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, communication towers, vents and any other structures or equipment which rise above the roof line shall be architecturally compatible and effectively shielded from view from any public or private dedicated street by an architecturally sound method which shall be approved, in writing, by the Borough before construction or erection of said structures or equipment.

SECTION 1208 LANDSCAPING

Any part or portion of a site which is not used for building, other structure, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped according to an overall plan or shall be left in its natural state. See zoning districts for impervious surface and yard requirements, Section 1207 above, and Article 15 Off-Street Parking and Loading, as applicable.

SECTION 1209 INTERIOR CIRCULATION AND EMERGENCY ACCESS

A. Interior Circulation.

Interior accessways, aisles, and parking areas shall comply with the applicable sections of this Article, Article 15 Off-Street Parking and Loading, and the design standards of the Subdivision and Land Development Ordinance.

B. Emergency Access.

1. Interior drives shall be designed as to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. Areas designed for loading and unloading, refuse collection, fuel delivery, and other service vehicles shall be so arranged as to prevent blockage or interfering with the use of accessways, automobile parking facilities or pedestrian ways and to prevent backing out into a street.
2. No multi-family residential, commercial or industrial building shall be located more than one hundred fifty (150) feet from a duly dedicated, improved and accessible fire lane easement as

defined herein, nor more than six hundred (600) feet from a duly dedicated, accessible and improved public street. If any such building is located further than six hundred (600) feet from a public street, then a subdivision plat must be filed and approved by Borough Council before the development plan shall be considered for approval. Additional regulations for fire lane easements include the following:

- a. Fire lanes shall have a minimum unobstructed right-of-way width of forty (40) feet, and there shall be constructed within this right-of-way an all-weather and well-drained surface cartway with a minimum width of twenty (20) feet. The extension of fire lane easements shall begin from one or more existing and improved public streets.
- b. Fire lane easements which curve, turn or change directions shall have a minimum radius of fifty-five (55) feet of pavement. Fire lane easements containing reverse curves shall have a minimum centerline tangent length of fifty (50) feet between curves.
- c. Dead-end fire lane easements shall be terminated with an unobstructed vehicular turnaround or cul-de-sac with a minimum right-of-way radius of fifty (50) feet and shall have a minimum all-weather surfaced radius of forty (40) feet. Dead-end fire lane easements shall have a maximum length of eight hundred (800) feet. The location of fire lane easements shall conform to plans for extension of streets, sanitary sewers, and other drainage facilities and public utilities that are contained in this and other ordinances of the Borough and shall provide adequate access to buildings by firemen and other emergency services.

SECTION 1210 ACCESS AND TRAFFIC CONTROL

To minimize traffic congestion and hazard and encourage the orderly development of street frontage, the following regulations shall apply:

- A. Lots Abutting Two or More Streets. Unless clearly impractical or inappropriate from a safety or traffic planning perspective, lots which abut two (2) or more streets shall take their primary access to the street of lesser functional classification as defined by the Modena Borough Comprehensive Plan or as determined by Borough Council.
- B. The edge of any residential driveway access onto a street shall be at least thirty (30) feet from any street intersection and shall not be located within the curb radius except in the case of a cul-de-sac turnaround.
- C. Unless clearly impractical, all lots in a residential subdivision shall have direct access only to a local residential street.
- D. Unless clearly impractical, no driveway shall be situated within ten (10) feet of a side or rear property line, except where common driveways are utilized.
- E. All uses shall comply with the requirements of Article 15, Off-Street Parking and Loading.

SECTION 1211 PERFORMANCE STANDARDS

The standards established in this Section are designed to prevent dangerous or objectionable hazards or conditions which would be adverse to the health, safety and welfare of Borough residents. The standards apply to all uses in all districts in the Borough.

- A. Noise. Noise levels shall be maintained at a level which is not objectionable due to intermittence, frequency or intensity as established by the Modena Borough Ordinance 138-06.
- B. Air Quality.

1. There shall be no emission of smoke, ash, dust, fumes, vapors, gases or other matter toxic or noxious to air which constitutes a discernable nuisance or violates the Pennsylvania Air Pollution Control Act, including the standards set forth in the Standards for Contaminants and the Ambient Air Quality Standards, and Pennsylvania Department of Environmental Protection, Rules and Regulations, as amended. In addition, no use shall be permitted to emit or produce the following:
 - a. Obnoxious, toxic or corrosive fumes or gasses.
 - b. Odors perceptible at the property lines or down wind from the source of any odor.
 - c. Dust or other particulate other than those associated with farm operations, construction or demolition activities.
 - d. Unfiltered smoke and exhaust emissions.
 2. There shall be no airborne emissions from any use that constitutes a nuisance whatsoever beyond the boundary of the site on which the use is located by a reason of dissemination of noxious, toxic, or corrosive fumes, smoke, odor or dust.
- C. Water Quality. All uses shall be in compliance with the rules and regulations of the Pennsylvania Department of Environmental Protection and the provisions of the Clean Streams Law, as amended, and associated regulations.
- D. Vibration. No vibration shall be produced which is transmitted through the ground and is discernable without the aid of instrumentation at or beyond any lot line nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.
- E. Heat and Glare. No use shall produce objectionable heat or glare beyond the property line.
- F. Radioactivity or Electrical Disturbances. There shall be no activities which emit dangerous radioactivity at any point. There shall be no radio or electrical disturbances adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance. If any use is proposed which incorporates the use of any radioactive material, equipment or supplies, such use shall be in strict conformity with Title 25 Pa Code, Chapters 221, 223, 225, 227 and 229, relating to radiological health, Pennsylvania Department of Environmental Protection, Rules and Regulations.
- G. Electrical, Radio, and Electromagnetic Interference.
1. There shall be no radio, or electrical or similar disturbance adversely affecting the operation of equipment other than the equipment belonging to the creator of the disturbance.
 2. No use, activity, or process shall be conducted which produces electromagnetic or other interference with normal radio, telephone, or television reception from off the premises where the activity is conducted.
- H. Fire and Explosive Hazards. No use or operation shall be permitted which creates a public nuisance or hazard by reason of potential fire or explosion.
1. All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire fighting and fire suppression equipment, and devices as detailed and specified by federal or state laws.
 2. All buildings and structures and activities within such buildings and structures shall conform to the Building Code, the Fire Prevention Code, and other applicable Borough Ordinances.

Any explosive material shall conform to federal, state, and local regulations for storing, handling, and use of explosives.

- I. Liquid, Solid, or Hazardous Waste. Liquid and Solid Waste. There shall be no discharge at any point into any public or private sewage system, or watercourse, or into the ground, of any materials in such a way or of such a nature, as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of Modena Borough or the Commonwealth of Pennsylvania, Pennsylvania Department of Environmental Protection.
- J. All organic rubbish or garbage shall be contained in tight, vermin-proof containers which shall also be screened from view from any public right-of-way and any contiguous residential use.
- K. Public Health and Safety. No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

ARTICLE 13

SUPPLEMENTAL USE REGULATIONS

SECTION 1301 PURPOSE AND APPLICABILITY

The purpose of this Article is to establish standards for specific uses which require special design considerations. These regulations are set forth to achieve compatibility with the principal uses permitted in a zoning district. These regulations shall apply to all zoning districts in which the particular use being regulated is permitted. It is the intent of the Borough that, where these uses are permitted, they comply strictly with the standards that have been created to address their particular impacts and characteristics. The provisions for this Article shall apply in addition to any other applicable zoning regulations.

SECTION 1302 ACCESSORY USES, BUILDINGS, AND STRUCTURES

The following may be permitted as accessory uses, buildings, or structures in addition to a permitted principal use in a zoning district, but shall always be incidental and subordinate to the principal use and located on the same tract or lot as the principal use. The accessory use, building, or structure may be located in the rear or side yard of the lot and shall be located no further forward than the front line of the principal building. Unless otherwise specified by this Ordinance, the minimum setback for an accessory use, building, or structure shall not be less than five (5) feet from the lot lines, and the accessory use, building, or structure shall have a maximum height of fifteen (15) feet and shall specifically be deemed accessory in accordance with the following terms:

- A. Residential Accessory Uses, Buildings, or Structures. Only when noncommercial and solely for the use of residents of the associated dwelling, accessory uses to a residential use include, but are not limited to:
1. Garage or parking area for the parking of passenger automobiles including noncommercial trucks and vans, and driveways in accordance with this Ordinance and the Borough Subdivision and Land Development Ordinance.
 2. Structures such as, but not limited to, shelter for household pets, storage sheds, gazebos, decks, and tennis courts, shall be permitted behind the building line. Storage tanks, such as heating oil tanks, located in areas subject to traffic shall be protected against physical damage and screened from view on all sides to the greatest extent feasible.
 3. Flagpoles shall not be permitted within the right-of-way of any roadway and shall be limited to no more than two (2) flagpoles per lot. Flagpoles shall not exceed forty (40) feet in height.
 4. Patios, made of brick pavers, poured concrete, or other hardened surface, shall not be permitted within any road right-of-way.
 5. Swimming Pool.
 - a. Permanent or temporary swimming pools, including both above-ground or in-ground pools, designed with a depth of two (2) feet or more shall be for use of residents and their guests and shall not be operated commercially as to charge a fee for its use.
 - b. Swimming pools shall be completely enclosed by a fence of a minimum of four (4) feet in height with no openings greater than four (4) inches in width and built to deter accidental entrance to the pool, and shall be maintained in a good, safe condition. All fence gate openings shall be equipped with self-closing and self-latching devices for keeping the gate(s) securely closed at all times. This fencing provision shall not apply to a swimming

pool four (4) feet or more above grade when equipped with removable steps or ladders, provided that said steps or ladders shall be removed when the pool is not in use.

- c. At the time of application for a building permit, it shall be demonstrated that the drainage of the pool is adequate and will not interfere with the water supply system, with existing sewage facilities, with public streets, and shall not drain into the neighboring property.
 - d. Freestanding independent hot tubs and those associated with a noncommercial swimming pool shall be covered and latched when not in use.
6. Fences or walls in accordance with Section 1203.
 7. Home Occupations in accordance with Section 1308.
 8. Multi-Family Use.

No accessory buildings or structures shall be situated within the front yard, nor within ten (10) feet of any side or rear property line.

9. Mobile Home Park Accessory Structures.
 - a. Accessory structures shall be located to the side or rear of the principal structure (mobile home) and not be within fifteen (15) feet of any structure or accessory structure on an adjacent mobile home lot.
 - b. Mobile home park office or service structures shall be located within fifty (50) feet of the mobile home park boundary.
- B. Commercial, Institutional, or Industrial Accessory Uses, Buildings, or Structures. The following uses shall be permitted when incidental and subordinate to an existing commercial, industrial, or institutional use:
1. Off-street parking facilities in accordance with Article 15.
 2. Signs in accordance with Article 14.
 3. Outdoor Storage or Display of materials in accordance with Section 1206.
 4. Fences or walls in accordance with Section 1203.
 5. Driveways and access driveways for internal circulation in accordance with Article 15, Off-Street Parking and Loading and the Borough Subdivision and Land Development Ordinance.
 6. Storage tanks located in areas subject to traffic shall be protected against physical damage and screened from view on all sides to the greatest extent feasible.
 7. Parking Garages in accordance with Section 1502.C.1.c.
 8. Outdoor Café in accordance with Section 1311.
- C. Temporary Structure, Building, or Use.
1. A temporary building permit may be issued for structures or uses necessary during construction or other special circumstances of a nonrecurring nature, subject to the Borough permitting process.

2. A temporary structure or use could include, but is not limited to, offices for contractors, bookmobile, mobile unit for medical screening, political campaign headquarters, temporary structures for business operations which have been displaced from the principal building due to damage.
3. The time period of the initial permit shall be three (3) months. The permit may be renewed for six (6) months if the applicant can demonstrate reasonable progress towards the completion of the project necessitating the temporary structure, building, or use. A temporary use and occupancy permit shall not be required unless such uses remain in the same location for more than two (2) consecutive days.
4. Such structure, building, or use shall be removed completely within fourteen (14) days of the expiration of the permit without cost to the Borough.

SECTION 1303 ADULT COMMERCIAL USE

A. Location standards.

1. Adult commercial uses shall be located a minimum of three hundred (300) feet from another existing adult commercial use.
2. Adult commercial uses shall be located a minimum of three hundred (300) feet from any residential zoning district, church, school, day care facility, or public playground or park.
3. Required distances shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the listed uses.

B. Signs and visible messages based on the allowable sign area within the applicable zoning district shall be permitted, provided:

1. Sign messages shall be limited to verbal description of materials or services available on the premises.
2. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.
3. Messages which are visible or intended to be visible from outside the property, such as on or within doors or windows, shall not display materials, items, publications, pictures, films or printed material available on the premises.

C. Any building or structure used and occupied as an adult-related use shall have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale materials, merchandise or film shall be visible from outside of the building or structure.

D. No materials or merchandise offered for sale, rent, lease, loan, or for view upon the premises, shall be exhibited or displayed outside a building or structure.

E. Should any adult commercial use cease or discontinue operation for a period of ninety (90) or more consecutive days, it shall not resume, nor may it be replaced by another adult commercial use unless said use complies with all the requirements of this section.

F. Nothing in this Ordinance shall be deemed to allow any uses that are "obscene" as that term has been interpreted from time to time by the courts of the United States or the Commonwealth of Pennsylvania.

SECTION 1304 AUTO REPAIR or BODY SHOP

- A. General service, maintenance, and repair facilities shall be permitted provided that they are conducted within an enclosed building that complies with all applicable provisions of this Ordinance. No cannibalization of automobiles shall be permitted.
- B. Unless otherwise permitted by this Ordinance, no outside storage of parts, equipment, lubricants, fuel, or other materials used or discarded as part of the business operation shall be permitted.
- C. All vehicles stored on the premises shall be located outside of the street right of way and shall not be located in a parking space required by Article 15.
- D. All vehicles stored on the premises, outside of regular business hours, shall be located in an area completely enclosed by a fence with a minimum height of six (6) feet and shall meet the screening requirements of Section 1207.B.3, Class C buffer.
- E. All vehicles that have been brought in for service, maintenance, or repair or are in a state of repair, shall not be permitted on the premises for a period of more than twenty (20) consecutive business days.
- F. The use shall meet all applicable regulations of Section 1206, Outdoor Storage and Display, pertaining to a Commercial Use.

SECTION 1305 COMMERCIAL COMMUNICATION ANTENNAS AND FACILITIES**A. Purpose.**

The purpose of this section is to govern the use, construction, and location of commercial communication facilities in recognition of commercial communications systems and the Federal Telecommunications Act of 1996. These regulations are intended to:

- 1. Accommodate the need for commercial communication facilities while regulating their location and number so as to insure the provision for necessary service.
 - 2. Encourage the joint use or co-location of any new antennas in order to reduce the number of antenna support structures/towers needed in the future.
 - 3. Minimize adverse visual effects of commercial communication antennas and facilities through proper design, location, and screening.
 - 4. Ensure the structural integrity of commercial communication antennas and facilities through proper engineering and site location to protect the health, safety, and welfare of Borough residents.
- B. Permitted Areas. Commercial communication antennas and facilities shall be permitted as a conditional use in the following areas of Modena Borough:
- 1. The Industrial Zoning District.
 - 2. All land owned and maintained by Modena Borough.
 - 3. On existing commercial or industrial structures within the Borough.
 - 4. On existing commercial communication antennas and facilities which have the capacity to accommodate additional facilities
 - 5. As permitted by the specific criteria of this Section.
- C. General Development Criteria. The following criteria will be considered for approval of a commercial communication antennas and facilities as a conditional use (See also Section 1305.F):

1. Where practicable, antennas shall be attached to existing tall structures such as water towers, smokestacks, buildings, and other similar structures.
2. Antennas and support structures shall be the minimum height and size to function satisfactorily.
3. Antennas and support structures shall be placed where existing topography, vegetation, buildings, or other structures provide the greatest amount of screening from residential uses or districts.
4. Antennas and support structures shall be in compliance with all applicable Federal Communications Commission(FCC) regulations.
5. Antennas shall not be placed in parking lots or parking areas.

D. Location Standards.

1. An antenna that is attached to a proposed or existing communication tower, smoke stack, water tower, or other tall structure, is permitted in the Industrial zoning district and shall not exceed the height of the existing structure by more than fifteen (15) feet, otherwise Section 1305.D.2, below, shall apply. If the antenna is to be mounted on an existing structure, a full site plan shall not be required.
2. A commercial communication facility with antennas that is either not mounted on an existing structure, or is greater than fifteen (15) feet above the structure on which it is mounted, requires approval as a conditional use in accordance with Article 17 and Section 1305.F below, and shall meet the requirements of this Section, and shall be permitted only in the Industrial zoning district.
3. All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, or similar) are prohibited from the commercial communication antenna, unless otherwise permitted in the zoning district in which the facility is located.
4. If located on the same lot with another permitted use, the antenna shall not be located in the front or side yard. This requirement shall not apply to an antenna mounted on an existing structure.

E. General Standards.

1. Height. The applicant shall demonstrate that the antenna and support structure is the minimum height required to function satisfactorily, unless it can be demonstrated that the purpose of increased height beyond the minimum necessary is to allow for future co-location of equipment, however the height in no case shall exceed two hundred (200) feet for antenna not mounted to an existing structure. Height shall be the vertical distance measured from the base pad to the highest point of the support structure or antenna, whichever is higher. If the support structure is on sloped grade, the lowest grade shall be used in the calculation.
2. Setbacks. If a new antenna support structure is to be constructed, the minimum distance between the base of the support structure or any guy wire anchors, and any property line shall be equal to or greater than the antenna and support structure height, as defined in Section 1305.E.1, above. However, the setback required can be modified by the Borough Council if Council determines that a lesser setback will reduce the commercial communication facility's visual impact and if safety issues are satisfied.
3. Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe, designed and built in accordance with the Borough Building Code, Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) regulations, and other applicable codes and standards, and that the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio

- frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturer of the support structure and Borough Engineer. The owner or operator of the commercial communication antenna and facility shall submit to the Borough an annual inspection report regarding the structural safety of the commercial communication support structure and facility.
4. Fencing. A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be eight (8) feet in height.
 5. Landscaping. Landscaping shall be required to screen as much of the support structure, associated structure/equipment, fence, and other ground level features as possible. A combination of existing vegetation, topography, walls, decorative fences, or other features may be permitted if they achieve the same degree of screening as follows. If the antenna is mounted on an existing structure, the following landscaping requirement shall not be required.
 - a. An evergreen screen consisting of either a hedge planted every four (4) feet minimum or evergreen trees planted every ten (10) feet.
 - b. Existing vegetation on and around the site shall be preserved to the greatest extent possible.
 6. Joint Use/Co-location. To reduce the number of antenna support structures needed in the community in the future, antennas shall co-locate and the proposed support structure shall be required to accommodate other users, including other commercial communication companies, and local police, fire, and ambulance companies, unless there are mechanical, structural or other factors preventing the joint use/co-location of facilities.
 7. Licensing. The commercial communication company must provide evidence to the Borough that it is licensed by the FCC.
 8. Electromagnetic Emission. The commercial communication company shall comply with FCC regulations and requirements promulgated by the FCC for safe human exposure to radio frequency electromagnetic fields, and shall provide copies to the Borough of the latest FCC information regarding emission standards and shall also submit information on the power intensity of the facility annually demonstrating compliance with current FCC standards. Once installed, any increase in power or output of the facility shall be reported immediately to the Borough. There shall be no interference with radio, television, or telephone reception in accordance with Section 1211.G in Article 12 General Regulations and Section 1305.E.12, below.
 9. Parking. If the commercial communication site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of parking spaces shall equal the number of people on the largest shift.
 10. Design. Commercial communication antennas mounted on an existing structure shall be designed and maintained, to the greatest extent feasible, to blend with the existing structure, Commercial communication support structures shall, to the greatest extent feasible, blend with the existing surroundings, and support structures shall be painted or have a galvanized finish to reduce visual impact. Painting of support structures shall meet all FAA regulations.
 11. Lighting. No antenna support structure shall be artificially lighted except as required by the FAA. Such lights shall be shielded so as to reduce intrusion upon nearby properties.
 12. Interference. The applicants shall provide to the satisfaction of the Borough proof of evidence from a qualified licensed professional engineer in the Commonwealth of Pennsylvania that the placement of the commercial communication antenna and facility will not interfere with public

safety nor the usual and customary transmission or reception of radio, television, or other communication services for adjacent residential and nonresidential properties.

