



Borough of Bryn Athyn

ZONING ORDINANCE of 2018

December 3, 2018

Amended August 3, 2020

Amended September 9, 2024

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ARTICLE 1

Objectives

Section 100. Short Title and Effective Date. This Ordinance shall be known as “The Bryn Athyn Zoning Ordinance of 2018.” It shall become effective on December 3, 2018, at which time “The Bryn Athyn Zoning Ordinance of 1982” is repealed.

Section 101. Statement of Community Development Objectives. This Ordinance is enacted for the following objectives as expressed in the comprehensive plan:

- 101.1 To retain and protect the amenities which attracted residents to the Borough.
- 101.2 To strengthen the focal points of the community which are important to its overall development.
- 101.3 To preserve the recreational and open space opportunities for the residents.
- 101.4 To provide housing opportunities to meet the needs of anticipated population growth.
- 101.5 To provide the necessary community facilities and public services to protect the health, safety and welfare of its residents.

Section 102. Zoning Purposes. To promote the objectives of Section 101, the provisions of this Ordinance are designed to:

- 102.1 Promote, protect and facilitate coordinated and practical community development, proper distribution of population densities, and the provision of adequate light and air, vehicle parking and loading space, transportation, water, sewerage, schools and other public requirements.
- 102.2 Prevent the overcrowding of land, environmental pollution and blight, danger and congestion in travel and transportation; and loss of health, life or property from fire, flood, panic or other dangers.

Section 103. Ordinance Provisions. This Ordinance regulates, determines or provides for the following:

- 103.1 Uses of land.
- 103.2 Size, location, construction, maintenance, alteration and use of structures.
- 103.3 Areas and dimensions of land to be occupied by uses and structures, as well as yards and other open spaces to be left unoccupied.

- 103.4 Density of population and intensity of use.
- 103.5 Special exceptions and variances administered by the Zoning Hearing Board.
- 103.6 Conditional uses permitted by the civil government.
- 103.7 Administration and enforcement of this Ordinance.

Section 104. Conflict. The provision of this Ordinance shall control wherever they are more restrictive than other legislation regulating the same matter. Any existing legislation which does not conflict with the provisions of these ordinances shall stand as enacted.

Section 105. Validity. If any part or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the remaining parts or provisions of the Ordinance.

Section. 106. Repeals. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

ARTICLE 2

Definitions

Section 200. Interpretations. Unless otherwise expressly stated the following words and phrases shall be construed throughout this Ordinance to have the meanings indicated in this Article. The present tense includes the future; the singular number includes the plural, the plural the singular; the word “building” includes the word “structure” and shall be construed as if followed by the words “or part thereof”; the word “occupy” includes the words “designed or intended to be occupied”; the word “used” includes the words “arranged, designed, or intended to be used” and the word “shall” is always intended to be mandatory when capable of such interpretation.

- 200.0 Access Strip. A piece of land which provides physical access to, and legal road frontage for a lot, but which does not comply with the minimum lot width regulations of this Ordinance. Access strips shall be a minimum of 25 feet wide and provide access to “rear” or “interior” lots. The area of an access strip shall not be included in the minimum lot area or minimum front yard setback required under the provisions of this Ordinance.
- 200.1 Reserved.
- 200.2 Reserved.
- 200.3 Reserved.
- 200.3a Alteration. Any change in the existing facilities, structural parts or mechanical equipment which does not increase the cubic content of a building.
- 200.4 Apartment. A dwelling unit located in a building with one or more other dwelling units, or in an accessory building on a lot. An accessory building in which an apartment is located may not be devoted solely to the dwelling unit use.
- 200.4a Balcony. An above-grade platform enclosed by a railing or balustrade that projects from the wall of a building and is used primarily for private recreational purposes and/or for access to above-grade dwelling units in multi-family dwellings, hotels or the like. When a balcony is fully enclosed by a roof and walls, it is considered part of the unit it serves.
- 200.5 Basement. A portion of any building located partly underground but having less than half of its clear floor to ceiling height below the average grade of the adjoining ground.
- 200.5a Bed and Breakfast. The use of an owner-occupied, single-family detached dwelling and/or accessory structure which includes**

the rental of overnight sleeping accommodations and bathroom access for a maximum of 12 temporary guests at any one time (except as otherwise provided for in this Ordinance), and which does not provide any cooking facilities or provision of meals for guests other than breakfast. A bed and breakfast shall have no more than six rentable units. A bed and breakfast use shall rent facilities for a maximum of 14 consecutive days to any person(s) and rentals shall be restricted to transient visitors of the area.

- 200.6 Building. A structure having a roof which is used for the shelter or enclosure of persons, animals or property.
- A. Accessory Building. A building subordinate to and customarily incidental to the principal building on the lot.
 - B. Principal Building. A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.
- 200.7 Reserved.
- 200.8 Building, Principal. See section 200.6.B, above.
- 200.9 Building Area. The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions.
- 200.10 Building Line. The line which establishes the minimum depth of front yard for the particular District as measured from the street line.
- 200.11 Cluster Development. A development pattern wherein structures are arranged in closely related groups, reducing lot sizes and preserving land for open space.
- 200.12 Comprehensive Plan. Maps, charts, descriptive matter as officially adopted and as amended by the Borough Council.
- 200.13 Condominium. An estate in real property consisting of an undivided interest in a portion of a parcel together with a separate interest in a space within a structure. This form of ownership may be applied in residential, professional office, industrial and commercial land uses.
- 200.13a Deck. An open structure, above ground level, at ground level or elevated and used primarily for private recreational purposes, which is located in the front yard, side yard, rear yard or courtyard of a property used for residential purposes which is not part of the occupied area of the residential structure, but which meets all side, rear, front and setback limitations imposed herein and which may not be enclosed by walls and/or a roof above the usable surface of the deck nor enclosed below by

walls below the usable surface; provided, however, that decks may be enclosed by a fence/railing no more than 42 inches in height.

- 200.14 Development. Any man-made change to improved or unimproved real estate including, but not limited to, buildings, or other structures, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.
- 200.15 Dwelling. A building containing one (1) or more dwelling units.
- A. Dwelling Unit. Any room or group of rooms located within a residential building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one (1) family.
 - B. Two-Family Dwelling. A building having two dwelling units which may have either a common or independent outside access. The dwelling units may be arranged one above the other, or one next to the other separated by a party wall.
 - C. Multifamily Dwelling. A building having three (3) or more dwelling units which may have either a common or independent outside access. Said units may be located side by side separated by a party wall, or located one above the other. Included within this definition of multi-family dwelling are all recognized architectural types or structures accommodating three (3) or more dwelling units in the same building whether the individual units are for lease or sale.
 - D. Single-family Detached Dwelling. A dwelling containing only one dwelling unit, designed for and occupied exclusively as a residence for only one family and having no party wall in common with an adjacent building.
 - E. Single-family Attached Dwelling. A group of two or more dwellings in which each dwelling has independent and separate outside access, has one or more common party walls, and fully occupies the space from basement to roof.
- 200.16 Family. Any number of individuals living together on a non-transient basis as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption, including any number of foster children; no more than three unrelated individuals living together as a single housekeeping unit and doing their cooking on premises. The definition of “family” shall not apply to the occupants of a club, fraternity house, lodge or residential club.

- 200.17 Farm Animals. Animals usually and customarily kept on a farm, including, but not limited to, goats, sheep, cows and other bovines, and horses. Chickens, both hens and roosters, are specifically excluded from the definition of farm animals.
- 200.18 Farming (Agriculture). The growing and harvesting of crops intended for sale or for consumption by persons other than those conducting the farming operations. The term specifically excludes gardens on properties the product of which is intended primarily for consumption by those living on the property.
- 200.19 Fence. A structure that is an artificially constructed barrier of any material or combination materials erected to enclose, screen or decorate areas of land. Fences shall not have any building walls, floors or roofs.
- 200.20 Garage Private. An accessory building or a part of a principal building used for the storage of motor vehicles which are owned and used by the residents of the premises. Not more than two (2) commercial vehicles or two additional vehicles owned by others may be stored in private garage.
- 200.21 Garage, Public. A building, used for the commercial storage, service or repair of motor vehicles.
- 200.22 Gasoline Service Station. Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel or accessories, and which may include facilities for lubricating, washing and repairing motor vehicles, but which shall not include painting or body and fender repairs.
- 200.23 Height of a Building. A building's vertical measurement from the mean level of the ground abutting the building to a point midway between the highest and lowest point of the roof. Chimneys, spires, towers, elevator penthouses, tanks, satellite dishes and similar vertical projections (including typical residential television antenna) shall not be included in calculating the height.
- 200.24 Home Occupation. See Section 1601.3 pertaining to No-Impact Home-Based Businesses, and Section 1607.3 pertaining to Low-Impact Home-Based Businesses.
- 200.25 Hotel. A dwelling used for providing public lodging for ten (10) or more persons.
- 200.26 Junk Yard. A lot, land or structure, used primarily for the collection, storage, or sale of water, paper, rags, scrap metal or discarded material; or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.
- 200.27 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.