13. Site Plan. Site Plan Requirements are as follows:

- a. A site plan conforming to the requirements of the Borough Subdivision and Land Development Ordinance shall be required for all commercial communication sites proposing a new structure or an antenna fifteen (15) feet or higher than the existing or proposed structure on which it is mounted. The site plan shall show the antenna(s), antenna support structure and specifications, equipment facility, building, fencing, buffering, grounding, adjacent uses within two-hundred (200) feet of the site, description and illustration of the design of the commercial communication antenna(s) and facility as well as any other requirements in Section 1305.D.2 in order for the Borough to assess visual impact, and all other items required by the Subdivision and Land Development Ordinance, and shall meet all other applicable requirements of the Zoning Ordinance for the district in which it is located. Additionally, a report prepared by a qualified licensed professional engineer in the Commonwealth of Pennsylvania shall certify as to the proper design of the foundation and support structure in accordance with all applicable requirements.
- b. The site plan shall not be required if the antenna is to be mounted on an existing structure and is less than fifteen (15) feet higher than the existing structure. In such cases, information necessary for the applicable zoning permit and building permit shall be provided as well as a report prepared by a qualified licensed professional engineer in the Commonwealth of Pennsylvania shall certify as to the proper design of the foundation and support structure in accordance with all applicable requirements.

F. Standards for Commercial Communication Antennas and Facilities Requiring Conditional Use Approval.

In addition to the requirements of Article 17 and this Section, the following standards shall be met when a commercial communication antennas and facility requires approval as a conditional use:

1. The applicant is required to demonstrate, using technological evidence, that the antenna must be located where it is proposed in order to satisfy its function in the company's grid system, and demonstrate that there is a need for this facility in the community where it will be located.
2. If the applicant proposes to build a communication support structure/tower as opposed to mounting the antenna on an existing structure, it is required to demonstrate that it contacted the owners of tall structures within a one-quarter (0.25) mile radius of the site proposed, requesting permission to install the antenna on those structures, offered market compensation to such owners, and was denied permission for reasons other than economic ones. Tall structures shall include, but are not limited to, smoke stacks, water towers, tall buildings, and antenna support structures of other communication towers (fire, police, etc.). The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.
3. If conditional use is granted, it shall be subject to the condition that the use of the commercial communication antenna support structure shall be made available to other users in accordance with Section 1305.E.6.

G. Installation and Maintenance. Commercial communication antenna and facility owners shall employ ordinary and reasonable care in the installation and maintenance of such facilities. They shall maintain no less than the best available technology for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

- H. Removal. The commercial communication antenna/facility owner is required to notify the Borough immediately upon cessation and abandonment of the operation. Commercial communication antennas and support structures that are no longer licensed and active commercial transmitting facilities shall be removed at the owner's expense within sixty (60) days of the last date that the facility was licensed by the FCC. At the time of issuance of the permit for construction of the commercial communication antenna/facility, a bond or escrow account shall be posted with the Borough in an amount sufficient to ensure the expense of the dismantling and removal of said structure.
- I. Fees. An applicant seeking the approval of a commercial communication antenna and facility shall establish an escrow account with the Borough from which the Borough will make payment of fees and charges for consultants it deems necessary for the processing and reasonable expenses related to the application.

SECTION 1306 DAY CARE CENTER

Commercial facilities where daytime supervision is provided for the care of children or adults (attendees), not related to the caregiver or operator, and where the child or adult care area is not part of a family residence. Day Care Center must be licensed or approved to provide services as required by the Commonwealth of Pennsylvania. Day Care Centers shall be subject to the following regulations:

- A. Prior to the Borough issuing any approval for a permit, the applicant shall provide proof of receipt of all pertinent approval and licenses from appropriate State and other agencies, including but not limited to the Department of Welfare, Department of Labor and Industry, and Department of Public Welfare, and Department of Aging, as applicable.
- B. Minimum indoor areas and outdoor area requirements per attendee shall meet the most current requirements of the appropriate Departments as listed above, and the applicant shall submit proof to the Borough, prior to the Borough's issuing of permits, that these requirements have been met. In addition, the following shall apply:
1. The internal facilities shall be of adequate size to accommodate all of the attendees receiving care in addition to employees or other occupants.
 2. Outdoor recreation areas may be provided, and shall meet the following conditions:
 - a. The outdoor recreation area shall be located to the rear or side of the building.
 - b. The outdoor recreation area shall be enclosed by a fence suitable to restrict attendees to the play area and fencing shall be a minimum of five (5) feet in height.
 - c. The outdoor recreation area shall not include driveways, parking areas, or any other area unsuited to active recreation.
 - d. The outdoor recreation shall be on the same site as the principal structure.
 - e. Outdoor recreation areas shall be sufficiently screened as to protect residential areas from disturbance.
 - f. The use of outdoor recreation areas shall be limited to daylight hours.
- C. Off-street parking and passenger unloading and loading space shall be provided to prevent interference with traffic flow on any adjacent street or road, in accordance with Article 15.

SECTION 1307 DRIVE THROUGH SERVICE

Such use shall be accessory to a restaurant, bank, drug store or other similar use that provides service to customers who remain in automobiles where customers are served either through an exterior window in the establishment, or directly to parked automobiles on the premises, and shall comply with the following provisions:

- A. For a drive-through window located adjacent to a residential use or district, screening of no less than five (5) feet in depth shall be maintained along all property lines abutting the residential use or district, in accordance with Article 12, General Regulations.
- B. Drive-through service windows for restaurants must have a cartway that has a dedicated area for conducting business, a vehicle stacking lane which can accommodate a minimum of five (5) cars for those waiting to conduct business, and an area for departing vehicles. The stacking lane shall not be used for parking lot circulation aisles or in any way conflict with parking or circulation. The stacking lane shall be clearly marked to distinguish it from other traffic or separated through the use of a curb or planted median.
- C. Access shall be a minimum of thirty (30) feet from street intersections. The distance shall be measured from the street right-of-way to the edge of the access driveway.
- D. When this use is adjacent to or on the same lot as other commercial establishments, it shall use a common access with the other establishments and not have a separate entrance to the street.
- E. A sidewalk shall be provided between an existing sidewalk and the entrance to the restaurant. If there is no existing sidewalk, one shall be provided along the street frontage.
- F. Trash receptacles may be provided outside in conjunction with drive-through service for patron use located specifically so they may be accessed by persons in automobiles using the drive-through facilities.

SECTION 1308 HOME OCCUPATION (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 use shall employ no employees other than the inhabitants 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 exterior indication of a business use, including, but not limited to, parking, or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical interference, including interference with radio or televisions reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable floor area.
- H. The business may not involve any illegal activity.

- I. All Home Occupations shall be required to obtain a zoning permit from the Borough in accordance with the requirements of Article 17, prior to beginning operation of the use.
- J. A Zoning Permit for a Home Occupation shall not be transferable to another property or to another type of home occupation. The permit issued shall only be valid for the use and on the property for which it was originally issued. In the event that a property with an existing home occupation is sold, leased, or rented to someone other than the original permit holder, the new owner, leasee or renter, shall be required to obtain a new zoning permit for a Home Occupation, demonstrating full compliance with the requirements of this Ordinance and any other applicable regulations.

SECTION 1309 MIXED USE

Where a combination of uses, such as an Upper Floor Dwelling above a commercial use, an office above a commercial use, or two or more uses within the same structure, is proposed upon a single lot or within a single building, each of those uses shall be required to meet the following criteria:

- A. Only those uses in the district in which this use is located shall be permitted.
- B. The off-street parking requirements of this Ordinance shall be met, in accordance with Article 15. Parking requirements shall be calculated for each use, but may be designed as a common parking lot.
- C. Where an Upper Floor Dwelling is proposed, the following requirements shall apply:
 - 1. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permits requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough. Trash receptacles shall be screened so as not to be visible from the street or abutting properties except on scheduled days for trash pick-up.

- 2. The following minimum floor area requirements shall be met for each unit:

<u>Type of Unit</u>	<u>Minimum Floor Area</u>
Efficiency	400 sq. ft.
1 bedroom	500 sq. ft.
2 bedrooms	650 sq. ft.
3 bedrooms	800 sq. ft.
Each additional bedroom	120 sq. ft. additional

- 3. Primary access to an Upper Floor Dwelling shall not be from the non-residential use below. Each unit shall have either direct access to the outdoors or to a common area that has direct access to the outdoors.
- 4. Any non-residential use should not be a nuisance to the apartment above a non-residential use.
- 5. Site and floor plans for the Upper Floor Dwelling shall be included with the application for such use, including both exterior and interior building alterations for an existing building if applicable, and the location of fire exits and fire escapes in accordance with the Borough Building Code.

SECTION 1310 MULTI-FAMILY USE

- A. Connection to a public sewage system and public water supply system shall be required in accordance with the regulations of the Pennsylvania Department of Environmental Protection.

- B. The density for development of quadraplex, townhouses (not on individual lots) and apartments shall not exceed eight (8) dwelling units per acre.
- C. Townhouses.
 - 1. Townhouses on individual lots shall conform to section 1316.
 - 2. The number of attached units in any Townhouse structure shall not be less than three (3) or more than eight (8) units.
 - 3. The minimum width of an individual Townhouse shall be fifteen (15) feet.
- D. Residential Conversion or an Adaptive Reuse shall follow Section 1314.
- E. Multi-Family units shall not be located in a below-ground basement where the exterior grade is more than halfway up the height of the exterior wall unless there is at least one (1) exterior wall where the multi-family unit is at grade with the ground outside.
- F. Pedestrian access shall be connected to public rights-of-way at the perimeters of the lot.
- G. Access. Each unit shall have either direct access to the outdoors or to a common area that has direct access to the outdoors.
- H. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permits requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough.
- I. The following minimum floor areas requirements shall be met for apartments:

<u>Type of Unit</u>	<u>Minimum Floor Area</u>
Efficiency	400 sq. ft.
1 bedroom	500 sq. ft.
2 bedrooms	650 sq. ft.
3 bedrooms	800 sq. ft.
Each additional bedroom	120 sq. ft. additional
- J. Where there is condominium ownership of the dwelling units, a homeowners’ association document shall be submitted and approved by the Borough.
- K. Trash receptacles shall be screened so as not to be visible from the street or abutting properties except on scheduled days for trash pick-up.
- L. Multi-family developments consisting of multiple buildings shall adhere to the following regulations:
 - 1. The maximum length of a multi-family building shall be one-hundred and fifty (150) feet.
 - 2. Where more than one building is proposed, multi-family buildings are encouraged to be located along a grid street patterns with rear yards and alleyways between the buildings.
 - 3. Staggered setback of dwelling units and a variation in façade design shall be encouraged to offer visual variety, individualism, and some private yard area. It is recommended that no more than two (2) contiguous units shall have the same façade setback within a building.

4. Dwelling units shall be set back a minimum of fifteen (15) feet from common parking areas, however, common parking areas assigned to a particular multi-family unit shall not be more than two-hundred (200) feet from the building that said unit is located in.
5. Pathways shall be provided to connect dwellings with parking areas, recreational/open areas, and refuse facilities.
6. The following separation distances between multiple buildings shall be met in order to provide individual dwelling units with some level of privacy:
 - a. Front or facing walls (long wall) 45 feet
 - b. Facing end walls (short wall) 25 feet
7. Buffering shall be in accordance with Section 1207, in addition to which all areas not covered by impervious surfaces shall be landscaped and, maintained with suitable ground cover and plants. Existing vegetation is encouraged to be maintained for landscaping purposes.
8. Required parking shall adhere to those standards set forth in Article 15. Parking areas shall be adequately landscaped to provide shade, screening from public streets, screening from adjacent uses, and to reduce glare and noise, in accordance with Section 1207 and the applicable regulations of Article 15.
9. Where greater than five (5) off-street parking spaces are required, parking areas for a Multi-Family Use shall comply with the applicable regulations for parking areas for non-residential parking lots in Article 15.
10. All multi-family developments shall have a minimum of five (5) percent of the land reserved for recreation areas. Recreation areas shall be free of obstructions, including watercourses, floodplains, steep slopes, and wetlands. Such an area shall be contiguous, and shall be setback a minimum of ten (10) feet from any residential uses or residential accessory uses. Maintenance of this area shall be the responsibility of the landowner, or homeowners' or condominium owners' association. This area shall not be located within or be included in calculating the required buffer area or setback areas, but shall be included in calculating the maximum density permitted. This area shall be substantially free of structures, except those designed for recreational purposes or the preservation of historic structures, and shall be usable. This area shall be located and designed so as to be easily accessible by residents of the multi-family dwelling development. When an area is designed for active recreation and abuts a collector street per the Borough Comprehensive Plan, it shall be fenced, provided with an earthen berm, or combination thereof, that physically separates it from the street. Failure to maintain any recreational areas shall constitute a violation of this Ordinance and shall be actionable by the Borough.

SECTION 1311 OUTDOOR CAFE

An Outdoor Café is an outdoor patio area of an associated restaurant or tavern, used for the express purpose of furnishing food and beverages to the public to be consumed on the premises. Such use shall directly abut and be on the same lot as the principal building in which the associated restaurant or tavern licensed by the Pennsylvania Liquor Control Board pursuant to the regulations of the said Board to conduct business on the premises. Outdoor Cafes shall adhere to the following requirements:

- A. Prior to constructing or maintaining an Outdoor Café, an applicant shall first apply for and secure a zoning permit from the Borough in accordance with the following:
 1. An applicant shall submit in writing to the Zoning Officer, along with the required fee, an application including the following:

- a. Name of address of the applicant.
 - b. Plan specifying the location of the Outdoor Café, including a calculation of proposed occupant amount, seating capacity, and location.
 - c. Written consent of the property owner, if other than the applicant.
 - d. Indoor seating capacity.
 - e. Statement of indemnity in accordance with Section 1311.A.3 below.
 - f. Other similar information as may be required.
 - g. Information sufficient to demonstrate compliance with Sections 1311.B. through 1311.G. below.
2. No action shall be taken on any application for a permit under this Section until the application has been completed fully and the application fee, as required by the schedule of fees established and amended by resolution of Borough Council, paid in full.
 3. The applicant shall indemnify and keep harmless the Borough, its officers, employees, and agents from and against any and all actions, suits, demands, payments, costs, and charges for and by reason of the existence of an Outdoor Café, and all damages to persons or property resulting from or in a manner caused by the presence, location, use, operation, installation, maintenance, replacement, or removal of such use, or by the acts or omission of the employees of agents of the applicant for such use.
- B. Outdoor Café uses, abutting or adjacent to residential districts, shall stop serving customers on or before 9 p.m. prevailing time on Sunday through Thursday and clear all tables of food, beverages, and customers on or before 10 p.m. On Friday and Saturday, customer service shall stop at 10 p.m. prevailing time, and all tables shall be cleared of food, beverages, and customers on or before 11 p.m.
 - C. This use shall not be located on or extend onto a public street or parking area.
 - D. A minimum pedestrian walkway of fifty-four (54) inches clear is to be maintained in front of the café if table service is provided on a public sidewalk.
 - E. There shall be no advertising in conjunction with the Outdoor Café aside from the approved Signs for the associated use.
 - F. The owner of the associated restaurant or other use is responsible for keeping the Outdoor Café clean and free of trash and debris.
 - G. This use shall be associated with a principal use of a restaurant or tavern and shall be located abutting that building in which the principal use is located, and shall be located on the same lot as that principal use.
 - H. The Outdoor Café shall be separated from parking areas or traffic flow areas by fencing or buffering. However, in any location where the Outdoor Café is not separated from the flow of traffic or parking areas, no table shall be located within six (6) feet of the curb or the boundary of that area, whichever is closer.
 - I. The Outdoor Café may provide table service.
 - J. The applicant shall maintain the Outdoor Café in accordance with all Borough ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to this use.
 - K. The applicant shall remove the Outdoor Café within thirty (30) days after written notice if the Borough or Zoning Officer determines that the use is detrimental to the health, safety, and general welfare of the Borough or its residents as follows:

1. The Outdoor Café is no longer being used as such.
2. The use has been temporarily or permanently closed for violation of any Borough, state, or federal law and/or regulation, or by the Chester County, Pennsylvania Health Department.
3. The use is operated in violation of any ordinance or regulations of Modena Borough.
4. In the event that the applicant fails to remove the Outdoor Café within seven (7) days after the thirty (30) day period after written notice, the Borough may proceed to remove and restore the area and charge the applicant for the cost thereof. In this instance, the applicant is entitled to the return of furnishings or equipment so removed, only after the payment for all costs for the removal due to the Borough, and requesting the return in writing. The responsibility for removal under the provisions of this Section shall be the sole responsibility of the applicant without any obligation or cost assessed against the Borough.

SECTION 1312 PRODUCE MARKET

- A. No permanent structures shall be erected on a lot used for a produce market, in addition, any temporary stand or other structure shall be firmly anchored to the ground to remove the potential for the structure to be moved by wind or flooding.
- B. Items for sale shall be limited to produce, baked goods, or handmade products, including, but not limited to fruits, vegetables, flowers, and similar products such as honey, maple syrup, wreaths, and baskets. Mass produced items shall not be permitted for sale including but not limited to furniture, toys, clothing, tools, art, photographs, machinery, electronics, household goods, and other similar products.
- C. All signs for a produce market shall comply with Article 14, Signs.
- D. Produce markets shall comply with the off-street parking requirements of Article 15.

SECTION 1313 SELF-STORAGE FACILITY

- A. Each storage unit shall have individual access.
- B. The minimum aisle width between buildings shall be twenty (20) feet when building fronts on one-way internal streets, except when the fronts of buildings where the entrances to the storage bays are located are facing two-way internal streets in which case the minimum width between buildings shall be thirty (30) feet.
- C. The use shall be subject to review by Borough police and fire officials regarding security and fire protection.
- D. Storage of explosive, radioactive, toxic, highly flammable, or otherwise hazardous materials shall be prohibited.
- E. No business activity other than leasing of storage units shall be conducted on the premises.
- F. All storage shall be within closed buildings built on a permanent foundation of durable materials. Trailers, box cars or similar impermanent or movable structures shall not be used for storage.
- G. Outdoor storage shall comply with the following requirements:

- 1. Outdoor storage of automobiles, boats, and recreation vehicles is permitted provided they are screened so as not to be visible from adjacent streets, residential uses or residentially zoned land.
- 2. A maximum of fifty (50) percent of the total site area may be used for such outdoor storage.
- 3. Stored vehicles shall not interfere with traffic movement through the complex.
- H. The storage facilities complex shall be surrounded by a continuous fence at least eight (8) feet in height.
- I. The entrance shall be a minimum of twenty (20) feet in width that shall be unobstructed by vehicles or equipment and be composed of an automated or locked gate that restricts access only to the owner or persons renting or leasing units in the facility.
- J. The storage of partially dismantled, wrecked and/or inoperative vehicles shall not be permitted.
- K. Exterior lighting shall be limited to security lighting and a lighting plan shall be submitted for approval by the Borough Council.
- L. Self-storage facilities shall be expressly used for the storage of property, all other uses or activities are prohibited, including, but not limited to: auctions, commercial wholesale or retail sales, garage sales, servicing or repair of vehicles, boats, or trailers, or the operation of power tools,

SECTION 1314 RESIDENTIAL CONVERSION

The Borough Council may authorize as a conditional use, the conversion of a existing single-family dwelling into a multi-family dwelling, subject to the following requirements:

- A. The plans for the conversion of said dwelling shall be submitted to the Borough Council, together with an application for a conditional use, and such plans shall bear the approval of the Pennsylvania Department of Labor and Industry as required by law.
- B. Separate kitchen and bathroom facilities shall be provided per unit. All applicable Borough Building Code and Chester County Health Department regulations and permits requirements regarding the installation of these facilities shall be met and indicated on all plans. Approval from all applicable agencies is necessary prior to issuance of a building permit by the Borough.
- C. The following minimum floor areas requirements shall be met for each unit:

<u>Type of Unit</u>	<u>Minimum Floor Area</u>
Efficiency	400 sq. ft.
1 bedroom	500 sq. ft.
2 bedrooms	650 sq. ft.
3 bedrooms	800 sq. ft.
Each additional bedroom	120 sq. ft. additional

- D. Such plans shall provide adequate and suitable parking or storage space for one (1) automobile per bedroom created as part of the conversion.
- E. The lot size shall not be reduced to less than the lot area required for the district in which such lot is situated.
- F. The yard, building area and other applicable requirements for the district shall not be reduced.

- G. There shall be no external alteration of the building, except as may be necessary for reasons of safety and access; fire escape and outside stairways shall where practicable, be located to the rear of the building.

SECTION 1315 TOWNHOUSES ON INDIVIDUAL LOTS

Where Townhouses are constructed on individual lots, the following regulations shall apply:

- A. Lot Area. A minimum lot area of two-thousand (2,000) square feet is required for each Townhouse unit.
- B. The number of attached units in any Townhouse structure shall not be less than three (3) or more than eight (8) units.
- C. The minimum width of an individual Townhouse shall be fifteen (15) feet.
- D. Townhouses shall meet the remaining area and bulk regulations of the district in which they are located.

ARTICLE 14

SIGNS

SECTION 1401 PURPOSE

- A. To provide general standards for all signs within the Borough and specific standards for signs in various zoning districts and for various uses;
- B. To establish procedures for the review and approval of sign permit applications;
- C. To regulate the location, size, construction, erection, alteration, use and maintenance of signs;
- D. To protect the safety and general welfare of the community through the proper use, design, and structure of signs for graphic and written communication purposes;
- E. To promote the use of well crafted signs in harmony with the scale and character of the Borough.
- F. To manage the size, location, and number of signs to prevent cluttered signage and visual blight that may negatively effect public safety in vehicular and pedestrian circulation.
- G. To develop a consistent and appropriate level of signage for a small Borough to assist in economic development by providing clear signage for local businesses.
- H. To develop signage appropriate for the Borough that will provide appropriate controls while incorporating flexibility for different types of signs appropriate for a Borough.

SECTION 1402 CONFORMANCE REQUIRED

Any sign erected or maintained after the effective date of this Ordinance shall conform to the following regulations, Article 12, and other applicable regulations of this Ordinance and of the Borough.

SECTION 1403 GENERAL SIGN REGULATIONS FOR ALL DISTRICTS

- A. All distances provided for in this Article shall be measured along straight lines between signs and from the near edge of the object, structure, street line, ground, or otherwise, to the near edge of the sign structure in question.
- B. A sign permit in accordance with Section 1405 shall be obtained before erection of, alteration of, or enlargement of any sign, sign structure or any portion thereof under these regulations except as hereinafter provided.
- C. Lighting shall be shielded so that the source of light shall not be visible from any point off the lot on which the sign, building, or structure that is being illuminated is located, and shall conform to the applicable regulations of Section 1205.
- D. Height of Signs.

Unless otherwise specifically stated in this Ordinance, the maximum height of any sign shall be the determined by the permitted building height in the zoning district in which the sign is located. The maximum height shall apply to the highest point of any portion of a sign.

E. Prohibited Signs.

1. No sign shall be erected or maintained within the regulated area that is to remain free of obstructions at street intersections in accordance with Section 1204.
2. No signs shall be permitted within any road right-of-way except for official traffic signs or directional signs,
3. A sign shall not be placed where it obscures a motorists view of traffic signals or official traffic signs.
4. No sign shall be placed or maintained in a position that interferes with vehicular traffic or pedestrian safety.
5. No sign which emits smoke, visible vapors or particles, sound, or odor shall be permitted.
6. No sign shall be erected or maintained containing information on it which states or implies that a property may be used for any purpose that violates the provisions of this Ordinance.
7. No sign shall be erected or maintained so as to prevent clear, free or otherwise unobstructed ingress or egress from any door, window or fire escape.
8. No sign shall be painted directly on a wall or structure, with the exception of Permanent Window Signs in accordance with Section 1406.E.
9. No flashing, rotating, or revolving signs shall be permitted.
10. No sign shall be erected or hung across or above a street.
11. No sign shall be erected, painted, or drawn on a tree, rock, or other natural feature.
12. No signs shall be attached to utility poles or other public infrastructure unless in conformance with State and utility regulations and any other applicable regulations of this Ordinance, or other Borough ordinance.

Section 1404 CONSTRUCTION, MAINTENANCE, REMOVAL OF SIGNS, ABANDONED SIGNS

A. Construction and Maintenance. All signs shall be constructed of durable material and kept in good condition and repair.

B. Removal.

The Borough shall notify the owner or lessee in writing regarding Section 1404.B.1-5, as applicable, and the owner or lessee shall have five (5) working days from the date of such notification, to contact the Borough to address the issue. If after five (5) working days from the date of notification, the owner or lessee of the dilapidated sign has not contacted the Borough to address the issue, the sign may be removed by the Borough at the expense of the owner or lessee of the property on which it is located. This provision applies to the following occurrences:

1. Aside from existing non-conforming signs, a sign is found in violation of this Ordinance.
2. A sign is allowed to become dilapidated or unsafe so that it may cause a hazard by falling or other means.
3. A sign no longer serves the purpose of useful communication.

4. A sign is determined to be a nuisance by the Borough.
 5. In the event of immediate danger, the Borough may remove a sign immediately upon the issuance of written notice to the owner.
- C. Failure of the Zoning Officer to remove or require the removal of any sign as described in this Section shall create no liability upon, nor any cause of action against, the Zoning Officer or any other Borough official or employee for damage or injury that may occur as a result of such sign.
- D. Abandoned Signs.
1. No sign which has been abandoned as defined by this Ordinance shall be permitted to be maintained by any property owner or lessee.
 2. The Borough shall notify the owner or lessee in writing concerning the removal of the abandoned sign, and the owner or lessee shall have five (5) working days from the date of such notification, to contact the Borough to address the issue. If after five (5) working days of being given written notice, the owner of the abandoned sign has not contacted the Borough to address the issue, the sign or the sign copy may be removed by the Borough at the expense of the owner or lessee of the property on which it is located.

Section 1405 SIGN PERMITS AND INSPECTION

- A. Except for signs included under Sections 1405.B and 1405.C below, all signs shall require a permit in accordance with the following:
1. Sign permit applications may be obtained from the Borough and shall be filed with the Borough Zoning Officer.
 2. The required fee, as adopted by resolution by Borough Council available at Borough Hall, shall accompany the application.
 3. The Borough Zoning Officer shall approve or deny applications for sign approval permits within fifteen (15) working days from the date of the filing of the complete application with the required fee. If an application is denied, the applicant shall receive notification in writing stating the reason for denial along with the specific provision or provisions of this Ordinance that were not met by the application.
 4. Applications for signs shall conform to the following provisions:
 - a. Applications shall include the identification of the colors and materials of the building and a scaled drawing with a description of the size, shape, color, material, supports, anchoring, weight, height, and illumination of the sign, as applicable,
 - b. For signs which are to be mounted on a building or structure, the application shall include a scaled drawing of the building façade identifying the location of the sign on the building, including awnings, canopies, doors, and windows as applicable.
 - c. A scaled plot plan of the property shall be provided, displaying all applicable dimensions (lot lines, setbacks, right-of-way, etc), which shall identify the location of the sign on the property and improvements on the site, and any required landscaping.
 - d. Any other lawful information which may be requested by the Borough Zoning Officer as applicable.

- B. Maintenance of or Changes to Signs. The following shall not require a permit:
1. Regular maintenance of the sign, including electrical, repainting, or cleaning of a sign.
 2. The repair of the sign that in no way changes the sign from the original approved application.
 3. Minor changes to a sign, such as changes to the information, text, or color of a sign, deemed by the Borough Zoning Officer to be insignificant to the sign. Changes to the size, shape, location, structure, or mounting do not constitute minor changes and shall require the resubmission for a sign permit.
- C. Signs Not Requiring a Permit.
1. Official Traffic Signs.
 2. Directional Signs.
 3. Address Signs.
 4. Temporary Signs.
 - a. Temporary signs shall not require a permit but shall require notification to the Borough prior to the placement of the sign in the form of a written letter submitted at the Borough office including the following:
 - 1) Name, address, and contact information for the property where the sign will be placed.
 - 2) A brief description of the type of sign, placement of the sign, and reason for the sign.
 - 3) The intended time period for placement of the sign.
 - b. A sign shall be removed after the time specified on the notice or within two (2) days after the event for which the sign is intended has occurred, or if the sign violates any provision of this Ordinance.
 5. Legal Notices, including, but not limited to Borough notices for Conditional Use or Special Exception proceedings, or other official purposes.
- D. All signs shall be subject to inspection by the Zoning Officer. No work shall be done other than as specifically shown on an approved sign permit or as permitted by Section 1405.B

SECTION 1406 REGULATIONS FOR SPECIFIC SIGN TYPES

- A. Ground Signs.
1. Ground Signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign to the ground.
 2. Ground Signs shall be limited to one (1) per street frontage for each structure where such signs are permitted.
 3. Ground Signs shall not exceed twenty-five (25) square feet in area for a single use.
 4. If more than one (1) use is carried on in a single structure, the ground sign(s) may indicate the presence of all uses in the structure. Individual ground signs for each use in a single structure shall not be permitted. Where more than one (1) use exists in a structure, an

additional ten (10) square feet may be added to the sign for each additional use, however, no Ground Sign shall exceed sixty (60) square feet.

5. Where both Ground Signs and Freestanding Signs are permitted for the same use, only one (1) of either type of sign shall be permitted for each street frontage instead of one (1) of each type of sign.
6. A Ground Sign may be double faced, provided both faces are parallel, matching in size and shape, and no more than eighteen (18) inches apart.
7. The maximum height for Ground Signs shall be ten (10) feet.

B. Freestanding Signs.

1. Freestanding Signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign to the ground.
2. Freestanding Signs shall not exceed twenty-five (25) square feet in area for a single use.
3. Freestanding Signs shall be limited to one (1) per street frontage for each structure where such signs are permitted.
4. If more than one (1) use is carried on in a single structure, the Freestanding Sign(s) may indicate the presence of all uses in the structure. Individual Freestanding Signs for each use in a single structure shall not be permitted. Where more than one (1) use exists in a structure, an additional ten (10) square feet may be added to the sign for each additional use, however, no Freestanding Sign shall exceed sixty (60) square feet.
5. Where both Freestanding Signs and Ground Signs are permitted for the same use, only one (1) of either type of sign shall be permitted for each street frontage instead of one (1) of each type of sign.
6. The maximum height for Freestanding Signs shall be fifteen (15) feet.

C. Roof or Wall Signs.

1. There shall be one (1) Roof or Wall Sign permitted per street frontage for each structure where such signs are permitted.
2. Roof or Wall Signs shall not exceed twenty-five (25) square feet in area for a single use.
3. If more than one (1) use is carried on in a single structure, the Roof or Wall Sign may indicate the presence of all uses in the structure or one sign per entrance for an individual use.
4. Roof or Wall Signs shall be attached to a building wall or roof, and the top of the sign shall not project more than five (5) feet above the roof line of the building.
5. Roof or Wall Signs shall be installed parallel to the supporting wall and project not more than twelve (12) inches from the face of such wall.

D. Projecting Signs.

1. There shall be one (1) Projecting Sign permitted per street frontage for each structure where such signs are permitted.
2. Projecting Signs shall not exceed fifteen (15) square feet for a single use.

3. If more than one (1) use is carried on in a single structure, the Projecting Sign may indicate the presence of all uses in the structure. Individual Projecting Signs for each use in a single structure shall not be permitted. Where more than one (1) use exists in a structure, an additional five (5) square feet may be added to the sign for each additional use.
4. Projecting Signs shall have a minimum clearance of eight (8) feet between the bottom of the sign and the ground directly below the sign.
5. A Projecting Sign may be double faced, provided both faces are parallel, matching in size and shape, and no more than eighteen (18) inches apart.

E. Permanent Window Signs.

1. A maximum of fifteen (15) percent of the total window area may be used for permanent signs that are etched, painted, or permanently affixed to a window.
2. A maximum of thirty (30) percent of the total window area may be covered by a combination of Permanent Window Signs and Temporary Window Signs in accordance with Section 1406.K.5.

F. Off-Premise Sign.

1. Where such signs are permitted, there shall be no more than one (1) associated off-premise sign for each individual property that shall not exceed-twenty-five (25) square feet in area.
2. Where an Off-Premise Sign is associated with a property where there is more than one (1) use, the Off-Premise Sign may indicate the presence of all uses on the associated property. Individual Off-Premise Signs for each use on a single property shall not be permitted. Where more than one (1) use exists on a property, an additional ten (10) square feet may be added to the sign for each additional use.
3. The applicant must present a lease, proof of ownership, or other agreement for the property where the off-premise sign will be located, proving the applicant may construct, have contracted, or use the off-premise sign and any agreements for the location, construction, use, maintenance, or removal of such sign.
4. One (1) Off-Premise Sign is permitted for each property where such sign is permitted.
5. An Off-Premise Sign shall be a separate sign from any other permitted sign on a property.
6. No Off-Premise Sign shall interfere with the visibility of any other permitted sign on a property or violate any other provision of this Ordinance.
7. The maximum height for Off-Premise Signs shall be fifteen (15) feet.

G. Development Sign.

1. One ground or freestanding sign for each street frontage or at each access to a subdivision, development, or complex indicating the name of the subdivision, development, or complex shall be permitted provided the sign shall not exceed fifteen (15) square feet.
2. Multi-family Uses may have, in addition to Section 1406.G.1. above, one (1) development sign mounted as a Wall Sign that shall not exceed nine (9) square feet, on a multi-family building for identification purposes using the name and/or address of the building.

H. Home Occupation Sign.

1. A Home Occupation Sign shall not exceed two (2) square feet.
2. Shall be either a wall sign on the principal structure or a ground sign in the front yard of the lot.

I. Address Sign.

Each property shall be permitted one (1) Address Sign that shall not exceed two (2) square feet, for each street frontage where an entrance to the premises is located.

J. Directional Sign.

1. Directional signs shall be on the same lot as the use to which the sign relates.
2. The area of Directional Signs shall not exceed two (2) square feet.
3. Directional Signs are limited to appropriate information such as that listed in the definitions in Article 2 and shall not contain any advertising.

K. Temporary Sign Types.

1. Temporary Sign.
 - a. Temporary Signs shall not exceed four (4) square feet.
 - b. In addition to specific temporary sign types listed under this Section 1406.K, Temporary Signs shall be permitted for each use and shall be approved by the owner of the property on which the signs are placed for purposes at the owners discretion. The number of Temporary signs shall be permitted by lot size as follows:

<u>Lot Size*</u>	<u>Number of Signs Permitted</u>
<10,000	1
10,001 – 20,000	2
20,001 – 30,000	3
30,001 – 50,000	4
50,000 +	5
*square feet	

2. Temporary Portable Signs.
 - a. Two (2) Portable Signs shall be permitted per non-residential Use.
 - b. Portable Signs shall be located on the same lot as the use they are associated with.
 - c. Portable Signs shall not exceed four (4) square feet.
 - d. Portable Signs must comply with all other applicable regulations of this Ordinance, and shall not be placed to impede pedestrian traffic or constitute a hazard to or impede pedestrians or automobile circulation.
 - e. Portable Signs shall be permitted for display only during business hours and shall be removed from public view during non-business hours, stored indoors or in an enclosed storage area on the same lot.

3. Temporary Real Estate or Political Signs.
 - a. Temporary Real Estate or Political Signs shall not exceed four (4) square feet.
 - b. No more than three (3) such signs shall be permitted for each use and shall be approved by the owner of the property on which the signs are placed.
 - c. Such signs shall be removed within two (2) days after the event or election for which the sign is intended has occurred or the sale or lease of the use has been approved.
4. Temporary New Construction Signs.
 - a. New Construction signs which identify the name of a subdivision, development, or the developer, are permitted provided that the total sign area shall not exceed fifteen (15) square feet for each sign.
 - b. One (1) sign shall be permitted for each street frontage the subdivision, development, or property fronts upon.
 - c. Such signs shall be removed within three (3) days after the last structure has been satisfactorily inspected by the Borough.
5. Temporary Window Signs. Temporary window signs shall per permitted for non-residential uses, to be used as an accessory sign to any permanent signs associated with a principal use, provided:
 - a. Temporary Window Signs shall not exceed fifteen (15) percent of the total glass area of the window in which they are placed.
 - b. Temporary Window Signs shall conform to Section 1406.E.2.

SECTION 1407 SIGNS PERMITTED FOR RESIDENTIAL USES

In addition to signs not requiring a permit under Section 1405.C, the following signs and no others shall be permitted for Residential uses:

- A. Temporary Signs. Excluding Temporary Portable Signs and Temporary Window Signs.
- B. Development Signs.
- C. Home Occupation Signs.
- D. Address Signs.

SECTION 1408 SIGNS PERMITTED FOR COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL USES

In addition to signs not requiring a permit under Section 1405.C, the following nonresidential signs and no other shall be permitted for Commercial, Industrial, and Institutional uses, subject to the following:

- A. Not more than two (2) of the following commercial, industrial, or institutional signs may be erected and maintained on premises devoted to the respective commercial, industrial, or institutional uses to which such signs relate, unless such property fronts upon more than one (1) street, in which event not more than two (2) such signs may be erected on each frontage:

1. Ground Signs.
 2. Freestanding Signs.
 3. Roof or Wall Signs.
 4. Projecting Signs.
 5. Permanent Window Signs.
- B. Off-Premises Signs. In addition to being permitted for a Commercial, Industrial, or Institutional Use, an Off-Premise Sign shall be permitted only within the TC-1, TC-2, or Industrial Zoning District when approved as a conditional use.
- C. Development Signs.
- D. Home Occupation Signs.
- E. Address Signs.
- F. Directional Signs.
- G. Temporary Signs.

SECTION 1409 NONCONFORMING SIGNS

Nonconforming Signs shall be in compliance with Article 16, Nonconformance.

ARTICLE 15

OFF-STREET PARKING AND LOADING

SECTION 1501 PURPOSE AND APPLICABILITY

A. Purpose.

1. Establish standards for the layout, location, and amount of off-street parking for land uses within the Borough.
2. Provide adequate parking and loading facilities for all permitted structures and uses.
3. Reduce traffic congestion and promote the allocation of parking and loading spaces to increase public safety and convenience.