- 200.28 Lot Area. The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street or right-of-way shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street line only.
- 200.29 Lot, Flag; also known as Rear Lot. A lot which conforms in all respects to the dimensional requirements of the zoning district in which it is located, except that the only road frontage and access is limited to an access strip. This definition does not include the commonly used wedge-shaped lots located on a cul-de-sac turnaround.
- 200.30 Lot, Interior. A lot having no more than one of its lot lines on a street.
- 200.31 Lot Line. Any boundary line of a lot.
- A. Rear Lot Line. Any lot line which is parallel to or within forty-five degrees of being parallel to a street line, except for a lot line that is itself a street line, and except that in the case of a corner lot the owner shall have the option of choosing which of the two (2) lot lines that are not street lines is to be considered a rear lot line. In the case of a lot having no street frontage or a lot of an odd shape, only the lot line furthest from any street shall be considered the rear lot line.
- B. Side Lot Line. Any lot line which not a street line or a rear lot line.
- C. Street Lot Line. The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way line provided that (1) the street right-of-way line shall not be less than twenty-five feet from the center line of any road or street, and (2) where a future right-of-way width for a road or street has been officially established, then the street right-of-way line shall be the side line of the future right-of way so established.
- 200.32 Low Impact Home-based Business. A business, permitted only by special exception, located in a residential dwelling in the “B” Medium Density Residential District or “C” High Density Residential District, subject to and meeting in all respects, the regulations and standards set forth in Section 1607.3.
- 200.33 Mobile Home Park. A parcel of land under single ownership which has been planned and improved for the placement of mobile homes. Also known as a trailer park.
- 200.34 Motor Court or Motel. One or more buildings containing rooms or apartments having separate entrances in connection with automobile parking or storage spaces used principally for sleeping accommodations for automobile travelers at all seasons of the year.

- 200.35 Nonconforming Lot. A lot the area or dimension of which was lawful prior to the adoption or amendment of this Ordinance, but which fails to conform to the requirements of the zoning district in which it was located by reason of such adoption or amendment.
- 200.36 Nonconforming Structure. A structure or part of a structure which does not comply with the applicable area, setback, yard, building, height, location, size, impervious surface, and/or other dimensional requirements of this Ordinance or amendment heretofore or hereafter enacted where such structure lawfully existed prior to the enactment of this Ordinance or amendment. Such nonconforming structures include, but are not limited to, nonconforming signs.
- 200.37 Nonconforming Use. A use, whether of land or of structure, which does not comply with the applicable use provisions in this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment.
- 200.38 Open Space, Common. Common greens and other recreation space or generally open areas available to the public or other open areas provided in connection with residential developments and intended for the sole use of the residents of such developments and their guests.
- 200.39 Parking Space. A reasonably level space, available for the parking of one (1) motor vehicle, not less than ten (10) feet wide and not less than twenty (20) feet in length.
- A. Parking Space, All Weather. A parking space surfaced with paving or crushed stone.
- B. Parking Space, Paved. A parking space paved with concrete, asphalt or similar material.
- 200.40 Public Utilities Building. A building and its equipment used for the transmission and exchange of telephone, cellular telephone, gas, power, sewer, and water facilities, but not including public business facilities, or housing of repair crews.
- 200.41 Recreational Vehicles and Equipment. Recreational vehicles, campers, trailers or similar mobile homes or camping equipment, which is either self-propelled or intended to be loaded upon, carried or pulled or otherwise transported by a motorized vehicle.
- 200.42 Retirement Living Facility. A structure or structures containing individual dwelling units for lease or ownership; featuring common amenity areas; and intended to be occupied by individuals or couples of retirement age.

- 200.43 Sign. A structure or outdoor surface, or any device used for visual communication. The area of the sign is the area of the surface being used for the message.
- 200.44 Special Exception. A form of permitted use, authorized by Article 18, Section 1803.2, under the jurisdiction of the Zoning Hearing Board. The Zoning Hearing Board is empowered to grant permission for “special exceptions,” consistent with the public interest, in compliance with the standards and procedures established by Article 18, Section 1803.2.
- 200.45 Street. A right-of-way, municipally or privately owned, serving as a means of vehicular and pedestrian travel, and furnishing access to abutting properties.
- 200.46 Street Line. The dividing line between a lot and the outside boundary or ultimate right-of-way line of a public street, road, or highway legally opened or officially plotted or between a lot and a privately owned street, road or way over which two (2) or more independent owners or tenants have the right-of-way.
- 200.47 Structural Alteration. Any change in or addition to the supporting or structural members of a building, such as the bearing walls, partitions, columns, beams, or girders or any change which would convert an existing building into a different configuration.
- 200.48 Structure. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.
- 200.49 Tourist Home. A dwelling providing for rent or hire, sleeping accommodations for less than ten (10) persons.
- 200.50 Townhouses. Single attached dwellings divided by party walls, and having no less than two (2) floors nor more than three (3) and with no dwelling units above.
- 200.51 Ultimate Right-of-Way. The planned width of highway in the public domain as shown on the official Borough Map on file at the Borough office.
- 200.52 Use. The purpose or purposes for which either land or structures thereon are occupied, arranged, designed or intended or for which either land or structure is or may have been acquired or occupied.
- A. Accessory Use. A use subordinate to the primary use of land or of a structure on a lot and customarily incidental and complimentary thereto.
- B. Principal Use. The main use on a lot.
- 200.53 Variance. Relief granted pursuant to the provisions of this Ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

- 200.54 Yard. An open space unobstructed from the ground up, on the same lot with a structure, extending along a lot line or street line and inward to the structure. The size of a required yard shall be measured as the shortest distance between the structure and a lot line or street line.
- A. Front Yard. A yard between a structure and a street line and extending the entire length of the street line. In the case of a corner lot, the yards extending along all streets are front yards. In the case of a lot other than a corner lot that fronts on more than one (1) street, the yards extending along all streets are front yards.
 - B. Rear Yard. A yard between a structure and a rear lot line and extending the entire length of the rear lot line.
 - C. Side Yard. A yard between a structure and a side lot line, extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

ARTICLE 3

Permits

Section 300. Permits. No building shall be constructed or altered in the Borough, or the use of any building changed, or vacant land occupied until a zoning permit is secured from the Zoning Officer. Upon completion of the work authorized by any permit, the applicant or owner shall notify the Zoning Officer of said completion. No permit shall be considered as complete or permanently effective until the Zoning Officer has noted on the permit that the work has been inspected and approved as being in conformity with the provisions of this Ordinance and, the applicable statutes, rules and requirements of the Commonwealth of Pennsylvania, County of Montgomery and the Borough of Bryn Athyn have been complied with.

Section 301. Application for Permit. All applications for zoning permits shall be made in writing by the owner or tenant, or authorized agent, and shall be filed with the Zoning Officer on forms prescribed by him. The application (1) shall include a statement as to the proposed use of the building; (2) shall be accompanied by a plan drawn to scale, and bearing the seal of a registered land surveyor, showing the location of the building in relation to lot and street lines; (3) shall include a statement that the side lines of all roads shown on the plan have been located and staked on the premises by a surveyor; and (4) if on-site sewage disposal is planned, that percolation tests have been made and meet the requirements of the Montgomery County Department of Health.

Section 302. Life of Zoning Permits. Permits issued by a Zoning Officer shall be valid only for a period of one hundred and eighty (180) days from the date of issuance thereof and unless within that period work authorized by the permit has commenced, the permit shall be void. If, after commencement of the work authorized by permit, the work shall be discontinued for a period of one hundred and eighty (180) consecutive days, the permit shall be void, unless the same shall be thereafter reinstated by the Zoning Officer upon receipt of a written explanation satisfactory to him of the cause of the delay.

Section 303. Fees. Fees are payable to the Borough of Bryn Athyn at the time the application is made to the Zoning Officer in accordance with the fee schedule adopted by Borough Council and then in effect.

ARTICLE 4

Establishment of Districts

Section 400. Classes of Districts. For the purpose of this Ordinance, the Borough is hereby divided into classes of districts which shall be designated as follows:

A	-	(Low Density Single Family) Residential District
B	-	(Medium Density Single Family) Residential District
C	-	(High Density Single Family) Residential District
MD	-	Mixed Dwelling Type Residential District
E	-	Commercial
LI	-	Limited Industrial
FP	-	Flood Plain Conservation District
IN	-	Institutional District
NP	-	Natural Preservation District
CL	-	Cluster Development District
SS	-	Steep Slope Conservation District

Locations and boundaries of such districts shall be shown upon the map attached to and thereby made a part of this Ordinance, which shall be designated “Zoning Map”. The said map and all the notations, references and other data are incorporated into and shall be deemed a part of this Ordinance as if fully set forth herein.