B. Applicability.

1. Off-street parking and loading facilities shall be provided whenever:
 - a. A new building is constructed or new use established.
 - b. The use of an existing building is changed to a use requiring different parking or loading facilities than the prior use.
 - c. An existing building or use is altered or enlarged so as to increase the amount of parking and loading spaces required.
2. Buildings and uses in existence on the date of adoption of this Ordinance shall not be subject to the provisions of this Article, except as provided in Section 1501.B.1.
3. Off-street parking and loading facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Article.
4. All parking and loading facilities required by this Article shall be constructed and subsequently maintained for as long as the building or use which they are designed to serve remains in existence.

SECTION 1502 OFF-STREET PARKING REGULATIONS

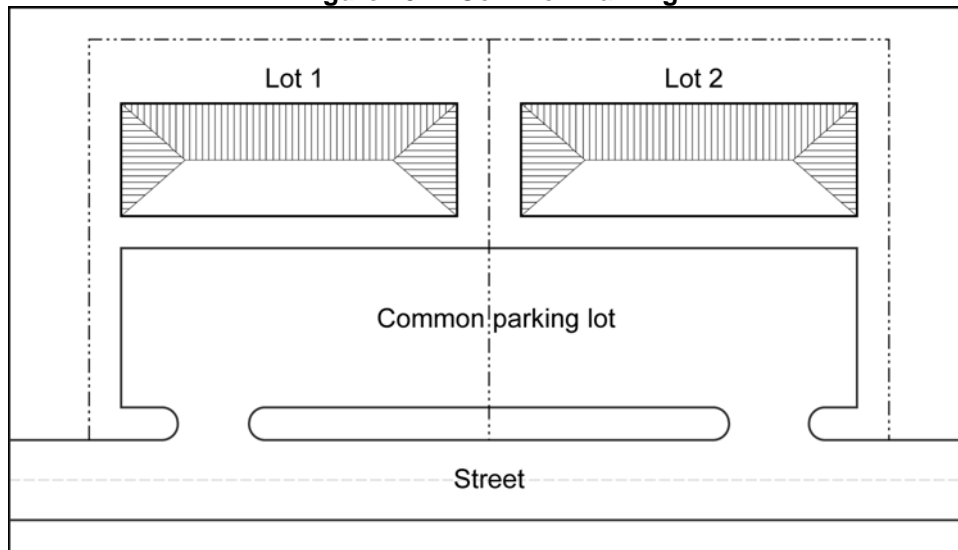
A. General Requirements.

1. Location of Required Parking Spaces.
 - a. Required off-street parking spaces shall be located on the same lot as the principal use, unless otherwise provided by this Article.
 - b. Off-Street Parking spaces shall be located outside of the public right-of-way.
2. Use of Parking Facilities. Parking facilities shall not be used for any use that interferes with the availability for the parking need it is required to serve, unless otherwise provided in this Article.
3. No storage of vehicles or motor vehicle repair other than emergency service shall be permitted in parking areas.

B. Required Off-Street Parking.

1. Uses not specifically listed in Section 1502.B.6 shall comply with the requirements for the most similar use listed in Section 1502.B.6.
2. Where a building or use contains or includes more than one (1) type of use, regardless of whether each use is listed in Section 1502.B.6, or is unlisted, the number of parking spaces required shall be the sum of the parking requirements for each separate use.
3. Common Parking Lots.
 - a. Two (2) or more uses may provide for required parking in a common parking lot if the total number of spaces provided is not less than eighty (80) percent of the sum of the spaces required for each use individually, in accordance with the provisions of Section 1502.B.6. (See Figure 15-2)
 - b. The common parking lot shall be limited to the number of access driveways required for a single use or lot, in order to reduce the total number of access points that would occur with more than one parking lot.

Figure 15-1: Common Parking



4. Required off-street loading facilities shall not be used to satisfy the parking requirements listed in the table below.
5. Required off-street parking facilities as accessory to uses listed herein, shall be solely for the parking of passenger vehicles of patrons, occupants, or employees of each use.
6. Off-Street Parking Requirements.
 - a. The following off-street parking requirements shall constitute the minimum spaces required for the following buildings and uses hereafter erected, converted or otherwise established in any district.
 - b. Where computations result in fractions, a fraction of one-half (1/2) or more shall be rounded up, and a fraction of less than one-half (1/2) rounded down.
 - c. There shall be sufficient parking spaces provided for each use so that there is a minimum of one (1) parking space for each employee on shift of maximum employment in addition to the following requirements for each use.
 - d. The following off-street parking requirements shall apply to all uses within the Borough:

Figure 15-2: Parking Requirements

Residential Uses	Parking Requirement
Single-Family Detached Dwelling	2 Spaces per dwelling
Two-Family Dwelling: Duplex or Twin (Semi-Detached)	2 Spaces per dwelling
Multi-Family	1 Space per bedroom, plus 1 Space per every 3 dwellings units for visitor parking
Accessory Dwelling or Apartment above a Non-residential Use	1 Space per bedroom
Mobile Home (individual)	2 Spaces per dwelling
Mobile Home Park	2 Spaces per mobile home, plus 1 Space per 3 mobile homes for visitor parking

Commercial Uses	Parking Requirement
Accessory Use	No additional Spaces required
Adult Use	1 Space per 300 square feet gross floor area
Auto Repair or Auto Body Shop	2 Space per service bay, however the internal Space of a service bay shall not count towards parking requirements
Bank or similar Financial Institution Where an establishment has facilities for "drive-through" service	1 Space per 300 square feet gross floor area devoted to customer service A vehicle stacking lane is required that can accommodate a minimum of 6 cars in addition to the requirements above. The stacking lane shall not interfere with the movement of vehicles in and out of required parking spaces and vehicles entering or exiting the site
Club/Lodge/Fraternal Institution	1 Space for every 4 seats provided for patrons, customers, members, or guests or 1 space per 2 persons permitted at the maximum capacity of the use
Convenience Store	1 Space per 250 square feet gross floor area
Day Care, Commercial	An area for the drop off and pick up of attendees equal to 1 Space per 10 attendees the facility is intended to serve at maximum capacity
Dentist or Orthodontist	4 Spaces per 1,000 square feet gross floor area, or 4 Spaces per examining room whichever is greater
Educational Use/Trade School-College	1 Space per every 2 seats for students
Funeral Home	1 Space per every 50 square feet occupied by viewing rooms, plus 1 Space for every official funeral vehicle
Home Occupation	See Section 1308
Hotel/Motel	1 Space per rental unit
Laundry, Dry Cleaning Facility	1 Space per 100 square feet devoted to customer service or 1 space per washing machine
Medical or Veterinary Clinic/Office	4 Spaces per 1,000 square feet gross floor area, or 4 Spaces per examining room, whichever is greater
Museum / Gallery	1 space per 300 square feet of exhibit space
Office (Professional, Business, etc.)	2 Spaces per practitioner for Architects, Attorneys, Realtors, and similar uses; 1 spaces per Administrative or Executive staff for Executive or Administrative Offices

Commercial Uses	Parking Requirement
Personal Service Shop (Barber shop, Photo shop, and similar uses)	1 Space per 300 square feet gross floor area
Recreational Facility / Park / Outdoor Recreation Area / Open Space Preserve a. Indoor use, Bowling, skating rink, etc.. b. Outdoor Recreation or Park	1 Space per 250 square feet gross floor area 1 space per 4 visitors estimated peak service
Research and Development Facility	1 Space per 300 square feet gross floor area
Restaurants and Taverns a. Where establishments provide benches instead of fixed individual seats b. Where no fixed seats are used c. Where an establishment has facilities for “drive-through” or “pick-up” of products	1 Space for every 3 seats provided for patrons, customers, members, or guests 3 linear feet of seating shall equal 1 seat 150 square feet of gross floor area shall equal 1 seat A vehicle stacking lane is required that can accommodate a minimum of 6 cars in addition to the requirements above. The stacking lane shall not interfere with the movement of vehicles in and out of required parking space and vehicles entering or exiting the site
Retail Store	1 Space per 300 square feet of sales area
Studio	1 Space per 300 square feet gross floor area
Theater	1 Space per every 4 seats

Public/Institutional Uses	Parking Requirement
Institution/Government/Municipal Use	1 Space per every 3 seats of capacity for public meeting facilities
Library	3 Spaces per 1,000 square feet of gross floor area
Post Office	1 Space per 100 square feet devoted to customer service, 1 Space for every delivery vehicle when not in service, plus 1 Space per 300 square feet devoted to administration
Religious Use	1 Space per every 4 seats plus 1 space per 4 people permitted for the maximum capacity permitted for areas dedicated to events or meetings
Utility/Radio or Television Broadcasting Station or Transmitters	2 Spaces per facility plus 1 Space per assigned employee

Industrial/Manufacturing Uses	Parking Requirement
Industrial	2 Spaces per Administrative or Executive Staff, plus two spaces for visitors
Manufacturing/Processing/Production	2 Spaces per Administrative or Executive Staff, plus two spaces for visitors
Storage	1 Space for every 2 storage units
Warehouse/self storage facility	1 space per 1,000 square feet gross floor area
Wholesale business or establishment	1 Space per 1,000 square feet gross floor area
Warehouse	Two spaces for visitors

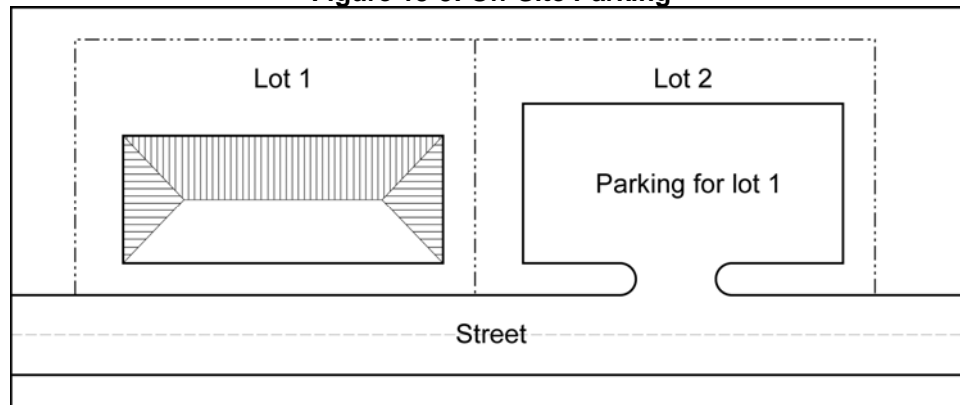
C. Special Parking Regulations.

1. Off-Site Parking Alternatives.

In the TC-1, TC-2 Overlay, Industrial-Commercial, and Industrial Zoning Districts, the following off-street parking alternatives are permitted:

- a. Off-Site Parking. Required parking spaces may be accommodated off-site, provided (See Figure 15-3):
 - 1) The owner(s) of the use(s) or structure(s) shall submit a plan to the Borough that includes a site plan and agreement showing use(s), maintenance responsibility, location of the off-street parking facility, and a plan prepared by a Pennsylvania licensed engineer incorporating stormwater management design as applicable, which shall be approved by Borough Council.
 - 2) The number of spaces fulfills the requirement(s) for the structure(s) and use(s) for which the lot is designated to accommodate.
 - 3) Sidewalks for pedestrian safety are available.
 - 4) The lot can be accessed by patrons where safe crossing streets is available, and are located within two hundred (200) feet of the building entrance(s) in which the use(s) is(are) located.
 - 5) The applicant(s) shall provide sufficient legal documentation to assure the long-term availability of the parcel to be used for off-site parking. This may be in the form of a lease, contract, deed restriction, easement, or similar instrument, of which the form and duration shall be subject to the review of the Borough Solicitor and approved by Borough Council.

Figure 15-3: Off-Site Parking

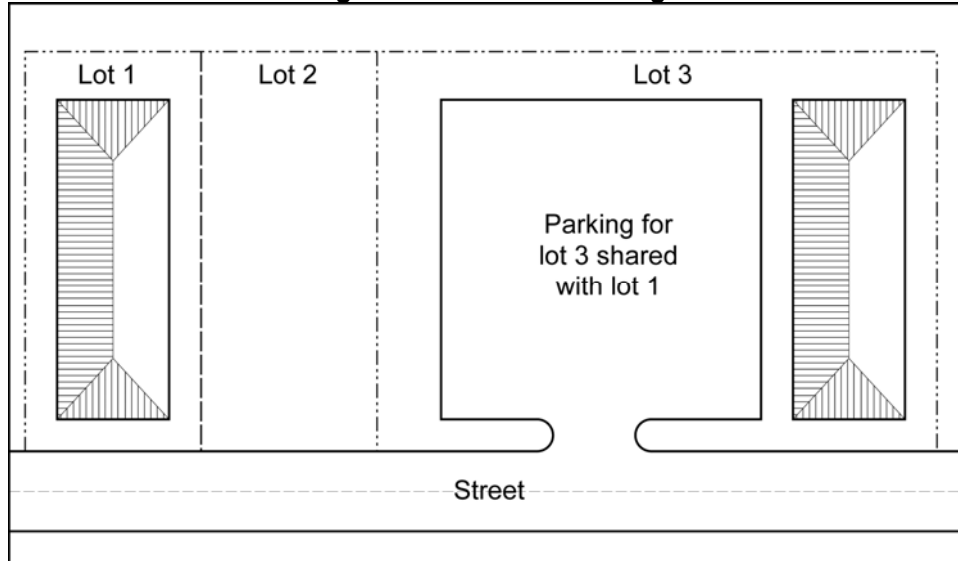


- b. Shared Parking. Required parking spaces for a church, theater, restaurant, or other uses open primarily outside of typical business hours, may be provided and used jointly by banks, offices, retail stores, service establishments, and other similar uses which are normally open, used or operated during typical business hours (8 a.m. to 5 p.m. Monday-Friday), according to the following provisions (See Figure 15-4):
 - 1) The sharing of parking shall be approved by the Borough Council which shall consider, among other criteria, the hours of operation of the uses which are sharing required parking spaces and the number of spaces involved.
 - 2) A written agreement ensuring the retention of parking spaces for such sharing of required parking shall be properly drawn and executed by the parties concerned for review by the Borough Solicitor and approval of Borough Council. Such approval may be rescinded by the Borough, and additional parking be obtained by the owner to meet the required off-street parking standard in the event the Borough determines

the joint use of parking results in a public nuisance or adversely affects the public health, safety, or welfare.

- 3) Shared or common parking facilities shall be provided with appropriate signage indicating the buildings and/or uses for which the spaces are available.

Figure 15-4: Shared Parking



- c. **Parking Garages.** Parking Garages shall be permitted in accordance with the following requirements:
 - 1) Parking garages shall be permitted as accessory structure on the same lot and when attached to a principle structure such as a parking garage attached to a hotel, and shall not be permitted as the principal use of a lot.
 - 2) Parking Garages shall not exceed the height of the principal structure or building to which it is attached.
 - 3) Parking Garages may accommodate some or all of the parking spaces for the associated use.
 - 4) A parking garage developed for an associated non-residential use may operate a portion of the parking garage for commercial purposes to provide parking to the general public in accordance with the following:
 - a) A parking garage shall not be developed in association with a non-residential use(s) solely for the purpose of operating a commercial parking garage for the general public over and above the required off-street parking for the associated use(s). The number of spaces in a parking garage shall not exceed one-hundred fifty (150) percent of the required parking requirement for the associated non-residential use(s). The additional parking spaces above the required spaces for the associated use(s) may be used as parking made available to the general public.
 - b) Where a parking garage provides only a portion of the required parking for the associated non-residential use(s), a maximum of fifty (50) percent of the parking garage may be made available to the general public.
 - c) Required parking shall be marked as "reserved" or some appropriate measure to ensure that required parking is not used by the general public.
 - d) Parking meters or ticketing may be used for parking available to the general public.

- e) Parking garages are encouraged to maintain commercial uses on the first floor, maintain the aesthetics of the primary structure, and shall comply with the design standards of Section 804a.
2. Special Regulations for the TC-1 and TC-2 Overlay Districts.
- a. No off-street parking or loading facility shall be permitted in front of any primary building or structure. All parking and loading facilities shall be located either to the side or rear of the principal structure.
 - b. Off-street surface parking shall not extend more than seventy (70) feet in width along any street frontage.
 - c. No more than one-hundred twenty (120) percent of the required minimum parking requirement shall be permitted, unless otherwise provided by this Section.
- D. Design of Off-Street Parking Facilities.
1. Required Parking Spaces.
- a. Off-street parking spaces, with proper and safe access shall be provided, either within a structure or in the open, to serve the use or uses for which it is designed.
 - b. Parking spaces shall be a rectangular block containing a minimum of nine (9) feet wide by eighteen (18) feet long, exclusive of access driveways, aisles and maneuvering space. Not more than two (2) feet of a parking space may overhang a perimeter buffer, so long as such overhang does not intrude into a right-of-way or pedestrian walkway, and for such spaces, the area directly below the overhang need not be paved.
 - c. Individual parking spaces shall be clearly marked by durable white or yellow striping at least four (4) inches in width.
 - d. Each required off-street parking space shall open directly upon an aisle, or an access driveway to provide safe and efficient means of vehicular access to such parking space in accordance with applicable standards.
2. Parking Lot Access and Traffic Control.
- a. All parking lot and access driveways shall be constructed and maintained to provide safe and orderly access to a street, alley, or other approved access driveway, at all times. Provisions for clear sight distance in Section 1204, Visibility at Intersections, shall apply to all access points and access driveways to parking lot.
 - b. No parking lot or space, except for permitted access driveways, shall directly abut a street. Parking lots shall be separated from the street by a curb, buffer, island, or other area as described under Section 1502.D.7.
 - c. Parking lots greater than twenty (20) spaces shall be divided so access lanes and parking spaces are clearly defined, and that moving traffic will be confined to designated access lanes.
 - d. Where practical, access to parking lots shall be provided by a common access driveway to an alley or street of lower functional classification in order to avoid direct access to a street of higher functional classification as described by the Borough Comprehensive Plan, unless clearly impractical.
 - e. For the purposes of servicing any property, a minimum of one (1) access driveway shall be permitted for each use.

- f. Access driveways shall be a minimum of thirty (30) feet from a street intersection, parallel street, or access driveway, and shall be measured between the closest edge of each facility.
 - g. In the case of a corner lot the location of any access driveway(s) shall be on the street of lowest functional classification as identified in the Modena Borough Comprehensive Plan, unless clearly impractical.
 - h. No access driveway to a parking lot shall be less than ten (10) feet or more than thirty-five (35) feet in width.
3. Lighting. Lighting of parking lots shall be in accordance with Section 1205. All access driveways, aisles, maneuvering spaces, and parking spaces shall be adequately illuminated.
4. In the case of an industrial, professional office park or similar groupings of buildings constructed as part of an integrated plan, all access driveways to a public street or highway shall be located not less than one hundred (100) feet from the intersection of any street lines. All access driveways shall be designed to conform to highway specifications and the subdivision requirements of the Borough.
5. Access to adjacent Parking Lots.
 - a. Adjacent parking lots are encouraged to provide connections when feasible to encourage movement of vehicles between parking areas and reduce traffic and conflicts on public roadways. Such connections shall be subject to approval by Borough Council.
 - b. If access to an adjacent parking lot is possible, and if acceptable agreements can be reached with adjacent property owners, required parking lots are encouraged not to create new access driveways to public streets, or may remove exiting access driveways so long as access to public streets may be provided through an adjacent parking lot when approved by Borough Council.
6. Construction of Off-Street Parking.
 - a. All parking spaces, aisles, access driveways, and lots shall be constructed of an all-weather surface approved by the Borough Engineer.
 - b. Parking spaces, aisles, access driveways, and lots in the R-OS District shall be constructed of a permeable surface, unless otherwise approved or required by the Borough Engineer.
 - c. Parking spaces, aisles, access driveways, and lots shall have a minimum slope of one (1) percent and a maximum slope of not greater than five (5) percent.
 - d. Aisles within parking lots separating rows of parking spaces, shall have a minimum width of fourteen (14) feet for one-way use and twenty-four (24) feet for two-way use and clearly defined by means of painted lines, curbing, or landscaping.
 - e. Access driveways and parking lots shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto a street in order to leave a property. Where no curb, buffer, or island is required, parking areas shall be clearly delineated from public streets through sufficient markings as approved by Borough Council.