Section 401. District Boundaries. The boundaries between districts are, unless otherwise indicated, either the lot lines or center lines of the streets and the rights-of-way of public utilities, or such lines extended or parallel or perpendicular thereto. Where distances are shown on the Comprehensive Plan and Zoning Map between a street and a district Boundary line, they indicate that the district boundary line runs parallel to the street line at that distance. (Where uncertainty exists as to the location of any said boundaries as shown in the Zoning Map, the following rules shall apply):

- 401.1 Where a district boundary divides a lot held in single and separate ownership at the effective date of this Ordinance, the use regulations of the less restricted district shall extend over that portion of the lot in the more restricted district which is not more than fifty (50) feet beyond the district boundary line. The use regulations of a lot in the less restricted district may extend a distance of more than fifty (50) feet beyond the district boundary line when authorized as a special exception by the Zoning Hearing Board.

ARTICLE 5

“A” – (Low Density Single Family) Residential Districts

Section 500. Use Regulations. A building may be erected, altered or used, and any lot may be used or occupied for any of the following purposes and for no other.

500.1 Single family detached dwelling.

500.2 Any of the following uses when authorized as a special exception:

A. Farming (Agriculture), provided the following criteria are met:

1. Minimum lot area five (5) acres.
2. No farming activity may take place within one hundred (100) feet of any property line; no farming activity shall take place within two hundred (200) feet of any abutting lot zoned for or used for residential purposes.

B. Keeping of Farm Animals, provided the following criteria are met:

1. Minimum lot area five (5) acres.
2. All farm animals shall be enclosed within a fence, pen or similar structure at a distance of not less than one hundred (100) feet from any property line.
3. No more than five (5) farm animals, in any combination, shall be kept on any property.

C. Relative Quarters subject to the criteria and standards set forth in section 1607.4.

500.3 Accessory uses on the same lot with and customarily incidental to any of the other foregoing uses as listed in Section 1601.

Section 501. Height Regulations.

501.1 No principal building shall exceed thirty-five (35) feet in height.

501.2 A detached garage shall not exceed twenty (20) feet in height and all other accessory structures shall not exceed fifteen (15) feet in height.

Section 502. Area, Width and Yard Regulations.

- 502.1 **Minimum Lot Area and Width.** A lot area of not less than one acre, and a lot width of not less than one hundred and fifty (150) feet at the building line shall be provided for every principal building erected or used for any use permitted in this District.
- 502.2 **Front Yard.** There shall be a front yard on each lot which shall not be less than fifty (50) feet in depth from the street line.
- 502.3 **Side Yards.**
- A. On each interior lot there shall be two (2) side yards having a total width of not less than seventy (70) feet, neither side yard having a width of less than thirty (30) feet.
 - B. On each corner lot there shall be two (2) side yards, the side yard abutting the street having a width of not less than fifty (50) feet from the street line and the other side yard having a width of not less than thirty (30) feet.
- 502.4 **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than thirty (30) feet.
- 502.5 **Building Coverage.** Not more than fifteen (15) percent of the lot area shall be occupied by buildings. (See section 1604 pertaining to projections into required yards.)
- 502.6 **Maximum Impervious Coverage.** Not more than thirty (30) percent of the area of each lot may be covered by impervious coverage.

ARTICLE 6

“B” - (Medium Density Single Family) Residential Districts

Section 600. In B, Medium Density, Residence Districts the following regulations shall apply:

600.1 **Use Regulations.** A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and for no other:

- A. Single-family detached dwelling.
- B. Any of the following uses when authorized as a special exception:
 - 1. Two family dwellings.
 - 2. Bed and Breakfast permitted by special exception so long as the following criteria are met:
 - a. The use shall be separated by a minimum of one thousand two hundred (1,200) feet from any other bed and breakfast use.
 - b. Limited to six (6) rentable units
 - c. Off-street parking: Four (4) off-street parking spaces, plus one (1) off-street parking space for each rental unit.
 - d. **Social and business events such as weddings, receptions, board meetings and the like, shall not be held at a bed and breakfast use unless the following conditions are met:**
 - 1. **The lot on which the bed and breakfast use is located is 35,000 square feet or greater in area.**
 - 2. **Events held outside the structure shall conclude no later than 12:00a.m. (midnight).**
 - 3. **No bed and breakfast that hosts social and business events shall be located within 2,640 feet of another bed and breakfast use that also hosts social and business events. For the purpose of this section, the distance shall be measured between the nearest lot lines of the two lots in question.**

- 4. **No more than two (2) business or social events that are conducted outdoors, either in whole or in part, may be held in any calendar month.**
- 3. Relative Quarters subject to the criteria and standards set forth in Section 1607.4.
- C. Accessory use on the same lot with, and customarily incidental to, any of the other foregoing uses as listed in Section 1601.

Section 601. Height Regulations.

- 601.1 No principal building shall exceed thirty-five (35) feet in height.
- 601.2 A detached garage shall not exceed twenty (20) feet in height, and all other accessory structures shall not exceed fifteen (15) feet in height.

Section 602. Area, Width and Yard Regulations.

- 602.1 **Minimum Lot Area and Width.** A lot area of not less than twenty thousand (20,000) square feet shall be provided for every building hereafter erected or used in whole or part, as a dwelling. Such a lot shall be not less than one hundred (100) feet in width at the street line.
- 602.2 **Front Yard.** There shall be a front yard on each street on which a lot abuts which shall not be less than fifty (50) feet in depth from the street line provided that the front yard on the long side of a corner lot may be reduced to a depth of not less than forty (40) feet from the street line.
- 602.3 **Side Yards.**
 - A. On each interior lot, for every single family detached dwelling or other permitted use, there shall be two (2) side yards which shall be not less than forty (40) feet in total width, and neither shall be less than fifteen (15) feet in width.
 - B. On each corner lot there shall be two (2) side yards, the side yard abutting the street having a width of not less than forty (40) feet from the street line and other side yard not abutting the street having a width of not less than twenty (20) feet.
- 602.4 **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than twenty-five (25) feet in depth.

- 602.5 **Building Coverage.** Not more than twenty (20) percent of the lot area shall be occupied by buildings. (See 1609 Projections into required yards.)
- 602.6 **Maximum Impervious Coverage.** Not more than forty (40%) percent of the area of each lot may be covered by impervious coverage.

ARTICLE 7

“C” - (High Density Single Family) Residential Districts

Section 700. Use Regulations. A building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and for no other:

- 700.1. Single-family detached dwelling.
- 700.2 Any of the following uses when authorized as a special exception:
 - A. Two family dwellings.
 - B. Relative Quarters subject to the criteria and standards set forth in Section 1607.4.
- 700.3 Accessory use on the same lot with and customarily incidental to any of the other foregoing uses as listed in Section 1601.

Section 701. Height Regulations.

- 701.1 No principal building shall exceed thirty-five (35) feet in height.
- 701.2 A detached garage shall not exceed twenty (20) feet in height, and all other accessory structures shall not exceed fifteen (15) feet in height.

Section 702. Area, Width and Yard Regulations.

- 702.1 **Minimum Lot Area and Width.** A lot area of not less than ten thousand (10,000) square feet and a lot width of not less than sixty-five (65) feet at the building line shall be provided for every principal building erected or used for any use permitted in this District (except that in the case of a public utility building or Railroad Passenger Station on the minimum lot area and width requirements may be reduced where authorized by a special exception.)
- 702.2 **Front Yard.** There shall be a front yard on each lot which shall not be less than thirty (30) feet in depth from the street line.
- 702.3 **Side Yards.**
 - A. On each interior lot, there shall be two (2) side yards having a total width of not less than thirty (30) feet, neither side yard shall have a width of less than twelve (12) feet.

- B. On each corner lot there shall be two (2) side yards, the side yard abutting the street having a width of not less than thirty (30) feet from the street and other side yard not abutting the street having a width of not less than twelve (12) feet.
- C. On any lot, in any side yard not abutting a street, a detached garage may be erected and maintained within the rear quarter of the lot not closer to the side lot line than five (5) feet.

702.4 **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than fifteen (15) feet, except that an accessory use structure may be erected within the rear yard not closer than five (5) feet to the rear lot line, except that on a corner lot an accessory use structure may be erected not closer than thirty (30) feet from the street line and not closer to the rear lot line than five (5) feet.

702.5 **Building Coverage.** Not more than thirty-five (35) percent of the area of any lot shall be occupied by buildings.

702.6 **Maximum Impervious Coverage.** Not more than seventy-five (75%) percent of the area of each lot may be covered by impervious coverage.

ARTICLE 8

MD - Mixed Dwelling Type Residential District

Section 800. Declaration of Legislative Intent. It is hereby declared to be the intent of this Article to encourage the optional intermixing of single family dwellings, apartments, and single family attached dwellings in order to promote a variety of income levels and life styles within a single planned development

Section 801. Permitted Uses. In the Mixed Dwelling Type Residential District a building may be erected, altered or used, and a lot may be used or occupied for any of the following uses or a combination of the following uses and no others:

- 801.1 Single-family detached dwellings.
- 801.2 Two-family dwellings.
- 801.3 Single-family attached dwellings.
- 801.4 Apartments
- 801.5 Parks, playgrounds, tot-lots and open spaces.
- 801.6 Mixed dwelling type developments, including single-family detached dwellings, two-family dwellings, single family attached, apartments or combinations of any two of these uses in accordance with the requirements of Section 805, herein.
- 801.7 Cluster development of single-family homes, at a density of four dwelling units per developable acre, as a conditional use, subject to the provisions of Article 22 of this Ordinance.
- 801.8 The following additional conditional uses, when authorized by the Borough Council.
 - a. Indoor recreation facility, community center or similar use provided it is intended solely for the prospective residents of the development.
 - b. Professional office or studio use in conjunction with a residential development, provided such use(s) shall not exceed ten (10%) percent of the total floor area of each principal building. For single family residences such use shall not exceed 20%.
 - c. Institutional uses, residential in nature such as a retirement community.
 - d. Farming (Agriculture), provided the following criteria are met:

- i. Minimum lot area five (5) acres.
 - ii. No farming activity shall take place within one hundred (100) feet of any property line; no farming activity shall take place within two hundred (200) feet of any abutting lot zoned for or used for residential purposes.
- e. Keeping of Farm Animals, provided the following criteria are met:
- i. Minimum lot area five (5) acres.
 - ii. All farm animals shall be enclosed within a fence, pen or similar structure at a distance of not less than one hundred (100) feet from any property line.

801.9 Accessory uses on the same lot with and incidental to any permitted use.

Section 802. District Regulations. The following regulations shall apply in the Mixed Dwelling Type Residential District except as specifically provided for in Section 803, herein, concerning Single Family Attached Developments; Section 804 concerning Apartment Development; Section 805 concerning Mixed Dwelling Type of Developments; and Article XXII of this Ordinance concerning Cluster Development.

802.1 General Regulations. The following general regulations shall apply for any development proposal within the Mixed Dwelling Type Residential District:

- a. Ownership. The tract of land to be developed shall be in single ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and it shall be agreed that the tract will be developed under single direction in accordance with an approved plan. Development of the tract shall commence in earnest within twelve (12) months of approval under this Article or the zoning of said tract shall revert to its former classification. Transfer of ownership prior to the commencement of construction shall render the development agreement required in Section 802.1(d), herein, void. Said agreement shall then be renegotiable between the new owners and the Borough Council.
- b. Sewer and Water Facilities. The tract of land shall be served by public water facilities and public sewer facilities deemed acceptable by the Borough Council, upon recommendation of the Borough Engineer.
- c. Development Plan. The application for development shall be accompanied by a plan, or plans, showing the detailed use of the entire tract which plan or plans also shall comply with all requirements of the Borough of Bryn Athyn Subdivision and Land Development Ordinance and other applicable ordinances, unless these ordinances are relaxed in accordance with Section

806 herein. The plan shall clearly designate the proposed use(s) of each area of the tract.

- d. Development Stages and Permits. The development of a tract carried out in either a single phase or in stages, shall be executed in accordance with a development agreement. The owner, developer and Borough shall enter into said agreement embodying all details regarding compliance with this Article to assure the binding nature thereof on the overall tract and its development, which agreement shall be recorded with the final development plan.

802.2 Development Regulations. The following development regulations shall be followed by all proposed developments within the Mixed Dwelling Type Residential District:

- a. Utilities. All utility lines (electric, telephone, etc.) shall be placed underground.
- b. Height Regulations. The maximum height of buildings or structures erected or enlarged within the Mixed Dwelling Type Residential District shall be:
1. For any dwelling: Thirty-five (35) feet.
 2. For any building accessory to a dwelling or nonresidential building: Fifteen (15) feet.
- c. Parking Regulations. The following standards shall control required parking spaces in the Mixed Dwelling Type Residential District:
1. Not less than two (2) off-street automobile parking spaces shall be required for each dwelling unit. (An attached garage may be counted as a single parking space.) The required spaces, when they are not an integral part of the building design, shall be arranged within a court or separate parking area(s), as deemed suitable upon review by the Borough Planning Commission.
 2. No parking area of three (3) or more cars shall be located closer than twenty (20) feet to a side or rear property line, or closer than twenty-five (25) feet to an ultimate right-of-way line.
 3. For parking areas storing ten (10) or more cars not less than ten (10%) percent of the area devoted to parking facilities shall consist of interior parking lot landscaping.
- d. Signs. Signs shall be permitted subject to the requirements of Article XIII of this Ordinance.

- e. Access. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the Mixed Dwelling Type Residential development without causing undue confusion or interference with the normal traffic flow. The Planning Commission shall satisfy itself concerning the adequacy of the thoroughfare to carry the additional traffic generated by the Mixed Dwelling Type Residential development, as well as to the street frontage of the proposed development.
 - f. Common Area and Facilities. The provision of certain facilities serving the entire development such as parking lots, interior pedestrian ways, driveways, or alleys, lighting facilities, landscape planting areas, buffers, open space and recreation facilities, etc., are hereby encouraged and may be located either on individual lots or in common areas. In cases where they are provided in common areas, provisions satisfactory to the Borough Council must be made for their perpetual maintenance and care.
 - g. Lighting Facilities. Lighting facilities shall be provided as needed and arranged in a manner which will protect the highway and neighboring properties from unreasonable direct glare or hazardous interference of any kind. Lighting facilities shall be required for the safety and convenience of the residents of the development and shall be installed by the developer at his expense.
 - h. Landscaped Planting. Shade trees shall be provided along street frontage occupied by a Mixed Dwelling Type Residential development in accordance with the requirements of the Borough Council.
 - i. Buffer Area. A Mixed Dwelling Type Residential development shall provide a permanent landscaped planting area of at least fifteen (15) feet in depth, designed for screening from view any residential, commercial, and industrial uses which are adjoining and contiguous to the development.
- 802.3 Density. The maximum overall density permitted in the Mixed Dwelling Type District shall be no greater than four (4) dwelling units per developable acre. For the purposes of this Article the term developable acre shall mean the gross site area expressed in acres, from which shall be subtracted all wetlands, all areas designated as being in a floodway or floodplain in the Borough Floodplain Ordinance, all areas subject to an easement or right-of-way, and steep slope areas. However, within the Mixed Dwelling Type District, the following schedule of densities shall apply for an individual dwelling type.

<u>Dwelling Type</u>	<u>Maximum Density</u>
Single Family Detached	2.5 dua
Two-Family Dwelling	3.5 dua
Single Family Attached	6.0 dua
Apartments: 2/3 bedroom units	8.0 dua
Studio/1 bedroom units	10.0 dua

802.4 Area, Width, Yard and Coverage Regulations for Mixed Dwelling Type Residential District.

Development Requirements (per dwelling unit)	Single-Family Detached	Two Family Dwellings (Twin and Duplex)	Single-Family Attached
Lot Area (sq.ft. = a)	10,000	7,000	2,000
Lot Width (ft. = b)	65	50	20
Front Yard (ft. = c)	30	20	20
Side Yard (ft. = d)	12	10	See Section 803
Rear Yard (ft. = e)	15	15	15
Building Coverage (% = f)	35	35	60
Maximum Impervious Coverage (% = g)	75	75	75
Cluster Requirements	g	Not applicable	Not applicable

a. A lot area of not less than **a** square feet per dwelling unit.
 b. A lot width of not less than **b** feet measured along the building line.
 c. A front yard depth of not less than **c** feet measured from the ultimate right-of-way line.
 d. A side yard of not less than **d** feet measured from the property line. For single family attached dwellings, the minimum side yard shall be governed by Section 803 of this Article. For single-family detached dwellings there shall be an aggregate side yard total of thirty (30) feet of which neither side yard shall be less than 12 feet.
 e. A rear yard depth of not less than **e** feet, measured to the rear property line.
 f. A total building coverage of not more than **f** percent of each minimum lot area.
 g. A maximum impervious coverage of not more than **g** percent of each minimum lot area.
 h. Single family detached dwellings may be clustered with reduced lot size, width and yard requirements consistent with the provisions in Article 22 of this Ordinance.