- f. Parking lots shall be designed to permit each motor vehicle to proceed to and from each parking space provided without requiring the moving of any other motor vehicle.
 - g. Parking facilities shall be designed to prevent pooling or flooding of parking areas, with drainage designed in an acceptable manner to prevent problems off-site with flooding, water flow, or erosion, as approved by the Borough Engineer and in compliance with the Subdivision and Land Development Ordinance.
7. Buffering and Screening. The following buffering and screening regulations shall apply to parking facilities:
- a. Parking facilities with more than five (5) spaces shall provide:
 - 1) A buffer strip at least five (5) feet in width shall be provided and maintained along the entire perimeter of the parking lot that abuts an adjacent use, except for access driveways to streets.
 - 2) Surface treatment of perimeter buffer strips shall be grass, ground cover, low maintenance shrubs, and trees in accordance with Section 1207.
 - 3) All perimeter buffer strips shall be protected by curbs or bumpers.
 - 4) All buffering and screening requirements for off-street parking shall conform to the general requirements in Section 1207.
 - b. The following additional standards shall apply to parking facilities of twenty (20) or more parking spaces:
 - 1) An area not less than ten (10) percent of the paved area of a proposed parking lot shall be landscaped and continually maintained. Planting along the perimeter of a parking lot, whether for required screening or general beautification, may be considered as part of the required parking facility landscaping.
 - 2) A buffer strip shall be provided and maintained along the perimeter of all sides of parking lots, except for access driveways to streets. Such buffer strips shall be a minimum of five (5) feet wide at all points and shall be defined by permanent raised curbs or bumpers.
 - 3) There shall be no more than ten (10) consecutive parking spaces without a raised planting island at the end of the row of ten (10) spaces. Raised planting islands shall be a minimum of five (5) feet in width and shall be the length of the adjacent parking spaces.
 - 4) Parking lots shall be divided and defined by access lanes which are clearly defined by permanent raised planning islands, so that moving traffic is confined to designated access lanes.
 - 5) At least seventy-five (75) percent of each island and perimeter buffer strip shall be planted and maintained with grass or ground cover, and shall include shrubs, trees or other Borough approved plant materials in accordance with Section 1207 and in accordance with the Plant list in Appendix A.
 - 6) At least one (1) shade tree shall be planted per island, with such trees from the Plant List in Appendix A.
 - c. Parking facilities which abut a residential district or residential use shall be provided with a planting screen consisting of fencing, earthen berms, trees, shrubs, or other plant materials the full length of the facility, in conformance with Section 1207.
8. Pedestrian Circulation.

When off-street parking facilities are constructed or modified, existing sidewalks or pathways or the installation of sidewalks or other pedestrian facilities as necessary or desirable shall be constructed to achieve the following:

- a. To logically continue, link, or expand existing pedestrian facilities on, across, and abutting the site.
 - b. Provide convenient and logical connections between the entrance of a principal building and its required parking spaces, in conjunction with required landscaped islands or buffers. Sidewalks shall be a minimum of four (4) feet wide and shall be delineated by painted markings, curbs, wheelstops, or combination thereof as approved by Borough Council and according to the Borough Subdivision and Land Development Ordinance.
9. Handicapped Parking.

Handicapped parking shall be in accordance with the provisions of the Americans with Disabilities Act of 1990, as amended.

SECTION 1503 OFF-STREET LOADING REGULATIONS

Any commercial, industrial, or institutional use, building, or structure that require the receipt or distribution of materials, supplies, merchandise, or other goods by trucks or similar vehicles, shall provide a sufficient number of off-street loading and unloading berths for the intended use in accordance with the following regulations.

A. General Regulations.

1. No storage of any kind, nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading berth.
2. No required off-street parking facility shall be used to satisfy the off-street loading requirements in this Section, except as provided for in Section 1503.F, below.

B. Location.

1. All loading berths shall be located on the same lot as the use served, and no portion of a vehicle parked at a berth shall project into any traffic lane; parking space; access to parking spaces; access driveways; pathways, sidewalks; or within the front, side or rear yard setbacks, except as provided in Section 1503.F, below. Loading and unloading operations, including arrival and departure, shall not interfere with traffic and pedestrian circulation on public streets or within required off-street parking facilities.
2. Loading and unloading facilities shall not be located between the front building line and the street line, except as provided for in Section 1503.F, below, and loading facilities shall be screened in accordance with Section 1207.
3. All off-street loading berths shall be provided with safe and convenient access to a street or alley or from an aisle or access driveway connecting with a street or alley. The ingress and egress of loading operations shall not require backing into a public street and shall minimize interference with regular traffic movements.

C. Size.

1. For structures and uses that are served only by smaller vehicles such as vans, the minimum size for each berth shall be ten (10) feet in width and twenty (20) feet in length, with a minimum vertical clearance of twelve (12) feet, by approval of Borough Council.

2. For structures and uses that are served by larger vehicles than specified in Section 1505.C.1, above, such as tractor-trailers, the minimum size for each berth shall be fourteen (14) feet in width and fifty (50) feet in length, with a minimum vertical clearance of sixteen (16) feet.

D. Construction and Maintenance.

1. All open off-street loading berths shall be constructed of an all weather surface as approved by the Borough Engineer.
2. All aisles or access driveways connecting off-street loading berths to a street or alley shall be constructed of an approved all-weather surfaces to provide safe and convenient access during all seasons as approved by the Borough Engineer.
3. All off-street loading berths shall be constructed and maintained for as long as the use for which they are designed to serve remains in existence.

E. Screening.

1. All loading berths and circulation areas which abut a residentially zoned district or residential use shall be buffered in accordance with Section 1207.
2. Any loading berth that abuts a public street shall be buffered in accordance with Section 1207.

F. Off-Street Loading Alternatives.

1. Use of public alleys and streets. The Borough Council may approve the use of public alleys and streets for loading and unloading provided the following conditions are met:
 - a. The applicant demonstrates that loading and unloading may be conducted without blocking or interfering with vehicular and pedestrian traffic.
 - b. Loading and unloading shall not generally interfere with the use of the parking space or lot to fulfill the parking requirements of this Article.
 - c. Loading and unloading is limited to off-peak hours but no earlier than 7 am.
2. Common loading and unloading facilities. Required off-street loading spaces may be provided cooperatively for two (2) or more uses provided the following conditions are met and approved by the Borough Council:
 - a. The uses being served are on the same lot.
 - b. Loading and unloading will be conducted in an existing structure or between existing structures which are adjacent to the property.
3. Loading in a required off-street parking space or lot.
 - a. The parking space or lot being used is associated with the use being served.
 - b. Loading and unloading will not generally interfere with the use of the parking space or lot to fulfill the parking requirements of this Article.
 - c. The use of a required off-street parking or lot shall be approved by Borough Council and a record kept on file in Borough Hall.

G. Number of Berths. Off-street loading and unloading requirements:

1. Every commercial, industrial, or institutional use shall have at least one (1) off-street loading space unless as provided in Section 1503.F, above. Where there is an aggregate gross floor area of twenty thousand (20,000) square feet or more for each use, one (1) additional off-

street loading space shall be provided for each additional twenty thousand (20,000) square feet of gross floor area or part thereof.

2. Where a structure or use includes more than one (1) type of use, the number of berths required shall be the sum of the requirements for each separate use, unless approved under Section 1503.F.

ARTICLE 16

NONCONFORMANCE

SECTION 1601 APPLICABILITY

The regulations of this Article shall apply to nonconforming uses, nonconforming structures, nonconforming lots, and nonconforming signs, as defined in Article 2. Nonconforming uses, structures, lots, and signs will be generally permitted to remain in place. The purpose of their regulation is to control any further investment in uses, structures, lots, or signs which are not in conformance with the applicable regulations of the zoning district in which they are located.

SECTION 1602 CONTINUATION

- A. Any structure, lot, or sign, or any use of a structure or lot legally existing prior to the effective date of this Ordinance, or authorized by a building permit issued prior thereto, which does not conform with the applicable use provisions of this Ordinance, shall be considered a lawful nonconformity and may be continued in the form evident at the effective date of this Ordinance, although such nonconformity does not conform to the provisions of this Ordinance except as specified herein.
- B. A nonconforming use, structure, lot, or sign may be transferred, and the new owner may continue the nonconforming use, structure, lot, or sign, subject to the provisions of this Ordinance.

SECTION 1603 NONCONFORMING USE

- A. Expansion.
 - 1. A nonconforming use within a structure may be expanded within the structure provided no expansion of a structure is made, unless as provided under Section 1603.A.2, below.
 - 2. An expansion of a nonconforming use may occur in conjunction with expansion of a structure or may occur on a lot where authorized as a conditional use by the Borough Council, provided that:
 - a. The area devoted to the nonconforming use shall not be expanded by more than a total of twenty-five (25) percent of the area of the portion of the structure or lot occupied by the nonconforming use and shall not be expanded more than one (1) time during its existence. Such use shall be limited to the structure or lot on which it was located at the effective date of this Ordinance.
 - b. It is clear that such expansion of the nonconforming use is not materially detrimental to the character of the surrounding neighborhood and abutting properties.
 - c. Any expansion of a nonconforming use shall conform to all applicable regulations in the zoning district in which it is located.
- B. Change of Use.
 - 1. A nonconforming use may be changed to another nonconforming use when approved as a conditional use by the Borough Council, provided the proposed new use shall be similar in use to the existing nonconforming use, or less of an impact to its surrounding neighborhood. In evaluating relative impact, the Borough Council shall take into consideration, among other things: potential traffic generation; nuisance characteristics, such as emission of noise, dust, odor, glare, and smoke; fire hazards; and hours and manner of operation.

2. Whenever a nonconforming use of a building or land has been changed to a use of a less restricted classification, or to a conforming use, such use shall not thereafter be changed to a use of more restricted classification.

C. Reconstruction.

A structure containing a nonconforming use involuntarily damaged or destroyed or substantially damaged by fire or other cause, or legally condemned, may be reconstructed and used for the same nonconforming use, when approved by conditional use and in accordance with Section 1604.B.1 and 2, below.

D. Discontinuance or Abandonment.

If a nonconforming use of a structure or lot is discontinued or abandoned for a continuous period of one (1) year, subsequent use of such structure or land shall conform with the regulations of the district in which it is located. However, the same nonconforming use shall be permitted, provided the request for the nonconforming use is filed within the one (1) year period and thereafter approved as a conditional use and the permit application for such approved nonconforming use is filed within thirty (30) days after the decision of the Borough Council.

SECTION 1604 NONCONFORMING STRUCTURE

A. Alteration or Expansion.

1. Nonconforming structures may be altered or expanded provided that such alteration or expansion shall not increase any existing structure nonconformity, shall adhere to Section 1604.A.2 below, and shall conform with all area and bulk regulations for the zoning district in which it is located as well as building code regulations, except insofar as is permitted by law to assure the structural safety of the structure.
2. The Borough Council may authorize the alteration or expansion of a nonconforming structure to increase the floor area of the structure by not more than twenty-five (25) percent through conditional use approval, provided that:
 - a. It is clear that such alteration or expansion is not materially detrimental to the character of the surrounding neighborhood and abutting properties.
 - b. An expansion of the nonconforming structure shall be permitted only one (1) time during its existence.

B. Reconstruction.

A nonconforming structure which has been involuntarily damaged or destroyed or substantially damaged by fire, or other cause, or legally condemned, may be reconstructed in the same location provided that:

1. The Borough Council shall authorize the reconstruction through conditional use approval. The applicant shall prove that the nonconforming reconstructed structure will have no substantial adverse impact on adjacent property, nor be otherwise detrimental to the public, health, safety, or welfare
2. The reconstructed structure shall not exceed in height, area, or bulk the structure destroyed, damaged, or condemned, except in accordance with Section 1604.A, and shall be subject to applicable regulations of the zoning district in which it is located.

3. Reconstruction shall begin within one (1) year from the date the structure was damaged or destroyed and shall be completed without interruption.

SECTION 1605 NONCONFORMING LOT

- A. A building may be erected or altered on any lot held at the effective date of this Ordinance in single and separate ownership which is not of the required minimum area, or width, or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such a lot is situated, provided a conditional use is authorized by the Borough Council, and provided further that the applicant does not own or control other adjoining property sufficient to enable him to comply with the provisions of this Ordinance and amendments.
- B. In considering a conditional use to permit erection or alteration of a building on a lot nonconforming as to area and width regulations, the Borough Council shall impose the following additional requirements:
 1. That the use of the nonconforming lot shall be required to conform to the permitted uses within the district in which the nonconforming lot lies.
 2. That the building height shall be restricted to that specified for other buildings within the district in which the nonconforming lot lies.
 3. An owner of two (2) or more contiguous lots which, if combined, would create a lot of conforming size, shall be required to combine such lots prior to the issuance of a building permit.
 4. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than prescribed in the zoning district in which it is located.

SECTION 1606 NONCONFORMING SIGN

- A. Any nonconforming sign may be used in its existing location provided it is maintained in good condition and repair at all times.
- B. Nonconforming signs may be repainted or, after issue of a permit, repaired or modernized provided that such repaired or modernized sign does not exceed or increase the dimensions of the existing sign.
- C. The message of a nonconforming sign may be changed, as long as it does not create any new nonconformities.
- D. A nonconforming sign may be moved, provided that moving such sign would eliminate the nonconformity.
- E. Nonconforming signs once removed shall be replaced only with conforming signs.
- F. Whenever any nonconforming use of a structure or lot ceases as prescribed in Section 1603.D, all signs accessory to such use shall be removed within thirty (30) days from the date such use terminates.

SECTION 1607 REGISTRATION OF NONCONFORMITIES

The Zoning Officer shall prepare, after the adoption of this Ordinance, a complete list of all nonconforming uses, structures, lots, and signs then in existence and shall maintain same in the Borough records.

ARTICLE 17

ADMINISTRATION, ENFORCEMENT, and CONDITIONAL USE

SECTION 1701 PURPOSE AND APPLICABILITY

- A. The purpose of this Article is to outline the procedures and regulations by which the Borough Zoning Ordinance shall be administered. Procedures for obtaining and regulating permits, enforcing this Ordinance, review of conditional uses, and the responsibilities of the Zoning Officer are included herein.

- B. Hereinafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used, or occupied, except in conformity with this Ordinance, as it may be from time to time amended.

SECTION 1702 ZONING OFFICER

- A. The provisions of this Ordinance shall be administered by the person appointed by the Borough Council as the Zoning Officer for this purpose. The duties of the Zoning Officer shall include but not be limited to the following:
 - 1. To enforce all provisions of this Ordinance and all amendments thereto.

 - 2. The Zoning Officer shall not hold any elective office in the Borough.

 - 3. The Zoning Officer shall meet the qualifications established by the Borough of Modena and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.

 - 4. The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance.

 - 5. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

 - 6. To issue permits only when there is compliance with this Ordinance

 - 7. Review applications for special exceptions and forward these applications to the Zoning Hearing Board for action thereon.

 - 8. Review applications for appeals from alleged error of the Zoning Officer and forward comments to the Zoning Hearing Board when requested.

 - 9. To issue permits for uses by special exception, variances and conditional uses only upon written order and only after such uses or buildings and structures permitted in conjunction therewith are reviewed, ordered and approved by the Zoning Hearing Board or the Borough Council, as applicable, in accordance with the regulations of this Ordinance or as directed by a competent court of jurisdiction, subject to such conditions or stipulations contained in any such order

 - 10. Upon the request of the Borough Council, Planning Commission, or Zoning Hearing Board, to present to such body facts, records, and any similar information on specific requests to assist such body in reaching its decision.

11. To conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance.
12. To report violations of the Ordinance to the Borough Council and to issue stop, cease and desist orders and to require, in writing, correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this Ordinance, when approved by Borough Council. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of violation of this Ordinance.
13. To keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each complaint. Record and file all applications for permits with accompanying plans and documents.
14. To maintain or cause to have maintained an Official Borough Zoning Map showing the current zoning classification of all land in the Borough.
15. To issue letters of interpretation for structures and uses potentially located within the Flood Hazard District, as determined by examination of the Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA).
16. To issue use and occupancy permits in accordance with the terms of this Article.
17. To review zoning applications, determine applicability of requests, forward them to appropriate bodies for review, and issue zoning permits in accordance with this Ordinance.

SECTION 1703 PERMITS REQUIRED

A. Zoning Permit.

1. A zoning permit shall be required prior to any of the following, to establish compliance with the regulations of this Ordinance:
 - a. The erection of or structural alteration to any building, structure, sign, or portion thereof.
 - b. The use or for changing the use of a building or land.
 - c. The change or extension of a nonconforming use.
 - d. The addition of an accessory use such as a home occupation to an existing residential principal use, or conducted as part of a new residential use.
 - e. The demolition of any building.
2. A zoning permit shall not be required for alterations (repair or maintenance) to the interior of any existing building, provided that none of the criteria in Section 1703.A.1, above, applies.

B. Building Permit.

1. A building permit shall be required prior to the erection, alteration, expansion, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, expansion, or demolition of any building or structure or portion thereof until a permit has been duly issued therefore.

2. All applications for building permits shall be made in writing on a form furnished by the Borough and shall be accompanied by proof of an approved zoning permit in accordance with Section 1703.A.1 as applicable, appropriate fees, and the requisite information, before the permit shall be accepted for review by the Borough.
 3. It is a requirement that applicants issued a building permit shall comply with the requirements of the Borough Building Code, which is the Pennsylvania Uniform Construction Code (PA UCC).
- C. Sign Permit. A sign permit shall be required prior to the erection, alteration, or enlargement of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, or enlargement of any sign, sign structure, or any portion thereof until a permit, if required, has been duly issued, provided that all requirements of Article 14 are met.
- D. Use and Occupancy Permit. It shall be unlawful for any person to use or to occupy any building or other structure or land until a certificate of occupancy has been duly issued. Use and Occupancy Permits shall be in accordance with the requirements of the PA UCC and shall be required prior to any of the following:
1. Use or occupancy of any building or other structure hereinafter erected, altered or enlarged for which a building permit is required.
 2. Change in use or extension of a nonconforming use.
 3. Use of land or change in the use thereof, except that the use of land for woodland, game preserve, conservation use or agricultural or nursery purposes shall not require a use of occupancy permit.
 4. Change in use of any building or structure.

SECTION 1704 APPLICATION FOR PERMITS

All applications for permits shall be made to the Zoning Officer in writing on such forms as may be furnished by the Borough, including the fee as found on the Borough's Scheduled of Fees, and including any additional plans, documents, and information as may be required to enable the Zoning Officer to ascertain compliance with this Ordinance. No permit application shall be accepted prior to the receipt of the requisite fee paid by the applicant to the Borough. Applications found to be incomplete will not be accepted or processed and the applicant shall be informed of such insufficiency within ten (10) business days from the submission of a permit to the Borough.

- A. Zoning Permit. An application for a zoning permit shall be made in writing and shall be submitted by the landowner, or a designated representative proven to have authority to act for the landowner, to the Zoning Officer on a form furnished by the Borough. The application shall contain all information necessary for the Zoning Officer to ascertain whether the proposed use of land, buildings, or other improvements which are the subject of the application, comply with the provisions of this Ordinance.
- B. Building Permit. An application for building permit shall be accompanied by a plot plan drawn to scale showing size and location of all existing and proposed buildings and structures on the premises in question.
- C. Sign Permit. Applications for sign permits shall be in accordance with Section 1405.