Section 803. Development Regulations for Single Family Attached Developments. The following additional development regulations shall apply for single-family attached development proposals:

- 803.1 Lot Area. Where applicable, no attached dwelling shall have a lot area of less than two thousand (2,000) square feet.
- 803.2 Building Size. There shall be no more than eight (8) dwelling units in a contiguous attached row and no more than three (3) contiguous units shall have a uniform setback from a right-of-way line or parking area. Such variation shall be a minimum of three (3) feet.
- 803.3 Distance Between Buildings. For single family attached developments the minimum horizontal distance between any two buildings shall be twenty-five (25) feet.
- 803.4 Setbacks. Where individual yard requirements are not applicable such as rental or condominium development, the following minimum building setbacks shall be applied:
 - 1. From the Mixed Dwelling Type Residential District boundary line or property line: Fifty (50) feet.
 - 2. From the ultimate right-of-way line of an adjacent street: Seventy-five (75) feet.
 - 3. From any parking area: Twenty (20) feet.

Section 804. Development Regulations for Apartment Developments. The following additional development regulations shall apply to apartment development proposals:

- 804.1 Building Size. No single-apartment building shall have a total length greater than one-hundred sixty (160) feet nor a height greater than thirty-five (35) feet or three (3) stories (exclusive of basements). No basement may be occupied as a dwelling unit.
- 804.2 Distance Between Building. The horizontal distance measured in feet between parallel elements of buildings shall not be less than twice the height of the taller building. The distance between the ends of any two (2) buildings shall not be less than twenty-five (25) feet.
- 804.3 Setbacks. The following minimum building setbacks shall be applicable:
 - 1. From District Boundary Line or property line: Fifty (50) feet.
 - 2. From the ultimate right-of-way line of an adjacent street: Seventy-five (75) feet.
 - 3. From any parking area of driveway: Twenty (20) feet.

Section 805. Additional Development Regulations for Mixed Dwelling Type Developments.
The following additional development regulations shall apply to all mixed dwelling type developments in the Mixed Dwelling Type Residential District:

- 805.1 The maximum percentage of a single dwelling type in a Mixed Dwelling Type development shall be no more than seventy-five (75%) percent of the total dwelling units if two (2) dwelling types are mixed and no more than sixty (60%) percent of the total dwelling units if three (3) dwelling types are mixed.

ARTICLE 9

“E” - Commercial Districts

Section 900. Use Regulations. A building or combination of buildings may be erected or used, and a lot area may be used or occupied for any of the following purposes and for no other:

- 900.1 Retail Store, provided that no goods shall be displayed on the exterior of any building or in that lot, and provided that only incidental storage, including floor samples shall be permitted.
- 900.2 Restaurant
- 900.3 Personal Service Shop dealing directly with customers, as a beauty parlor, barber shop, clothes cleaning (not including a cleaning and dyeing plant) automatic self-service laundry, dress making, millinery or similar shop.
- 900.4 Office, including insurance agencies, travel agencies and the like.
- 900.5 Bank or other financial institution.
- 900.6 Accessory use customarily incidental to any of the above uses.

Section 901. Area Regulations.

- 901.1 **Lot area and width.** A lot area of not less than ten thousand (10,000) square feet shall be provided for every building hereafter erected, and such lot shall not be less than seventy-five (75) feet in width at the street line.
- 901.2 **Building Area.** Not more than fifty (50%) percent of the area of any lot may be occupied by buildings.
- 901.3 **Front Yard.** There shall be a front yard on each street on which a lot abuts which shall not be less than fifty (50) feet, provided that the front yard on the long side of a corner lot may be reduced to a depth of not less than forty (40) feet measured from the street line.
- 901.4 **Side Yards.**
 - A. For every building used in whole or in part as a store there shall be two side yards which shall not be less than thirty (30) feet in aggregate width, and neither of which shall be less than twelve (12) feet in width.
 - B. For every permitted use other than a dwelling, an access driveway to the rear of not less than fifteen (15) feet shall be required.

901.5 **Rear Yard.** There shall be a rear yard in each lot which shall not be less than twenty (20) feet in depth, unless a lesser depth is authorized as a special exception.

901.6 **Maximum Impervious Coverage.** Not more than eighty-five (85%) percent of the area of each lot may be covered by impervious coverage.

Section 902. Height Regulations. No building shall exceed thirty-five (35) feet in height.

Section 903. Loading and Parking.

903.1 Adequate areas shall be provided for loading and unloading delivery trucks and other vehicles, servicing by refuse collection, fuel, fire and other service vehicles.

903.2 One paved parking space shall be provided for every hundred (100) square feet of store sales floor space on the ground floor.

ARTICLE 10

“LI” - Limited Industrial Districts

Section 1000. Use Regulations. In the Limited Industrial a building may be erected, altered or used, and a lot may be used or occupied for any of the following uses and no others:

- A. Business Office.
- B. Doctors office.
- C. Medical office.
- D. Outpatient medical offices or surgical centers
- E. Dentist office.
- F. Other professional offices.
- G. Laboratory.
- H. Light manufacturing
- I. Agricultural.
- J. Dwelling Quarters for watchmen and caretakers employed on the premises.

1000.1 The following uses shall not be permitted:

Abattoir, acetylene gas manufacture and/or storage; acid manufacture (hydrochloric, nitric, picric, sulphuric, carbolic);

Ammonia, bleaching powder or chlorine manufacture; ammunition manufacture and/or storage; arsenal;

Asphalt manufacture or refining; blast furnace; celluloid manufacture;

Cement, lime; gypsum, or plaster of paris manufacture;

Coke ovens;

Creosote treatment or manufacture; dead animal and offal reduction;

Distillation of tar; dyestuff; dump, junk or automobile graveyard;

Explosives, fireworks and gunpowder manufacture or storage;

Extermination and “insect poison”; fat rendering;

Fertilizer manufacture; forge plant;

Glue, size or gelatin;

Emery cloth and sandpaper;

Hog farm;

Incineration, reduction, storage or dumping of slaughter-house refuse, rancid fats, garbage, dead animal or offal;

Lamp black;

Oilcloth or linoleum manufacture and paint;

Ore reduction;

Petroleum or kerosene refining, distillation or derivation of byproducts and/or storage;

Plating works;

Potash works;

Power forge (riveting, hammering, punching, chipping, drawing, rolling or tumbling of iron, steel, brass, or copper, except as a necessary incident of manufacture of which are carried on without objectionable noise outside the plant);

Rolling mill;

Steel furnace, blooming or rolling mill;

Stock yards, tanning, curing or storage of leather, rawhide or skins; tar distillation or manufacture;

Yeast plant.

Section 1001. Structures erected should be architecturally acceptable and aesthetically harmonious with the general environment.

Section 1002. Control of Vibration. No vibration which is discernible to the human sense or feeling shall be perceptible without instruments at any point beyond the lot line.

Section 1003. Outdoor Storage and Waste Disposal.

- 1003.1 No flammable or explosive liquids, solids or gases shall be stored in bulk above ground; provided however, that tanks or drums of fuel directly connecting with energy devices, heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.

- 1003.2 All outdoor storage facilities for fuel, raw materials and products and all fuel; and all raw materials and products stored outdoors shall be enclosed by a fence adequate to conceal the facilities from any adjacent properties.
- 1003.3 No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
- 1004.4 All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

Section 1004. Electric, Diesel, Gas or Other Power. Every use requiring power shall be so operated that the service lines, substation, etc., shall conform to the then current safety requirements recognized by the Pennsylvania Department of Labor and Industry, shall be so constructed, installed, etc., to be an integral part of the architectural features of the plant, or if visible from abutting residential properties, shall be concealed by suitable planting.

Section 1005. Provision and Use of Water. All properties in the LI Limited Industrial District shall be served by public water and sewer.

Section 1006. Height Regulations. The maximum height of the buildings and other structures erected or enlarged in this District shall not exceed forty (40) feet or three (3) stories.

Section 1007. Area, Width, and Yard Regulations.

- 1007.1 **Lot Area.** No light industrial district shall be less than ten (10) acres, and no individual lot size shall be less than two (2) acres.
- 1007.2 **Lot Area Ratio.** Principal and accessory buildings shall not occupy more than fifty (50) percent of the lot area.
- 1008.3 **Yard Requirements.** (Excluding parking areas.)
 - A. **Front Yard.** One hundred (100) feet from the street line.
 - B. **Side Yards.** Side yards shall be fifty (50) feet each, except that no industrial building shall be located: (a) Closer than two hundred (200) feet to any residence district, nor any parking area closer than one hundred (100) feet to any residence area. One hundred (100) feet of the required minimum distance shall be landscaped with trees, shrubs, and grass.
 - C. **Rear Yard.** Fifty (50) feet, subject to exception above.
- 1008.4 **Maximum Impervious Coverage.** Not more than eighty-five (85%) percent of the area of each lot may be covered by impervious coverage.

Section 1009. Application and Review by the Planning Commission, Approval or Disapproval by Borough Council.

- 1009.1 Plans for any “LI” Limited Industrial use shall be submitted to the Planning Commission prior to the issuance of any zoning permit or certificate of occupancy, and such plans shall include the following:
- A. A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, waste disposal fields and other constructional features on the lot; and all buildings, streets, alleys, highways, streams and other topographical features of the lot and within two hundred (200) feet of any lot line.
 - B. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste;
 - C. Any other pertinent data or evidence that the Planning Commission may require.
- 1009.2 The Planning Commission shall review all plans for “LI” Limited Industrial uses submitted to them, including aesthetic quality and planting, and shall, after consultation with the Bryn Athyn Authority submit these plans, with recommendation thereof to the Borough Council for final approval.
- 1009.3 Upon receipt of plans for any “LI” Limited Industrial use, and recommendations thereon by the Planning Commission, the Borough Council shall have the power of approval or disapproval of these plans. If the Planning Commission does not submit its recommendations and approval within 45 days the Borough Council may act without the sanction of the Planning Commission.

ARTICLE 11

“FP” - Flood Plain Conservation Districts

This article was repealed by the adoption of Ordinances 671 and 678. For floodplain management regulations in the Borough of Bryn Athyn see Ordinance No. 678 adopted May 2, 2016.

ARTICLE 12

“IN” – Institutional Districts

Section 1200. Use Regulations. A building or combination of buildings may be erected or used, and a lot may be used or occupied for any of the following purposes and no other:

- 1200.1 Churches, chapels and other places of worship and their adjunct residential dwellings.
- 1200.2 Colleges, universities, and theological schools.
- 1200.3 Institutional headquarters for educational, fraternal, professional, religious, and other non-profit organizations.
- 1200.4 Institutions for the care of the aged or children.
- 1200.5 Schools – private, nursery, elementary, junior high and high schools.
- 1200.6 Charitable uses affiliated with a college, university, theological school, or other school located in the Borough
- 1200.7 Cemetery.
- 1200.8 a. Accessory uses customarily incidental to any of the above uses including but not limited to offices of staff, doctors, residences of institutional employees, recreational facilities and dormitories, thrift shops, art galleries and the like when affiliated with a school or church located in the Borough, and outpatient medical facilities that do not admit patients on an overnight basis and do not provide emergency medical care, provided that such outpatient medical facilities are affiliated with a school located in the Borough, rental of institutional facilities for uses similar to the use of the facility by the institution.**
- b. In addition to those accessory uses identified in section 1200.8.a, above:**
 - i. Schools in the Institutional District may allow individuals and/or groups attending functions at the school or in the Borough to stay in the school’s dormitories for not more than thirty (30) consecutive nights. Any dormitory to be used for this purpose must meet all applicable state and local laws, codes, and regulations, including, without limitation, building codes**

and fire codes. School dormitories may not be utilized as apartment dwellings.

- ii. Churches in the Institutional District may allow individuals and/or groups attending functions at the church or in the Borough to stay in the church's residential buildings located on the church's property and in the Institutional District, for not more than thirty (30) consecutive nights. Any structure to be used for this purpose must meet all applicable federal, state, and local laws, including, without limitation, building codes and fire codes. The church's residential properties may not be utilized as apartment dwellings.**

1200.9 Municipal parks.

1200.10 The following conditional uses, then authorized by Borough Council.

- a. Farming (Agriculture), provided that the following criteria are met:
 - i. Minimum lot area of five (5) acres.
 - ii. No farming activity shall take place within (100) feet of any property line; no farming activity shall take place within two hundred (200) feet of any abutting lot zoned for or used for residential purposes.
- b. Keeping of Farm Animals, provided the following criteria are met:
 - i. Minimum lot area of five (5) acres.
 - ii. All farm animals shall be enclosed within a fence, pen or similar structure at a distance of not less than one hundred (100) feet from any property line.
- c. Structures customarily incidental to the uses of Farming (Agriculture) and the Keeping of Farm Animals, such as for storing equipment and supplies necessary to support those uses, the storage of harvested crops, and the sheltering of animals, provided that:
 - i. All such structures are at least one hundred (100) feet from any property line, and at leases two hundred (200) feet from any abutting lot zoned for or used for residential purposes.

- ii. No such structure shall exceed twenty (20) feet in height.

Section 1201. Area, Floor Area, Height and Yard Regulations.

1201.1 If a single-family residence is constructed in “IN” – Institutional District the regulations of “B” Residential Districts shall apply.

1201.2 For all other authorized buildings the following regulations apply:

- d. Area. No “IN” – Institutional District shall be less than ten (10) acres.
- e. Floor Area. The gross floor area of all buildings shall not exceed 50 percent (50%) of the total area of the lot.
- f. Height. The maximum height of any building shall be fifty-five (55) feet except that such height may be increased for such structures as water towers, silos, chimneys, steeples, and radio antenna provided that for every foot of height in excess of fifty-five (55) feet there shall be added to each yard requirement one corresponding foot to width and depth.

d. Yard Requirements for Institutional properties.

Front – the minimum depth of a front yard shall be eighty (80) feet measured from the street line on which the building fronts.

Side – for each building there shall be two side yards of not less than fifty-five (55) feet on each side of the building.

Rear – there shall be established for each building a rear yard of at least forty (40) feet.

- e. As a special exception side and rear yards and height requirements may be modified with the approval of the zoning Hearing Board.

Section 1202. Parking. All-weather off-street parking shall be provided as specified in Article 14, Section 1400.6.

Section 1203. Signs. In “IN” – Institutional Districts signs may be erected according to the requirements stated in Article 13, Section 1302.2. Each Building shall be permitted to have a sign identifying the name, purpose or use of said building provided that the total area of any one side of such sign shall not exceed ten (10) square feet.

Section 1204. Lighting of Outdoor Athletic Fields, Courts, Rinks and the Like.

- 1204.1 Height. Lighting poles and similar structures upon which lights are mounted shall not exceed 35 feet in height.
- 1204.2 Hours of Operation. Lights for the lighting of outdoor athletic fields, courts and the like shall be turned off between the hours of 10:00 p.m., prevailing time, and 5:00 a.m., prevailing time.
- 1204.3 Zoning Permit Required. No pole or similar structure upon which lights for the lighting of outdoor athletic fields, courts, rinks and the like are to be mounted, regardless of height, shall be constructed or erected unless the requirements under Section 1205 have been met, and a zoning permit has been secured from the Borough Zoning Officer

Section 1205. Application and Review by Planning Commission. Approval or Disapproval by Borough Council.

- 1205.1 **Special District Regulations.** For any activity in “IN” – Institutional districts that requires the issuance of a zoning permit, building permit, grading permit, or which involve the placement of any structure such as a lighting standard or standards, and external lighting fixtures, shall be submitted simultaneously to the zoning official, the Planning Commission, and Borough Council. All such applications shall be accompanied by the following:
 - a. A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots and other constructional features on the lot; and all buildings, streets, alleys, highways, streams and such other topographical features of the lot and within 200 feet of any lot line, shall be submitted with the application.
 - b. A description of the institutional operations proposed in sufficient detail to indicate the effects of these operations in producing traffic congestion, noise, glare or safety hazards.
 - c. Engineering plans for the treatment and disposal of sewage where applicable.
 - d. Engineering plans for the handling of and excess traffic congestion, noise, glare or safety hazards, where applicable.
- 1205.2 The Planning Commission shall review all plans submitted to it and shall submit these plans with recommendations thereon to the Borough Council for final approval within forty-five (45) days of filing of the application.
- 1205.3 The Borough Council shall have the power of approval or disapproval of the application in accordance with applicable Borough ordinances and regulations, and its Secretary shall notify, in writing, the applicant of the final

decision, including any special conditions agreed upon between the Borough and the applicant, and the Secretary shall communicate the same, in writing, to the Zoning Official and the Planning Commission.

- 1205.4 Notwithstanding the provisions of 1204.2 and 1204.3, the Zoning Officer may administratively approve applications for the erection of fences, sheds, decks and signs, subject to the regulations set forth in Articles 12 and 16 of the Zoning Ordinance. Applications for the erection of sheds, decks and signs are specifically exempted from the review and approval requirements set forth in sections 1204.2 and 1204.3.

ARTICLE 13

Signs

Section 1300. Signs may be erected and maintained only in compliance with the following regulations and all other ordinances and regulations of the Borough relating to signs.

Section 1301. A sign is a structure or outdoor surface or any device used for visual communication. Its area is the area of the surface being used to display the message.