- D. Use and Occupancy Permit. When use of premises involves a new building or structure, or alterations to an existing building or structure, application for use and occupancy permit shall be made prior to or concurrently with an application for building permit.

SECTION 1705 ISSUANCE OF PERMITS

With the exception of use and occupancy permits, as set forth below, it shall be the duty of the Zoning Officer to either issue or deny a permit within fifteen working (15) days of the filing of a completed application and payment of prescribed fees. The Zoning Officer shall issue a permit only upon the determination that the application is in compliance with the terms of this Ordinance, as well as any other governing ordinances, including but not limited to the Borough Building Code and the Subdivision and Land Development Ordinance.

A. Zoning Permit.

1. No application shall be granted or refused until the Zoning Officer has reviewed the application for disposition and inspected the premises.
2. A zoning permit shall be granted or refused, in writing, by the Zoning Officer within fifteen (15) working days following the date of the filing a complete application with the Zoning Officer and shall be valid for a period not to exceed one (1) year from the date of issuance. Public notice of an approved application for a zoning permit shall be conspicuously posted on the affected tract or parcel(s) of land within fifteen (15) work days from receipt of the application along with written notice to the applicant and all adjacent property owners.
3. Zoning permits shall expire if work or the change in use is not commenced within one (1) year from the date of the permit, and a new permit shall be required before such work or change of use commences, provided, however, that the Zoning Officer may extend the zoning permit for one (1) additional one (1) year period if the applicant is actively engaged in completing the erection or alteration at the time the application is made for an extension and the initial permit has not expired.

- B. Building Permit. A building permit, when issued, shall be accompanied by a placard to be displayed conspicuously upon the premises during the period of construction.

- C. Sign Permit. A sign permit need not be displayed on the premises.

D. Use and Occupancy Permit.

1. A use and occupancy permit not involving a new building or structure or alterations to an existing building or structure shall be either issued or denied by the Zoning Officer within fifteen (15) days, as set forth hereinabove.
2. A use and occupancy permit for which application has been made prior to or concurrently with an application for a building permit shall not be issued until completion of the construction work authorized by the building permit. Upon notification by the applicant that the construction work has been completed, the Zoning Officer shall either issue or deny the use and occupancy permit within fifteen (15) days, as set forth herein above.
3. Where a use and occupancy is denied in accordance with Section 1705.D.2, above, a list of deficiencies and/or corrections shall be presented to the applicant and reinspection shall be required along with any additional fees in order to receive a use and occupancy permit.
4. It shall be the duty of the applicant for a building permit to secure the issuance of the required use and occupancy permit, by giving notice of completion as aforesaid, notwithstanding the fact that he may be constructing the building structure, addition, or alteration for the use of

another, and further to notify such proposed occupant of the requirements of this Section prior to transfer of ownership or commencement of leasehold of the property.

SECTION 1706 REFUSAL OF PERMITS

If the Zoning Officer determines that an application is not in compliance with the provisions of this Ordinance, it shall be the Zoning Officers duty to refuse the permit, indicating the reasons for such refusal, in which case the Zoning Officer shall send written notice to the applicant within fifteen (15) days of when the Zoning Officer made the determination, instructing the applicant in the method of appeal or application to the Zoning Hearing Board or the Borough Council, whichever is applicable.

SECTION 1707 CAUSE 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, with the approval of the Borough, the Zoning Officer or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough. No such action may be maintained until such notice has been given.

SECTION 1708 NOTICE OF VIOLATION

- A. If it appears to the Borough that a violation of any provision of this Ordinance or any amendment thereto, any detailed statement or a plan approved under the provisions of this Ordinance or any amendment thereto, or any condition of a variance or special exception granted by the Zoning Hearing Board or of a conditional use granted by the Borough Council has occurred or is occurring, the Borough shall authorize the Zoning Officer to initiate enforcement proceedings by sending notice thereof, as provided in this Section 1708. By means of the enforcement notice (a "stop work order"), the Zoning Officer may order discontinuance of illegal use (a "stop work" order) of the land or structures, removal and illegal structures thereto, or discontinuance of any illegal work being done, other than the stabilization of site for erosion or safety reasons, until the matter is resolved.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive such a notice regarding that parcel, and to any other person requested, in writing, by the owner of record of the parcel.
- C. The enforcement notice shall state, at least, the following:
1. The name of the owner of record and any other person against whom the Borough intends to take action.
 2. The location of the property in violation.
 3. The specific violation with a description of the requirements that have not been met, citing in each instance the applicable provisions of the Ordinance.
 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with the procedures set forth in Article 18, Zoning Hearing Board.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

SECTION 1709 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 therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500), plus all court costs, including reasonable attorney's fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for such person, partnership, or corporation violating this Ordinance to have believed that there was no such violation, in which event, there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this zoning ordinance shall be paid over to the Borough.

SECTION 1710 CONDITIONAL USE

A. Intent and General Requirements.

1. This Section provides for certain uses to be permitted within the Borough as conditional uses. These uses may not be appropriate at every location within a zoning district, and accordingly, Borough Council has established standards and procedures by which to evaluate and decide upon conditional use applications. It is intended that these uses, which have the potential for substantial impact upon the community, shall comply with the regulations hereinafter set forth. Borough Council shall have the power to approve conditional uses.
2. The tract of land under application for conditional use approval shall be in one (1) ownership, or shall be the subject of an application filed jointly by the owners of the entire tract and shall be under unified control. If the ownership of the entire tract is held by more than one (1) person or entity, the application shall identify and be filed on behalf of all of the said owners. Approval of the conditional uses shall include a requirement, with the agreement of the applicant or applicants, that the tract shall be developed under single direction in accordance with the approval conditional use.

B. Conditional Use Application

1. Applications for Conditional Use.

Applications for conditional use shall be filed with the Borough on such forms prescribed for that purpose. No permit application shall be accepted prior to the receipt of the requisite fee paid by the applicant to the Borough.

2. Administrative Review Process.

- a. The Zoning Officer shall review the application to determine if it is complete, and act on such determination within five (5) days of receipt of the application. If the application is determined to be complete, the Zoning Officer shall submit the application to the Borough

Council and the Planning Commission. If the application is deficient in any required component, the Zoning Officer shall notify the applicant in writing of the deficiencies. If such identified deficiencies are not remedied by the applicant within thirty (30) days in the form of a resubmitted application rectifying said identified deficiencies, this shall constitute sufficient grounds for denial by the Borough Council of the application, at the subsequent public hearing, should the Council to deem such deficiencies to be substantially at variance with the requirements of this or other applicable Borough ordinances.

- b. If a plan or application is resubmitted after a prior submission due to substantial changes or denial in accordance with Section 1710.B.2.a, above, then the resubmission shall be considered as a new submission in accordance with Section 1710.B.2.a, above, and the timing requirements of this Article.

C. Procedures for Conditional Uses

1. The Planning Commission shall be given the opportunity to review a complete conditional use application within forty-five (45) days of the date of submittal and may provide a report to the Borough Council concerning the grant of approval or disapproval of the proposed use. The Planning Commission should submit a recommendation to the Borough Council prior to the date of public hearing held by the Borough Council. Failure of the Planning Commission to provide comment to Borough Council shall not affect the required procedure of the Borough Council in accordance with this Section, and disapproval of the application by the Planning Commission shall not constitute an official action by the Borough on the application, which shall be determined by Borough Council.
2. Upon receipt of a complete conditional use application, the Borough Council shall schedule a public hearing on the application. The hearing shall be conducted by the Borough Council or the Council may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Borough Council. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Borough Council and accept the decision or findings of the hearing officer as final.
3. The first hearing before the Borough Council shall be commenced within sixty (60) days from the date of determination that the application is complete, unless the applicant has agreed in writing to an extension of time. The Borough Council shall take into consideration the recommendations of the Planning Commission, and hold such hearing in accordance with the following procedures:
 - a. Notification of the public hearing shall be published in a newspaper(s) of general circulation in the Borough indicating the time, place, and nature of the public hearing. Such notice shall be published once a week for two (2) successive weeks prior to the date fixed for the hearing. The first (1) publication shall not be more than thirty (30) days and the second (2) publication shall not be less than seven (7) days from the date of the hearing, in accordance with requirements of the Municipalities Planning Code. Public notice of said public hearing shall be conspicuously posted on the affected tract or parcel(s) of land at least two (2) weeks prior to the meeting, in conjunction with written notice to all adjacent property owners. Proof of proper notification shall be required as a precondition before any formal action on the application.
 - b. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Borough Council and any other persons, including civic or community organizations, permitted to appear by the Borough Council or Hearing Officer. The Borough Council, or Hearing Officer as the case may be,

shall have the power to require that all persons who wish to be considered parties must enter appearances in writing on forms provided by the Borough for that purpose.

- c. The President or acting President of Borough Council, or Hearing Officer, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents required by the parties.
- d. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- e. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the Borough Council.
- f. The Borough Council or 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 Borough. The cost of the original transcript shall be paid in full by the Borough if the transcript is ordered by the Borough, or shall be paid in full by the person appealing from the decision of the Borough if such appeal is made. The cost of additional copies shall be paid by the person requesting such copy or copies.
- g. The Borough Council or Hearing Officer shall not communicate, directly or indirectly, with any party or his or her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from the Borough Solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his or her representative unless all parties are given an opportunity to be present.
- h. Each subsequent hearing before the Borough Council or Hearing Officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to in writing by the applicant, or is otherwise on the record of the proceedings.
- i. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon request of the applicant, the Borough Council or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearing 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.
- j. 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 additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Borough Council, be granted additional hearings to completed their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- k. Borough Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Borough Council. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision. The date for the Borough Councils' decision may be extended by the applicant either on the record or in writing addressed to the Borough Council. Where the application is

- D. Review Standards for Conditional Use Approval. In granting or denying an application for conditional use, the Borough Council shall evaluate and decide requests based on the degree of compliance with the following conditions, in addition to such other requirements and standards as may be required by law and other provisions of this Ordinance. The applicant shall be responsible for demonstrating compliance with standards and criteria required for conditional use approval. In addition, the Borough Council may impose such conditions of approval, in addition to those required, as may be necessary to ensure compliance with any or all of the following standards as well as compliance with any other relevant ordinances, regulations and codes. The applicant shall be responsible for demonstrating compliance with the additional standards and criteria required for conditional use approval.
1. The proposed use is consistent with the purposes of this Ordinance, the purposes of the zoning district in which it is located, the policies of the *Modena Borough Comprehensive Plan* (2004), and shall meet all of the specific standards and regulations for eligibility which appear in the section of this Ordinance authorizing the proposed conditional use, as well as the requirements of the Borough Subdivision and Land Development Ordinance and any other applicable ordinance, code and/or regulations.
 2. The size, scope, extent and character of the conditional use requested is consistent with the *Modena Borough Comprehensive Plan* (2004) and promotes the harmonious and orderly development or redevelopment of the zoning district involved.
 3. The proposed use constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property and of the character of the neighborhood.
 4. The proposed use will provide safe and adequate access to streets, existing and proposed, and will not result in excessive traffic volumes or will make any improvements needed to guarantee compatibility with adjacent streets and public services.
 5. The interior traffic circulation for the proposed use and access to rights-of-way shall provide safe and convenient circulation and access for all users including vehicular and pedestrian modes. Emergency design considerations will be addressed in the proposed plan.
 6. Major street frontage will be developed so as to limit the total number of access points and encourage the frontage of building on roads perpendicular to the major street or highway or encourage parking behind buildings while orienting setbacks closer to the street..
 7. The proposed use reflects an environmentally sensitive approach to land planning and design, will be sited in a manner sensitive to existing site conditions including streams, vegetation, and other natural resources, and is consistent the standards in Article 11, Natural Resource Protection.
 8. The proposed use is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, recreational opportunities, open space, and public schools.
 9. Sanitation and public safety provisions shall be adequate and a certificate of adequacy of sewage and water facilities from a governmental health agency shall be provided where required or deemed necessary.
 10. Conditions may be imposed on the grant of the request necessary to insure that the general purpose and intent of this Ordinance is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers

of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

11. If the development is to be carried out in successive stages, each stage shall be so planned that the condition and intent of this Ordinance shall be fully complied with at the completion stage.
12. If containing more than one (1) building, the development should consist of a harmonious grouping of buildings or other structures.
13. Proposed new construction and proposed change in use of existing buildings should be compatible with and in keeping with the existing character of the neighborhood.
14. The proposed use should be developed using effective stormwater management techniques and soil erosion and sedimentation control techniques.
15. The proposed use will protect and promote the safety, health, morals and general welfare of the Borough.
16. Review of the proposed use shall take into consideration the applicable requirements of Article 13, Supplemental Use Regulations in determining the consistency of the proposed use within the intent of this Ordinance.

SECTION 1711 MUNICIPAL LIABILITY

The granting of any permit under this Ordinance shall create no liability upon, nor a cause of action against, any Borough official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.

SECTION 1712 SCHEDULE OF FEES

The Borough Council shall establish by resolution a schedule of fees, charges, and expenses for zoning permits, appeals to the Zoning Hearing Board, curative amendment hearings, and other matters pertaining to the administration of this Ordinance, which may be amended from time to time by resolution of Borough Council. Said schedule of fees shall be available from the Borough Secretary and Zoning Officer, and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.

SECTION 1713 COMPLAINT OF VIOLATION

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. The Zoning Officer shall record properly such complaint, investigate and take action thereon as directed by the Council and as permitted by this Ordinance.

ARTICLE 18

ZONING HEARING BOARD

SECTION 1801 PURPOSE AND JURISDICTION

- A. The purpose of this Article is to establish regulations to govern the establishment, functions, and procedures of the Zoning Hearing Board, hereinafter called "Board" in this Article.

- B. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters based on Act 247, the PA Municipalities Planning Code (MPC), as amended.
 - 1. Substantive challenges to the validity of this Ordinance or Zoning Map, except those brought before the Borough Council pursuant to Sections 609.1 and 916.1(a)(2) of the Municipalities Planning Code.
 - 2. Challenges to the validity of this Ordinance or Zoning Map raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance.
 - 3. Appeals from the determination of the Zoning Officer, including, but not limited to the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order, or registration or refusal to register any nonconforming use, structure or lot.
 - 4. Appeals from a determination by the Borough Engineer or Zoning Officer with reference to the administration of any floodplain ordinance or standards within this Ordinance.
 - 5. Applications for variances from the terms of the Zoning Ordinance, pursuant to Section 910.2 of the Municipalities Planning Code.
 - 6. Applications for special exceptions under the Zoning Ordinance pursuant to Section 1809, or such provisions within a land use ordinance, pursuant to Section 912.1 of the Municipalities Planning Code.
 - 7. Appeals from the Borough Zoning Officer's determination under Section 916.2 of the Municipalities Planning Code.
 - 8. Appeals from the determination of the Borough Zoning Officer or Engineer in the administration of this Ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development, not involving applications under Article V or Article VII of the Municipalities Planning Code.

SECTION 1802 ESTABLISHMENT AND MEMBERSHIP

- A. There shall be a Zoning Hearing Board consisting of three (3) adult residents of the Borough who shall be appointed by resolution of the Borough Council.

- B. The term of office shall be three (3) years and shall be fixed so that the term of office of one (1) member shall expire each year.

- C. The Board shall promptly notify the Borough Council of any vacancy. Appointments to fill vacancies shall be only for the unexpired portion of the term.

- D. Members of the Board shall hold no other elected or appointed office in the Borough not shall any member be an employee of the Borough.
- E. The Borough Council shall appoint by resolution at least one (1), but no more than three (3) residents of the Borough to serve as alternate members of the Board. The term of office of the alternate member shall be three (3) years, and the alternate member shall hold no other office in the Borough. When seated pursuant to the provisions of Section 1803, 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 the proceedings, and shall have all the powers and duties set forth in this Ordinance, and as otherwise provided by law. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of said Board nor be compensated pursuant to Section 1805, unless designated as a voting alternate member pursuant to Section 1803.
- F. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of Borough Council, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing will be held in connection with the vote if the member shall request it in writing.

SECTION 1803 ORGANIZATION OF THE BOARD

- A. The Board shall elect, from its members, its officers, who shall serve annual terms as such and may succeed themselves.
- B. For the conduct of any public hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided in Section 1806.
- C. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members to sit on the Board as may be needed to provide a quorum. Any 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. Designation of an alternate pursuant to this Article shall be made on a case-by-case basis in rotation to declining seniority among all alternates.
- D. The Board may make, alter and rescind rules and forms for its procedure consistent with the provisions of this Ordinance and the laws of the Commonwealth.
- E. The Board shall keep full public record of its business, which records shall be property of the Borough, and shall submit a report of its activities to the Borough Council, as requested.

SECTION 1804 APPLICATIONS FOR HEARINGS

- A. Applications for hearings before the Board shall be filed with the Board, together with the proper fee in accordance with Section 1805.
- B. Requests for a variance, under Section 1808, or special exception, under Section 1809, shall be filed at Borough Hall by any landowner in writing on a form furnished by the Borough. The appropriate fee, as established by the fee schedule adopted by resolution by the Borough Council, shall be paid in advance for each appeal or application for a variance or special exception.

- C. In the event that any required information is not furnished, the application shall be refused and the fee returned to the applicant.

SECTION 1805 EXPENDITURES AND FEES

- A. Within the limits of funds appropriated by Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.
- B. Members of the Board, including the alternative member when designated in accordance with Section 1803, may receive compensation for the performance of their duties, as may be fixed by the Borough Council. In no case shall the amount of compensation exceed the rate authorized to be paid to the members of the Borough Council.
- C. The applicant before the Board shall deposit with the Borough Treasurer the appropriate filing fee as set forth in the fee schedule adopted by resolution of the Borough Council.
- D. The Borough Council may prescribe reasonable fees with respect to hearings, in accordance with Section 1806, before the Board. Fees for said hearings may include compensation for the secretary and members of the Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

SECTION 1806 HEARINGS

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements as specified in Section 908 of the Municipalities Planning Code.