Section 1302. Signs in Residence Districts. No signs are permitted except the following:

- 1302.1 **No-Impact or Low-Impact Home Business** use signs shall have a maximum area of 2 square feet. One such sign is permitted per property. Signs may be illuminated by no more than one 60-watt equivalent light source per sign surface. Any source of illumination shall be shielded as to be invisible off the property, and shall not be flashing, moving or intermittent.
- 1302.2 **Real estate and building trade** signs shall have a maximum area of twelve (12) square feet and shall be removed promptly after their function is completed. One such sign is permitted on each street frontage of each property for each real estate or trade function. No illumination is permitted.
- 1302.3 **Institution identification signs in residential districts** shall have a maximum area of twelve (12) square feet. One such sign is permitted on each tax parcel, and shall advertise only the functions performed on that property. Signs may be illuminated. Internal illumination may not exceed two (2) foot-candles measured at ten (10) feet from the face of the sign, external illumination may not exceed five (5) foot-candles at the surface of the sign. Any source of

external illumination shall be shielded as to be invisible off the property, and no illumination shall be flashing, moving or intermittent.

Section 1303. Signs in Commercial and Industrial Districts. No signs except those listed in Section 1302 and the following are permitted:

1303.1 Signs shall have a maximum aggregate area of forty (40) square feet on any five hundred (500) feet of road frontage, and shall advertise only the functions performed on that property.

1303.2 Any source of illumination shall be shielded as to be invisible off the property, and shall not be flashing, moving, or intermittent.

Internal illumination may not exceed five (5) foot-candles measured at ten (10) feet from the face of the sign.

External illumination may not exceed ten (10) foot-candles at the surface of the sign.

1303.4 A permit shall be obtained from the zoning officer for each commercial or industrial sign exceeding 12 square feet in area. The application shall include details of size, location, construction and illumination, with drawings as required by the zoning officer.

Section 1304. Signs in Institutional Districts. No signs are permitted except the following:

1304.1 **Institution identification** signs shall have a maximum area of 12 square feet. One such sign is permitted on each 1000 feet of street frontage. Signs may be illuminated by no more than the equivalent of one 60-watt white lamp.

1304.2 **Signs abutting public roads** are restricted to one sign per five hundred (500) feet of road frontage. The surface area of the sign should not exceed twenty (20) square feet.

1304.3 **Signs erected for Americans with Disabilities Act of 1990 (ADA)** compliance and parking enforcement are permitted as long as the surface area is no greater than the twelve (12) inches by eighteen (18) inches are required by federal regulations. Stop signs, traffic signs, and the like are permitted and must meet state standards.

Section 1305. General Sign Regulations.

1305.1 Street and traffic signs and others required by law are permitted in any district.

- 1305.2 Signs shall not cause a traffic hazard or confusion with street signs or signals; and shall not be erected within the street right-of-way; nor project over a public sidewalk area.
- 1305.3 Signs shall be constructed of durable materials and be kept in good repair.
- 1305.4 Signs shall be placed in such a manner that the following **clear sight triangles** shall be provided and maintained at all street intersections and driveway entrances, as measured in all directions from the centerline of the street or streets. No existing or proposed signs, between two (2) and seven (7) feet above road centerline, shall be permitted in the clear sight triangle area.
- A. For thirty (30) to fifty (50) foot rights-of-way: Seventy-five (75) feet clear sight triangle.
 - B. For greater than (50) foot rights-of-way: One hundred thirty (130) foot clear sight triangle.
 - C. For the purposes of this section 1305.4, the term sight triangle shall mean a triangle at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of obstructions such as hedges so that people in one road can see cars approaching on the other.

ARTICLE 14

Off-Street Parking and Loading

Section 1400. Required Off-Street Parking Facilities. Any building or other structure erected, altered or used and any lot used or occupied for any of the purposes set forth in Table 1401 shall be provided with minimum off-street parking spaces as set forth in Table 1401 below, together with adequate passageways, or driveways or other means of circulation and access to and from a street or way:

TABLE 1401

USE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES
RESIDENTIAL USES	ALL-WEATHER PARKING SPACES
Dwelling Unit <i>other than Retirement Living Facility and In-Law Suite</i>	2 per dwelling unit (DU)
Retirement Living Facility	1.5 per DU
In-Law Suite	1.0 per DU
Low-Impact Home Business	1.5 spaces; plus 1.5 per 200 sq.ft. Gross Floor Area (GFA) devoted to home business
NON-RESIDENTIAL USES	PAVED PARKING SPACES
Institutional District - IN	
Libraries, Museum and Archives	1 per 600 sq.ft. of GFA
Elementary Schools	Kindergarten, Elementary School: 1 per 500 sq.ft. of GFA

Auditorium/Public Meeting/Assembly Space:	1 per 6 seats of Maximum Design Capacity (MDC)
Secondary Schools and Colleges	4 per classroom/instruction area; and 1 per 350 sq.ft. GFA of office area
Dormitory	2 per Residence Director dwelling unit; 1 per every 2 beds This shall not apply to dormitories for secondary schools
Performing Arts and Spectator Sports	Administrative Offices: 1 per 350 sq.ft. of GFA; and 1 per 6 seats based on Maximum Design Capacity (MDC)
Athletic Fields or Surfaces	40 per field or surface
Other Districts	
Hotels	1 per guest/sleeping room
Bed and Breakfast	4 spaces; plus 1 per rental unit
Restaurants, Bars, Tap Rooms and the like	1 per 150 sq.ft. of GFA

NOTE: Parking spaces contained within an attached or detached garage shall constitute “all weather parking spaces”.

Section 1402. Design Requirements for Other than Residential Districts: All parking lots in other than residential districts shall be operated and maintained in accordance with all of the following conditions:

- 1402.1 They shall not be used for the sale, repair, or dismantling of any vehicles, equipment, material or supplies;
- 1402.2 They shall be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt and maintained in good condition, free of weeds, dust, trash or debris;
- 1402.3 They shall be provided with entrances and exits so located as to minimize traffic congestion and the effect of headlight glare;
- 1402.4 Lighting facilities shall be so arranged that they illuminate the lot but not disturb occupants of adjacent residential properties nor interfere with traffic by either location or glare.
- 1402.5 A planting strip shall be provided along each lot line which is opposite or adjacent to a Residential District on which shall be planted hedge, evergreens or other suitable shrubbery so arranged as to minimize noise, glare, and dust from all parking facilities;
- 1402.6 There may be no more than one (1) attendant shelter building containing not more than fifty (50) feet of gross floor area and set in a distance of not less than twenty (20) feet from any boundary of the parking lot which abuts a residential district.

- 1402.7 **ADA Handicapped Accessible Parking Requirements.** The minimum number of handicapped accessible parking spaces as set forth by the ADA shall be in accordance with the most recent version of the ADA Standards for Accessible Design of the USDOJ or the IBC as referenced in the PA UCC. The applicant shall certify in writing or via a plan not that the application for development complies with all relevant ADA requirements.

ARTICLE 15

Nonconforming Lots, Structures and Uses

Section 1500. Continuation. The lawful use of any structure or land existing at the effective date of this Ordinance may be continued although such structure, land and/or use thereof does not conform with the provisions of this Ordinance except as otherwise provided for in this Article.

Section 1501. Alteration or Extension.

- 1501.1 **Nonconforming Structures.** Nonconforming structures may be altered, reconstructed, or enlarged provided that such alteration, reconstruction or enlargement does not increase the extent of the nonconformity existing on the effective date of this Ordinance. In the case of a nonconforming structure which is used by a nonconforming use such alteration, extension, or enlargement shall also meet the requirements of section 1501.3.C, below.
- 1501.2 **Nonconforming Lots.** Nonconforming lots are subject to the applicable dimensional regulations for the zoning district in which such lots are located.
- 1501.3 **Nonconforming Uses.** Nonconforming uses shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions:
- A. Such alteration, reconstruction, extension or enlargement shall be permitted only by special exception approval by the Zoning Hearing Board.

- B. Such alteration, reconstruction, extension or enlargement shall be only upon the same lot as is in existence at the date the use became nonconforming.
- C. Any increase in volume or area, of the nonconforming use shall not exceed an aggregate of more than twenty-five percent (25%) of the volume or area originally devoted to the nonconforming use.

Section 1502. Restoration. No nonconforming structure damaged by fire or other natural causes to the extent of more than sixty percent (60%) of the structure, shall be repaired, or used except in conformity with the regulations pertaining to the zoning district in which the structure is located. Nonconforming structures with damage to the extent of sixty percent (60%) or less of the structure may be reconstructed, repaired, or used for the same nonconforming use subject to the following provisions:

- 1502.1 The reconstructed structure shall not exceed the height, area, or volume of the damaged structure except as provided in this Article.
- 1502.2 Reconstruction shall begin within one (1) year from the date of damage and shall be carried on without interruption.

Section 1503. Abandonment. Whenever a nonconforming use has been discontinued for a period of one (1) year and such use has been abandoned, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

Section 1504. Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may not be changed to another conforming use.