- A. The Board shall fix a reasonable time and place for public hearings. Public notice of said hearing shall be provided, as set forth in Section 1807.
- B. The first hearing before the Board or Hearing Officer shall be commenced within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or Hearing Officer shall be held within 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 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 applicants case-in-chief. An applicant may, upon request, be granted additional hearings to complete his/her case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and 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.
- C. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as the Hearing Officer. The decision, or where no decision is called for, the findings, shall be made by the Board. However, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or

community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

- E. The Chair, Acting Chair of the Board, or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence, to argument and to cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. 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 in full by the Board if the transcript is ordered by the Board or Hearing Officer, or shall be paid in full by the person appealing from the decision of the Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other case, the party requesting the original transcript shall bear the cost thereof.
- I. The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative after the commencement of the hearing unless all parties are given an opportunity to be present.
- J. The Board or the Hearing Officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of this Ordinance or of any act, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a Hearing Officer and there has been no stipulation that his/her decision or findings are final, the Board shall make his/her report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the decision of the Board shall be entered no later than thirty (30) days after the report of the Hearing Officer. Except for challenges filed under Section 916.1 of the Municipalities Planning Code, where the Board fails to render the decision within the forty-five (45) day period required by this Section, or fails to commence, conduct or complete the required hearing as provided in Section 1806.B., above, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed or shall agree in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day the Board could have met to render a decision, as provided in the Municipalities Planning Code. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this Subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

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

SECTION 1807 NOTICE OF HEARINGS

The Zoning Hearing Board shall give public notice of any public hearing as follows, in accordance with the Municipalities Planning Code:

- A. The public notice herein required shall state the name of the applicant, tax parcel number, the location of the lot or building, the general nature of the question involved, and the date, time and location of the hearing. In addition thereto, the public notice may note that a copy of the landowner's application, including plans and proposed amendments may be examined by the public at the Borough during regular business hours.
- B. Public notice shall be published in a newspaper of general circulation within the Borough indicating the information in Section 1807.A, above. Such public notice shall be published once a week for two (2) successive weeks, not less than seven (7) days, nor more than thirty (30) days prior to the hearing.
- C. Written notice shall be given to the applicant, Borough Council, Zoning Officer, Secretary, and Planning Commission, and to any person who has made a timely request for the same, or who have registered their names and addresses for this purpose with the Board.
- D. Written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
- E. The applicant shall provide written notice thereof to the owner, if the address is known, or at the Board's discretion, to the occupant, if the address is known, of every lot on the same street within two hundred-fifty (250) feet of the lot in question measured from the lot line, and of every lot not on the same street within one hundred-fifty (150) feet of said lot, measured from the lot line. Such notice shall be the responsibility of the applicant and sufficient proof of such notice shall be required to be given to the Board at the hearing. If sufficient proof is not given to the satisfaction of the Board at the hearing, the Board shall deny the application or the hearing may be continued at the discretion of the Board upon request of the applicant at the hearing.

SECTION 1808 VARIANCES

- A. The Board shall hear and decide requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant. An applicant shall file an application as specified under Section 1804. The Board may grant a variance, provided the following findings are made, where relevant, in a given case:
1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the 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 applicant.
 4. That the variance, if authorized, will neither alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. 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.

SECTION 1809 SPECIAL EXCEPTIONS

- A. The Board shall hear and decide requests for special exceptions. An applicant shall file an application as specified under Section 1804. The Board shall determine that the following standards and criteria are met, where relevant in a given case, before granting a special exception:
1. The size, scope, extent and character of the special exception requested is consistent with the Modena Borough Comprehensive Plan and promotes the harmonious and orderly development of the zoning district involved.
 2. The proposed change or modification constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which applicant seeks approval.
 3. The proposed use is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.
 4. Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major street or highway.
 5. The proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and assures adequate arrangements for sanitation in specific instances.
 6. All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of Article 15 Off-Street Parking and Loading, and Article 12, General Regulations.
 7. Conditions are being imposed on the grant of the request necessary to insure that the general purpose and intent of this Zoning Ordinance is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its

maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

8. The proposed change protects and promotes the safety, health, morals and general welfare of the Borough.
- B. In granting any special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed, as it may deem necessary to implement the purposes of this Ordinance.

SECTION 1810 EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES

Unless otherwise specified by the Zoning Hearing Board, a special exception or variance which has been authorized by the Zoning Hearing Board shall expire if the applicant fails to obtain a zoning permit within one (1) year from the date of authorization thereof.

SECTION 1811 TIME LIMITATIONS

- A. No person shall be allowed to file any proceedings with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Borough Council if such proceeding is designed to secure reversal or to limit approval in any manner unless such person alleges and proves that he/she had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his/her interest after such approval, he/she shall be bound by the knowledge of his/her predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant Section 709 of the Municipalities Planning Code, or from an adverse decision by the Borough Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Municipalities Planning Code, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.
- B. All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of determination is issued.

SECTION 1812 STAY OF PROCEEDINGS

Upon filing of any proceeding referred to in Section 1813 and during its pendency before the Board, all land development pursuant to any challenged zoning ordinance, order or approval of the Borough Zoning Officer or of any agency or body, and all official action there under shall be stayed unless the Borough 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 such 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 Borough Zoning Officer or other appropriate agency or body. Procedures shall be in accordance with Section 915.1 of the Municipalities Planning Code.

SECTION 1813 APPEALS TO THE ZONING HEARING BOARD

- A. The landowner affected or any person aggrieved by any decision of the Board or any officer of the Borough may file an appeal under Section 1801.B.1, 2, 3, 4, 7, 8 of this Article with the Board in writing specifying the grounds thereof within the time required by the Municipalities Planning Code, or as provided by the rules of the Board.

- B. Appeals regarding Section 1103 Flood Hazard.(In accordance with the Federal Emergency Management Agency (FEMA)) Where the following conflicts with other applicable requirements of this Article, the following shall apply:
1. Any person aggrieved by an action or decision of the Zoning Officer concerning the administration of the provisions of Section 1103, may appeal to the Board. Such appeal must be filed, in writing, within thirty (30) days after the decision of action of the Zoning Officer.
 2. Upon receipt of such appeal the Board shall set a time and place, within not less than ten (10) or more than thirty (30) days, for the purpose of consideration the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
 3. Any person aggrieved by any decision of the Board, may seek relief therefore by appeal to Court, as provided by the laws of the Commonwealth including the Pennsylvania Flood Plain Management Act.

SECTION 1814 APPEALS TO COURT

Any person aggrieved by any decision of the Board, or any taxpayer, or any officer of the Borough may, within thirty (30) days after entry of the decision of the Board as provided in 42 Pa.C.S. Section 5572, or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as set forth in Section 1806 appeal to the Court of Common Pleas of Chester County by petition, duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, specifying the grounds upon which such person relies.

ARTICLE 19
AMENDMENTS

SECTION 1901 POWER OF AMENDMENT

The Borough Council may from time to time amend, supplement, modify, or repeal any of the regulations or provisions of this Ordinance including the Zoning Map, in accordance with this Article and Act 247 the Municipalities Planning Code, as amended.

SECTION 1902 PUBLIC NOTICE AND PUBLIC HEARINGS PROCESS

- A. Before voting on the enactment of a zoning amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice and Section 610 of the Municipalities Planning Code.
 - 1. Where the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tracts to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
 - 2. In addition to the requirement that notice be posted under Section 1902.A.1, above, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the Borough at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area rezoned, as evidenced by tax records within the possession of the Borough. The notice shall include the location, date, and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this Subsection.
- B. Opportunity to be heard will be given to any citizen and parties in interest attending such public hearing.
- C. In the case of an amendment other than that prepared by the planning agency, under the Municipalities Planning Code, the Borough Council shall submit each such amendment to the Borough Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the planning agency, under the Municipalities Planning Code, an opportunity to submit recommendations.
- D. The Planning Commission shall consider whether or not the proposed change or amendment would be, in the view of the Commission, consistent with the purposes and objectives set forth in the Sections 102 and 103 of this Ordinance, and desirable in furtherance of the policies and recommendations of the Modena Borough Comprehensive Plan (2004). Borough Council shall take such recommendations into consideration in making its decisions but shall not be bound thereby.
- E. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- F. At least thirty (30) days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County Planning Commission for recommendations.
- G. Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the County Planning Commission.

SECTION 1903 CURATIVE AMENDMENT PROCEDURES

- A. Landowner Curative Amendments. 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/she has an interest, may submit a curative amendment to the Borough Council with a written request that his/her challenge and proposed amendment be heard and decided as provided in Section 916.1 of the Municipalities Planning Code. The procedure for Landowner Curative Amendments shall be in accordance with Section 609.1 of the Municipalities Planning Code.

- B. Borough Curative Amendments. If the Borough Council determines that this Zoning Ordinance or any portion thereof or amendment thereto is substantially invalid, it shall have the right to prepare a curative amendment in accordance with the procedures set forth in Section 609.2 of the Municipalities Planning Code.

APPENDIX A RECOMMENDED PLANT LISTS

DECIDUOUS/CANOPY TREES

Required canopy tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

BOTANICAL NAME	COMMON NAME
<i>Acer campestre</i>	Hedge Maple
<i>Acer ginnala</i>	Amur Maple
+ <i>Acer negundo</i>	Box Elder
+ <i>Acer rubrum</i>	Red Maple
+ <i>Acer saccharum</i>	Sugar Maple
+ <i>Betula lenta</i>	Black Birch
+ <i>Betula nigra</i>	River Birch
<i>Carpinus betulus</i>	European Hornbeam
+ <i>Carya ovata</i>	Shagbark Hickory
<i>Crataegus phaenopyrum treeform</i>	Washington Hawthorn
<i>Crataegus viridis 'Winter King'</i>	Winter King Hawthorn
+ <i>Fagus grandifolia</i>	American Beech
<i>Fagus sylvatica</i>	European Beech
+ <i>Fraxinus americana</i>	White Ash
+ <i>Fraxinus pennsylvanica</i>	Green Ash
<i>Ginkgo biloba</i>	Ginkgo (male only)
<i>Larix kaempferi</i>	Japanese Larch
+ <i>Liquidambar styraciflua</i>	Sweet Gum
+ <i>Liriodendron tulipifera</i>	Tulip Tree, Yellow Poplar
<i>Metasequoia glyptostroboides</i>	Dawn Redwood
+ <i>Nyssa Sylvatica</i>	Black Gum, Sourgum
+ <i>Ostrya virginiana</i>	American Hophornbeam
<i>Platanus acerifolia</i>	London Planetree
+ <i>Platanus occidentalis</i>	Americian Sycamore
+ <i>Quercus alba</i>	White Oak
<i>Quercus coccinea</i>	Scarlet Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
+ <i>Quercus rubra</i>	Red Oak
+ <i>Sassafras albidum</i>	Sassafras
<i>Sophora japonica</i>	Japanese Pagodatree
<i>Tilia americana 'Redmond'</i>	Redmond Linden
<i>Tilia cordata 'Chancellor'</i>	Chancellor Linden
<i>Zelkova serrata</i>	Japanese Zelkova

DECIDUOUS/FLOWERING TREES

Required flowering tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
+	<i>Amelanchier canadensis</i>	Shadblow Serviceberry
+	<i>Cercis canadensis</i>	Eastern Redbud
+	<i>Chioanthus virginicus</i>	Fringetree
+	<i>Cornus florida</i>	Flowering Dogwood
	<i>Cornus kousa</i>	Kousa Dogwood
	<i>Cornus mas</i>	Cornelian Cherry
	<i>Crataegus species</i>	Any Hawthorn species
+	<i>Halesia carolina</i>	Carolina Silverbell
	<i>Magnolia soulangeana</i>	Saucer Magnolia
+	<i>Magnolia virginiana</i>	Sweetbay Magnolia
	<i>Malus species</i>	Any Crabapple species
+	<i>Oxydendrum arboreum</i>	Sourwood, Sorrel Tree
	<i>Prunus cerasifera</i>	Purpleleaf Flowering Plum
	<i>Prunus kwanzan</i>	Kwanzan Cherry
	<i>Prunus sargentii</i>	Sargent Cherry
	<i>Prunus serrulata 'Kwanzan'</i>	Kwanzan Cherry
	<i>Prunus subhirtella var. pendula</i>	Weeping Higan Cherry
	<i>Stewartia koreana</i>	Korean Stewartia
+	<i>Viburnum prunifolium</i>	Blackhaw Viburnum

EVERGREEN TREES/SHRUBS

Required evergreen tree plantings shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
	<i>Abies concolor</i>	Concolor Fir
+	<i>Ilex opaca</i>	American Holly
+	<i>Juniperus virginiana</i>	Eastern Redcedar
+	<i>Kalmia latifolia</i>	Mountain Laurel
	<i>Picea abies</i>	Norway Spruce
	<i>Picea omorika</i>	Serbian Spruce
	<i>Pinus nigra</i>	Australian Pine
+	<i>Pinus strobus</i>	White Pine
	<i>Pseudotsuga menziesii</i>	Douglas Fir
	<i>Taxus baccata</i>	English Yew
	<i>Taxus cuspidata</i>	Japanese Yew
+	<i>Tsugas canadensis</i>	Eastern Hemlock

DECIDUOUS SHRUBS

Required shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
+	<i>Hamamelis vernalis</i>	Vernal Witch Hazel
+	<i>Hamamelis virginiana</i>	Common Witch Hazel
+	<i>Ilex glabra</i>	Inkberry
+	<i>Ilex verticillata</i>	Winterberry
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
	<i>Pyracantha coccinea 'lalandi'</i>	Laland Firethorn
	<i>Rhamnus frangula</i>	Glossy Buckthorn
	<i>Taxus cuspidata 'capitata'</i>	Upright Yew
	<i>Taxus x media 'hicksii'</i>	Hicks Yew
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum
	<i>Viburnum lantana</i>	Wayfaring Tree Viburnum
+	<i>Viburnum trilobum</i>	Highbush Cranberry

MEDIUM DECIDUOUS STREET/URBAN TREES

Required street trees shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged. Trees included on the following list tolerate urban conditions such as salt, drought, and soil compaction. The mature height is included for consideration in applications where overhead wiring or other facilities are located. Street trees shall be in accordance with applicable American National Standards Institute (ANSI) Standards.

	BOTANICAL NAME	COMMON NAME	SIZE
	<i>Acer campestre</i>	Hedge Maple	15-30'
	<i>Acer ginnala</i>	Amur Maple	15-30'
	<i>Acer palmatum</i>	Japanese Maple	10-20'
+	<i>Chioanthus virginicus</i>	Fringetree	20-35'
	<i>Cornus kousa</i>	Kousa Dogwood	20-35'
	<i>Crataegus crusgalli</i>	Cockspur Hawthorne	20-35'
	<i>Malus species</i>	Crabapple – Various	20-40'
+	<i>Ostrya virginiana</i>	American Hophornbeam	35-50'
	<i>Oxydendrum arboreaum</i>	Sourwood, Sorrel Tree	35-50'
	<i>Prunus species</i>	Cherry – Various	20-40'
	<i>Pyrus species</i>	Pear – Various	20-40'
+	<i>Sassafras albidum</i>	Common Sassafras	35-50'

LARGE DECIDUOUS STREET/URBAN TREES

Required street trees shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged. Trees included on the following list tolerate urban conditions such as salt, drought, and soil compaction. The mature height is included for consideration in applications where overhead wiring or other facilities are located. Street trees shall be in accordance with applicable American National Standards Institute (ANSI) Standards.

	BOTANICAL NAME	COMMON NAME	SIZE
+	<i>Acer rubrum</i>	Red Maple	75-100'
+	<i>Acer saccharum</i>	Sugar Maple	75-100'
+	<i>Fraxinus americana</i>	White Ash	75-100'
+	<i>Fraxinus pennsylvanica</i>	Green Ash	75-100'
+	<i>Juniperous virginiana</i>	Eastern Red Cedar	50-75'
+	<i>Liquidambar styraciflua</i>	American Sweetgum	75-100'
+	<i>Nyssa silvatica</i>	Blackgum	50-75'
	<i>Platanus acerifolia</i>	London Planetree	75-100'
+	<i>Platanus occidentalis</i>	Americian Sycamore	75-100'
	<i>Tilia americana</i>	American Linden	50-70'
	<i>Tilia cordata</i>	Littleleaf Linden	70-100'
	<i>Zelkova serrata</i>	Japanese Zelkova	40-65'

STREET/URBAN SHRUBS

Required urban shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is strongly encouraged. Shrubs included on the following list tolerate urban conditions such as salt, drought, and soil compaction.

	BOTANICAL NAME	COMMON NAME
+	<i>Ilex glabra</i>	Inkberry
+	<i>Juniperous communis</i>	Common Juniper
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum

RIPARIAN BUFFER DECIDUOUS TREES AND SHRUBS

Required tree and shrub plantings shall be selected from the following list or a species hardy to the area, attractive to wildlife species (mast production), and appropriate to the use. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
+	<i>Acer rubrum</i>	Red Maple
+	<i>Alnus rugosa</i>	Speckled Alder
+	<i>Amelanchier arborea</i>	Shadbush
+	<i>Amelanchier laevis</i>	Alleghany Serviceberry
+	<i>Betula lutea</i>	Yellow Birch
+	<i>Betula nigra</i>	Black Birch
+	<i>Carya cordiformis</i>	Bitternut Hickory
+	<i>Carya glabra</i>	Pignut Hickory
+	<i>Carya ovata</i>	Shagbark Hickory
+	<i>Cornus alternifolia</i>	Alternate-Leaved Dogwood
+	<i>Cornus amomum</i>	Silky Dogwood
+	<i>Cornus florida</i>	Florida Dogwood
+	<i>Cornus stolonifera</i>	Redosier Dogwood
+	<i>Fagus grandifolia</i>	American Beech
+	<i>Juglans nigra</i>	Black Walnut
	<i>Prunus avium</i>	Sweet Cherry
+	<i>Prunus pennsylvanica</i>	Pin Cherry
+	<i>Prunus serotina</i>	Black Cherry
+	<i>Prunus virginiana</i>	Choke Cherry
+	<i>Rhus glabra</i>	Smooth Sumac
+	<i>Rhus typhina</i>	Staghorn Sumac
+	<i>Quercus alba</i>	White Oak
+	<i>Quercus bicolor</i>	Swamp White Oak
+	<i>Quercus muehlenburgii</i>	Chinquapin Oak
+	<i>Quercus palustris</i>	Pin Oak
+	<i>Quercus prinus</i>	Chestnut Oak
+	<i>Quercus rubra</i>	Northern Red Oak
+	<i>Quercus velutina</i>	Black Oak

RIPARIAN BUFFER EVERGREEN TREES AND SHRUBS

Required evergreen tree and shrub plantings shall be selected from the following list or a species hardy to the area and appropriate to the use. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
+	<i>Tsuga Canadensis</i>	Eastern Hemlock
+	<i>Pinus strobus</i>	Eastern White Pine
	<i>Pinus rigida</i>	Pitch Pine
+	<i>Juniperous virginiana</i>	Eastern Red Cedar
	<i>Pinus sylvestris</i>	Scotch Pine

RIPARIAN BUFFER FORBS AND GRASSES (WARM SEASON)

Required plantings shall be selected from the following list or a species hardy to the area and appropriate to the use.

BOTANICAL NAME	COMMON NAME
<i>Aster novea angliae</i>	New England Aster
<i>Bernonia noveboracensis</i>	New York Ironweed
<i>Cassia fasciculata</i>	Partridge Pea
<i>Coreopsis lanceolata</i>	Lanceleaf Coreopsis
<i>Echinacea purpurea</i>	Purple Cone Flower
<i>Heliopsis helianthoides</i>	Ox-eye Sunflower
<i>Rudbeckia hirta</i>	Blackeyed Susan
<i>Verbena hastata</i>	Blue Vervain

BOTANICAL NAME	COMMON NAME
<i>Andropogon gerardii</i>	Big Bluestem
<i>Panicum virgatum</i>	Switchgrass
<i>Schizachyrium scoparius</i> or <i>Andropogon scoparius</i>	Little Bluestem
<i>Sorghastrum nutans</i>	Indiangrass
<i>Tripsacum dactyloides</i>	Eastern gamagrass

TREES FOR SCREENING BUFFERS

Required buffer plantings shall be selected from the following list or a species hardy to the area and appropriate to the use. Trees marked with a (+) before their botanical name are native species and the use of these trees is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
+	<i>Acer rubrum</i>	Red Maple
	<i>Carpinus species</i>	Ironwood
	<i>Cercis species</i>	Redbud
+	<i>Cornus species</i>	Dogwood
	<i>Cypress species</i>	False Cypress
+	<i>Fraxinus Americana</i>	White Ash
	<i>Gymnocladus Dioxia</i>	Kentucky Coffeetree
+	<i>Juniperous virginiana</i>	Eastern Red Cedar
+	<i>Juniperous species</i>	Junipers
+	<i>Liquidambar styraciflua</i>	American Sweetgum
+	<i>Pinus strobus</i>	Eastern White Pine
+	<i>Quercus rubra</i>	Red Oak
+	<i>Quercus alba</i>	White Oak

SHRUBS FOR SCREENING BUFFERS

Required buffer plantings shall be selected from the following list or a species hardy to the area and appropriate to the use. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is strongly encouraged.

	BOTANICAL NAME	COMMON NAME
	<i>Cornus racemosa</i>	Red-panicle Dogwood
+	<i>Ilex opaca</i>	American Holly
	<i>Ilex glabra</i>	Inkberry
+	<i>Kalmia latifolia</i>	Mountain Laurel
	<i>Lindera Benzoin</i>	Spicebush
	<i>Myrica pensylvanica</i>	Northern Bayberry
	<i>Rhododendron maximum</i>	Great Rhododendron
+	<i>Viburnum prunifolium</i>	Smooth Blackhaw
+	<i>Viburnum dentatum</i>	Southern Arrowwood

INVASIVE OR NOXIOUS SPECIES

Invasive or noxious plants grow or reproduce aggressively, which can so dominate an ecosystem that they kill off or drive out most other plant species. They can be native or exotic species. The use of those plants included in the following list of plants is prohibited in Modena Borough:

BOTANICAL NAME	COMMON NAME
<i>Acer platanoides</i>	Norway Maple
<i>Alliaria petiolata</i>	Garlic Mustard
<i>Berberis thunbergii</i>	Japanese Barberry
<i>Berberis vulgaris</i>	European Barberry
<i>Broussonetia papyrifera</i>	Paper Mulberry
<i>Ailanthus altissima</i>	Tree-of-Heaven
<i>Cannabis sativa</i>	Marijuana
<i>Carduus nutans</i>	Musk or Nodding Thistle
<i>Celastrus orbiculatus</i>	Oriental Bittersweet
<i>Cirsium arvense</i>	Canadian Thistle
<i>Cirsium vulgare</i>	Bull or Spear Thistle
<i>Clematis terniflora</i>	Leatherleaf Climatis
<i>Coronilla varia</i>	Crown Vetch
<i>Daturum stramonium</i>	Jimsonweed
<i>Eleagnus umbrella</i>	Autumn Olive
<i>Festuca elatior</i>	Tall Fescue
<i>Ligustrum obtusifolium</i>	Border Privet
<i>Ligustrum vulgare</i>	Common Privet
<i>Lonicera japonica</i>	Japanese Honeysuckle
<i>Lonicera morrowii</i>	Morrow's Honeysuckle
<i>Lonicera tatarica</i>	Tartarian Honeysuckle
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Melilotus affinalis</i>	Sweet Clover
<i>Microstegium vimineum</i>	Japanese Stilt Grass
<i>Morus alba</i>	White Mulberry
<i>Paulownia tomentosa</i>	Empress Tree

INVASIVE OR NOXIOUS SPECIES (continued)



BOTANICAL NAME	COMMON NAME
<i>Phalaris arundinacea</i>	Reed Canary Grass

<i>Polygonum perfoliatum</i>	Mile-A-Minute Weed
<i>Populus alba</i>	White Poplar
<i>Pueraria lobata</i>	Kudzu-vine
<i>Rhamnus cathartica</i>	Common Buckthorn
<i>Rosa multiflora</i>	Multiflora Rose
<i>Rubus phoenicolasius</i>	Wineberry
<i>Sorghum bicolor</i>	Shattercane
<i>Sorghum halapense</i>	Johnson Grass
<i>Spiraea japonica</i>	Japanese Spiraea
<i>Viburnum dilatatum</i>	Linden Viburnum
<i>Viburnum opulus</i>	Guelder Rose











Sources: Noxious Weed Control Act – 1982-74. Commonwealth of Pennsylvania, Department of Agriculture, Bureau of Plant Industry. Brandywine Conservancy. Chester County Planning Commission.

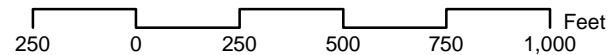
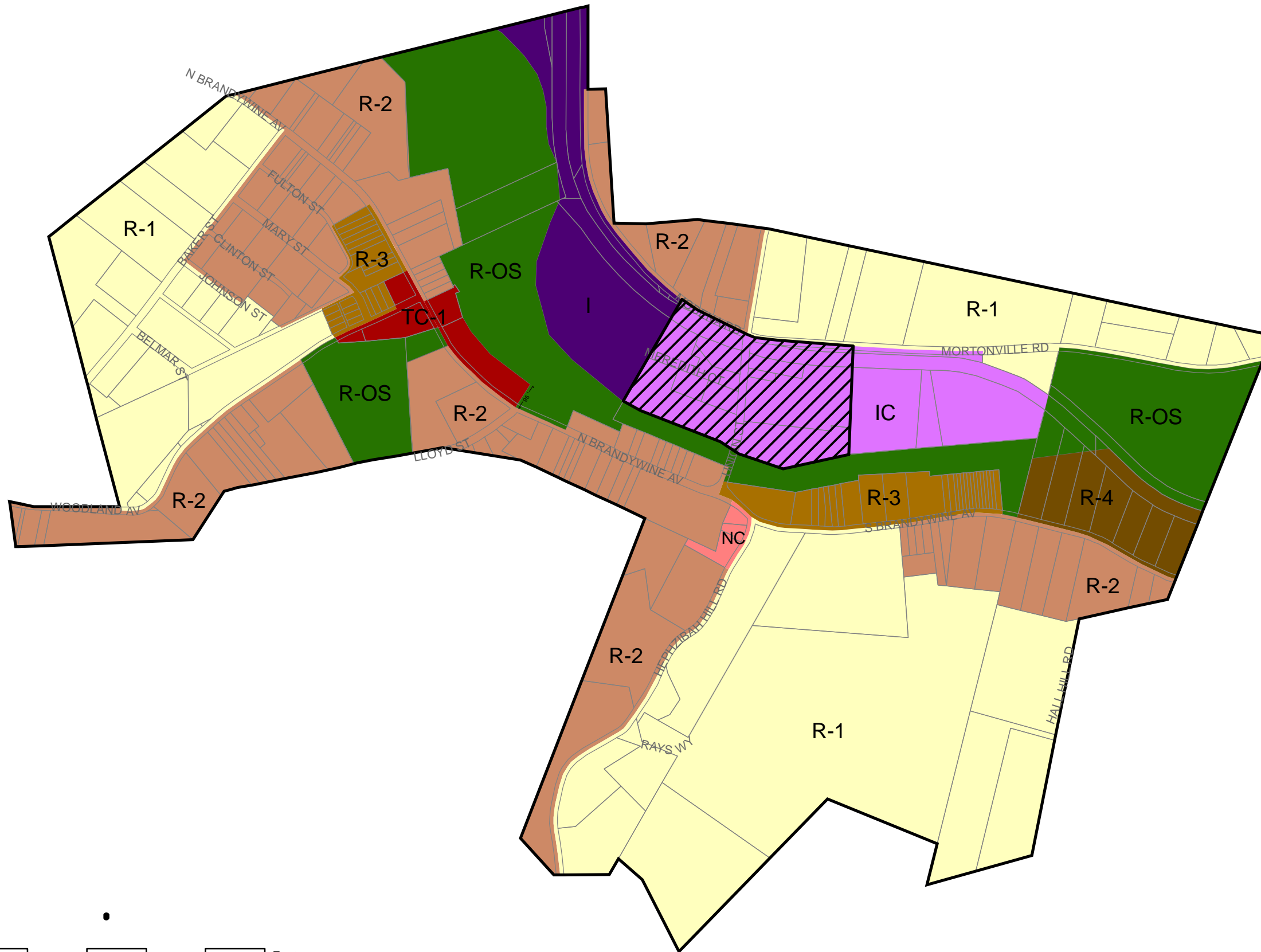
Zoning Map

Zoning Districts

-  Borough Border
-  Parcels

Zoning Districts:

-  R-1 Residential
-  R-2 Residential
-  R-3 Residential
-  R-4 Residential
-  R-OS Recreation - Open Space
-  TC-1 Town Center
-  NC - Neighborhood Commercial
-  IC Industrial - Commercial
-  TC-2 Town Center Overlay
-  I Industrial



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Printed: 9/2009




Adopted September 24, 2009



Modena Borough

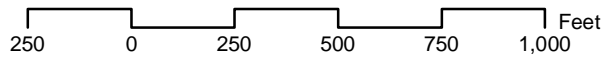
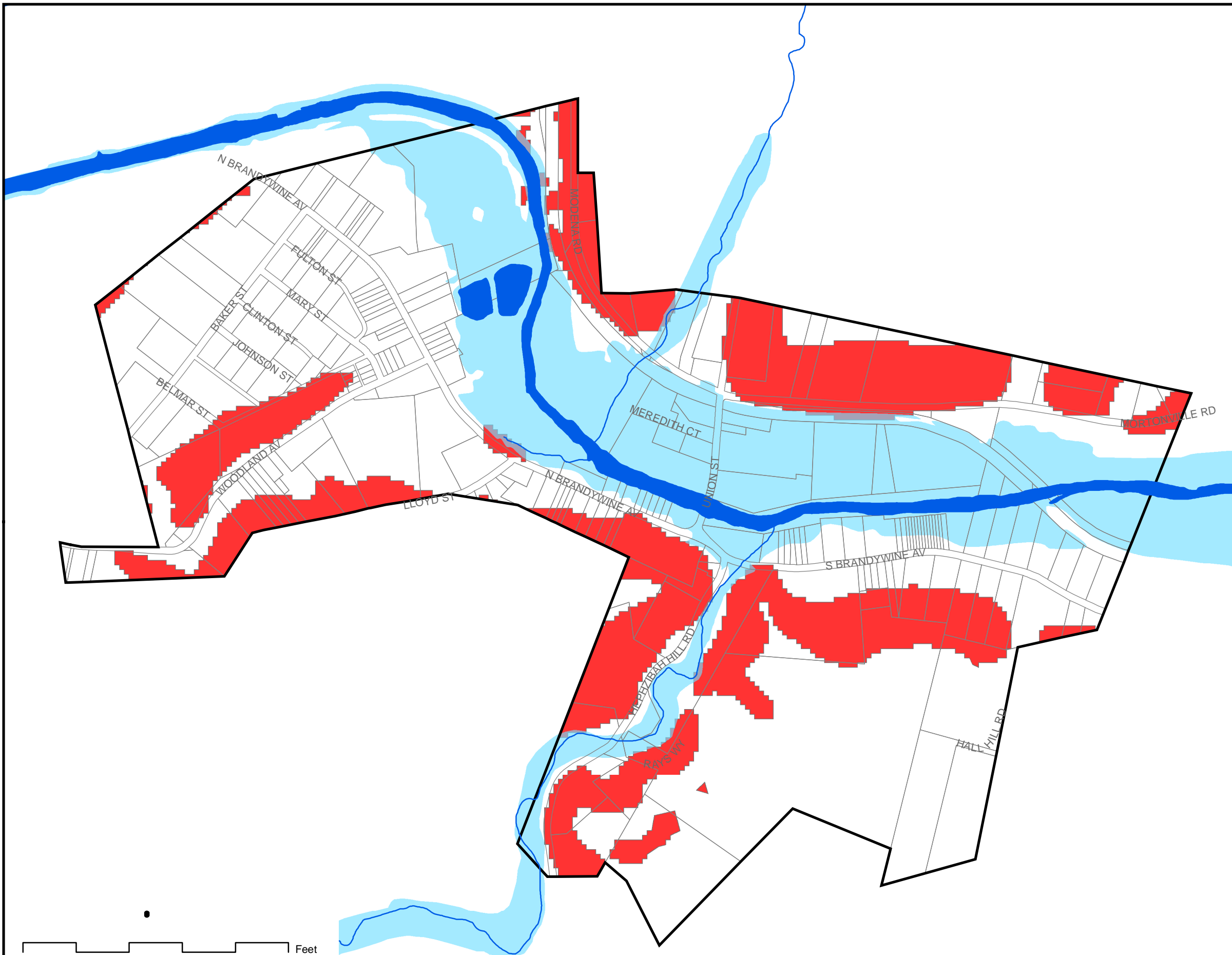
Data Source: Municipal Borders, Parcels - Chester County Bureau of Land Records, 1997/2006 as amended; Roads - Chester County DCIS/GIS, 2000/2006 as amended; Zoning Districts - Land Use Plan, Modena Comprehensive Plan, 2004, Modena Borough Planning Commission and Council, 2009; Chester County Planning Commission, 2009.

Zoning Map

Steep Slopes and Floodplain

-  Borough Border
-  Parcels
-  Streams

-  Steep Slopes (25%+)
-  FEMA 100 Year Floodplain
-  Water Features



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Data Source: Municipal Borders, Parcels - Chester County Bureau of Land Records, 1997/2006 as amended; Roads - Chester County DCIS/GIS, 2000/2006 as amended; Water Features, Streams - Aerial Data Reduction Associated Inc. provided through sublicense agreement to the County of Chester, 1994; Steep Slopes - This shapefile was created using the Chester County Digital Elevation Points, Chester County Bureau of Land Records, 1993; Floodplain - FEMA, September 2007; Chester County Planning Commission, 2009.

*Disclaimer: The representation of Steep Slopes and Floodplain on this map are for reference only. For official purposes, delineation of Steep Slopes as defined within the Zoning Ordinance and of Floodplains on an official FEMA floodplain map are required.

Adopted September 24, 2009

Modena Borough

The following includes the 2009 amendments to the 1982 Borough Subdivision and Land Development as adopted by Borough Council:

1. Section 202 in Article 2, Definitions, the definition of Street shall be replaced with the following:

Street. The word “street”, includes any avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Streets are classified in accordance with function as follows:

1. Arterial. A street which has as its primary function the movement of relatively high volumes of through-traffic at high speeds, with access points that are limited and controlled.
2. Major or Minor Collector. A street which has as its primary function the movement of traffic to major facilities and arterial streets at moderate rates of speed.
3. Local Distributor. A street which has as its primary function the movement of traffic to and from abutting properties.
4. Alley. A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting a street.
5. Private Street. A local street, serving only abutting lots that are not offered or required to be offered for dedication.
6. Cul-de-sac. A local street intersecting another street at one end, and terminating at the other end by a permanent vehicular turnaround.

2. Section 504 shall be amended as follows:

Section 504 Street Width.

A. The minimum right-of-way and cartway width for all new streets in the Borough shall be as follows:

<u>Type of Street</u>	<u>Right of Way</u>	<u>Cartway</u>
Arterial Street	70'	24'
Collector Street	60'	24'
Local Distributor Street	50'	24'
Cul-de-sac	100' turn around diameter	80' turn around diameter
Private Street	50'	18'
Alley	30'	16'

3. Section 506 shall be amended as follows:

A. Section 506.B.1:

1. Local Distributor Streets, Private Streets, Alleys, and Cul-de-sacs: One hundred fifty (150) feet.

B. Section 506.D.1:

1. Local Distributor Streets, Private Streets, Alleys, and Cul-de-sacs: One hundred (100) feet.

4. Section 507 shall be amended as follows:

A. Section 507.B:

Centerline grades of all proposed roads shall not exceed the following:

Arterial Streets	Per PennDOT
Collector Streets	7%
Local Distributor Streets, Private Streets, Alleys, and Cul-de-sacs:	10%
Private Streets	12%

B. Section 507.C.1:

1. Local Distributor Streets, Private Streets, Alleys, and Cul-de-sacs: One hundred (100) feet.

5. Section 508.A shall be amended as follows:

Streets entering the opposite sides of another street shall use right angle intersections whenever feasible, especially when streets enter into a street of higher classification. There shall be no intersection angle measured at the centerline of less than seventy-five (75) degrees.

6. The following Section shall be added into Section 5 and into the Table of Contents.

SECTION 522 WOODLANDS REPLACEMENT STANDARDS

A. Tree Replacement.

1. Applicability.

a. Where disturbance or removal of existing areas of woodlands occurs on any lot or tract in accordance with Section 1107 of the Zoning Ordinance, woodland replacement shall be required in accordance with following standards:

- 1) On lots or tracts of one (1) acre or less, fifteen (15) percent of existing woodlands that are disturbed shall be replaced.
- 2) On lots or tracts greater than one (1) acre and smaller than five (5) acres, ten (10) percent of existing woodlands that are disturbed shall be replaced.
- 3) On lots or tracts of five (5) acres or more, five (5) percent of existing woodlands that are disturbed shall be replaced.

b. In determining the extent of the woodland disturbance, it shall include the entire area within the drip line of any tree comprising a wooded area, where any portion of the drip line of such tree is subject to disturbance.

2. Woodlands Replacement Standards.

a. When required, the replacement of woodlands shall occur on the same lot or tract where disturbance occurs, except as may otherwise be permitted in subsection c) below, and shall occur as prescribed in the Figure 5-1, Woodlands Replacement Schedule.

Table 5-1: Woodlands Replacement Schedule

DBH of Tree Removed	Number of Replacement Trees (minimum 2 inch caliper)
Less than 6 inches	1
Between 6 and 12 inches	3
Between 12 and 18 inches	5
Between 18 and 24 inches	7
Between 24 and 30 inches	10
Between 30 and 36 inches	12
36 inches or greater	The equivalent number of 2 " caliper trees or greater needed to equal the DBH of the removed tree.

- b. Replacement trees shall be of nursery grade quality, balled and burlapped.
- c. Where replacement trees are required but not suitable for the particular site prescribed due to the size of the site or other limitations, the trees shall be used for planting on public lands as close to the tract as possible. Such alternative sites shall be as approved by the Borough.
- d. The type of replacement trees shall be the same species as removed from the site unless the tree removed was an invasive or non-native plant species or another species acceptable to the Borough. The choice of replacement trees shall be approved by the Borough.
- e. Replacement trees shall have been grown within the same USDA hardiness zone as the lot or tract and shall be nursery grown, except those deemed by the Borough to be acceptable for transplanting from other disturbed portions of the lot or tract.
- f. Species of replacement plantings shall reflect careful site evaluation, including:
 - 1) Existing and proposed site conditions and their suitability for the tree species, based on geology, hydrology, soil, and microclimate.
 - 2) Specific functional and design objectives, including replacement of the woodlands being removed, enhancement of existing woodlands, reforestation of riparian buffers, landscape buffering, visual screening, noise abatement, energy conservation, wildlife habitats, and maximizing aesthetic values.
 - 3) Maintenance considerations such as hardiness, resistance to insects and disease, longevity, and availability.
 - 4) Because of the many benefits of native species (ease of maintenance, longevity, wildlife habitat, etc.), the use of nursery grown, free-fruiting native trees is strongly encouraged. Selection should reflect species diversity characteristic of the native deciduous landscape of Chester County.
- g. The planting of replacement trees shall be done by or supervised by a person with horticultural training in tree care and planting methods who has been approved by the Borough.
- h. Newly planted replacement trees shall be monitored for a period of one (1) year to ensure the health of the trees. If a replacement tree(s) dies or is dying within the one (1) year period, the applicant shall replace the dead tree(s) at no cost to the Borough.

7. The following Section shall be added into Article 5 and into the Table of Contents.

SECTION 523 STRIPPING OF TOPSOIL

The following shall apply to all zoning districts: Topsoil or sod may be removed only under the following conditions:

- A. As part of the on-site construction or alteration of a building or the grading incidental to such building.
- B. In connection with normal lawn preparation and maintenance on the lot from which topsoil or sod is removed.
- C. In connection with the construction or alteration of a street or parking lot.
- D. All areas where soil has been stored, or removed and re-spread shall be reseeded with an appropriate ground cover within one year.
- E. The excavation of clay, sand, gravel, rock or other similar minerals shall be permitted, and the material thus excavated may be sold, only as part of the on-site construction or alteration of a street or parking lot.