ARTICLE 16

General Provisions

Section 1600. Obstructions to Vision at Intersections. On any corner lot no structure, including, but not limited to, any wall or fence shall be erected or altered, and no hedge, tree, shrub, vegetative growth or any object shall be maintained or placed such that it shall cause danger to traffic on a street or public road by obscuring the view.

Section 1601. Accessory Uses. In residential districts or on properties which include a residential dwelling or dwellings, permitted accessory uses shall include, but shall not be limited to:

- 1601.1 Private garage, private parking space, shelter for pets.
- 1601.2 Private greenhouses.
- 1601.3 No-impact home-based business.

Definition of 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, deliver or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- (a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

- (b) The business shall employ no employees other than family members residing in the dwelling.
- (c) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (d) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (e) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (f) The business activity may not generate any solid 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 25% of the habitable floor area.
- (h) The business activity may not involve any illegal activity.

1601.4 Keeping of chicken hens, subject to the following regulations.

- (a) The building lot has been developed as a single-family residence.
- (b) Not more than four chicken hens may be kept per one-quarter acre of lot size.
- (c) No person shall keep a rooster in the Borough on a tract of land less than ten (10) acres in size.
- (d) All chicken hens shall be housed in a roofed coop that is stationary, secure, and enclosed in a way that contains the chickens.
- (e) The coop shall not be closer than forty (40) feet to any property line.
- (f) The minimum coop size shall be three (3) square feet per chicken. The maximum overall coop size shall be not exceed thirty (30) square feet.
- (g) An outside run is permitted when attached to the coop.
- (h) If an outside run is provided, it shall be no bigger than ten (10) square feet per chicken and shall be enclosed in a way that contains the chickens.

- (i) The outside run shall not be within forty (40) feet of property line.
- (j) All coops and runs shall be screened from the view at ground level from adjacent lots by using fencing, landscaping or a combination thereof.
- (k) A zoning permit shall be required for keeping chicken hens, coops, and outside runs.

Section 1602. Access to Street. Unless otherwise specified in this Ordinance, each and every lot shall abut a public street for at least 25 feet at the right-of-way line of the public street; and said 25 feet must be usable for purposes of ingress and egress to lot.

Section 1603. Public Utilities. The provisions of this Ordinance shall not be so construed as to limit or interfere with the construction, installation, operation and maintenance of public utility structures, or facilities in existence as of the effective date of this Ordinance, or which may hereafter be located within public easements or rights-of-way designated for such purposes.

Section 1604. Projections Into Required Yards. No building and no part of a building shall be erected within or shall project into any required yard in any District, except that:

- 1604.1 An unenclosed porch, not more than fourteen (14) feet in height, may be erected to extend into any required yard a distance of not more than twelve (12) feet, provided that in no case shall it extend into such yard more than one-half (½) the required depth or width of the yard area.
- 1604.2 A terrace, deck, platform, or landing place, not covered by a roof, canopy or trellis, which does not extend above the level of the first floor of the building, may be erected to extend into required yard a distance of not more than twelve (12) feet provided that it shall not extend into such yard more than one-half (½) the required depth the required depth or width of the yard area.
- 1604.3 A porte-cochere, car port, may be erected over a driveway in a required side yard, provided that such structure is:
 - (a) Not more than fourteen (14) feet in height and twenty (20) feet in length and ten (10) feet in width.
 - (b) Entirely open on at least three (3) sides, exclusive of the necessary supporting columns and customary architectural features.
 - (c) At least three (3) feet from the side lot line.
- 1604.4 A buttress, chimney, cornice, pier, or pilaster of a building may project not more than eighteen (18) inches into a required yard.

- 1604.5 Steps, bay windows and balconies may project not more than three (3) feet into a required yard.

Section 1605. Height Limitations of Fences and Walls.

- 1605.1 Subject to the provisions of subsection 1605.2 below, no fence or wall, except a retaining wall, or a wall of a building permitted under the terms of this Ordinance, more than six (6) feet in height shall be erected within any of the open spaces required by this Ordinance unless that portion of the fence or wall which exceeds six (6) feet in height, to a maximum of eight (8) feet in height, has a ratio of open area to solid area of at least four-to-one (4:1). In no event shall any fence exceed eight (8) feet in height.
- 1605.2 In the LI Limited Industrial District, the Zoning Officer may authorize the erection of walls or fences of a height not to exceed eight (8) feet when necessary to provide protections, shielding, or screening of open storage or equipment areas that are otherwise permitted in the LI Limited Industrial District.

Section 1606. Flag Lotting. The concept of flag lotting is permitted under this Ordinance in compliance with Section 1602 Access to a Public Street, other applicable requirements of this Ordinance, and the flag lotting provisions of the Borough Subdivision and Land Development Ordinance.

Section 1607. Special Exception Standards Applicable to Specific Special Exceptions. In addition to the standards applicable to standard exceptions generally, as set forth in Article 18, Section 1805.2, the following standards shall apply to specific special exceptions:

- 1607.1 Two-family dwellings in “B” (Medium Density Single Family) Residential Districts must meet the following criteria:
- (a) A minimum lot area of 25,000 square feet.
 - (b) Four off-street parking spaces.
 - (c) Minimum floor area of each dwelling unit must be 1,500 square feet.
 - (d) Each dwelling unit must contain its own cooking facilities and bathroom facilities.
 - (e) The overall structure and each dwelling unit must meet the applicable standards of the Pennsylvania Construction Code.
 - (f) A one-year renewable permit issued by the Borough Zoning Officer shall be required to ensure compliance with this chapter. The fee for this permit

shall be eighty dollars (\$80.00) as of the effective date of this Ordinance, and may be adjusted from time to time by resolution of Borough Council.

1607.2 Two-family dwellings in “C” (High Density Single Family) Residential Districts.

- (a) A minimum lot area of 25,000 square feet.
- (b) Four off-street parking spaces.
- (c) Minimum floor area of each dwelling unit must be 1,500 square feet.
- (d) Each dwelling unit must contain its own cooking facilities and bathroom facilities.
- (e) The overall structure and each dwelling unit must meet the applicable standards of the Pennsylvania Construction Code.
- (f) A one-year renewable permit issued by the Borough Zoning Officer shall be required to ensure compliance with this chapter. The fee for this permit shall be eighty dollars (\$80.00) as of the effective date of this Ordinance, and may be adjusted from time to time by resolution of Borough Council.

1607.3 Low-impact home-based businesses in “B” (Medium Density Single Family) and “C” (High Density Single Family) Residential Districts, shall comply with the following regulations and standards:

- (a) The business shall be conducted only by members of the family residing on the premises and not more than one additional person who is not a resident on the premises to provide secretarial, clerical or other similar assistance, and the business shall be conducted entirely within the dwelling or building accessory thereto.
- (b) The number of pickup, delivery or removal functions to or from the premises shall not exceed the number normally associated with a residential use.
- (c) No article may be sold or offered for sale that is not produced by members of the immediate family residing on the premises.
- (d) There shall be no public display of goods on the premises.
- (e) Parking requirements for low-impact home-based business shall be one and one-half (1½) all-weather, on-site parking spaces for the single-family dwelling unit plus one and one-half (1½) all-weather, on-site parking spaces for each 200 square feet of floor area devoted to the low-impact home-based business.

- (f) The space devoted to any low-impact home-based business shall not exceed 400 square feet.
- (g) Home day-care for one child is permitted in the Borough without regulation. Home day-care for two to a maximum of five nonresident children, located only in a single-family detached dwelling in which the caregiver resides, shall be considered a low-impact home-based business and shall be subject to the following requirements:
 - (1) The caregiver shall be registered or licensed by the Commonwealth of Pennsylvania, to provide child care services in the dwelling.
 - (2) There shall be no structural change to the exterior of the single-family detached dwelling to accommodate the day-care use.
 - (3) In no case shall home day-care be permitted on a lot with an area of less than 10,000 square feet.
 - (4) There shall be a minimum of 40 square feet of floor space per child, inclusive of space occupied by furniture and equipment, but exclusive of closets, halls, bathrooms, kitchens and related areas. All of such floor space shall be on the first floor of the single-family detached dwelling.
 - (5) A minimum of 100 square feet of outdoor play space per child shall be available on the same lot. Such play space shall be:
 - A. In the rear yard of the lot only;
 - B. Enclosed by a fence or wall; and
 - C. Not less than 30 feet from neighboring residential buildings.
 - (6) The normal hours of operation shall not be earlier than 7:00 a.m. nor later than 7:00 p.m.
 - (7) A driveway shall be required in order to allow off-street drop-off and pick-up of children.
 - (8) No home day-care use shall be permitted within 750 feet of any other home day-care use.

1607.4 Relative quarters in “A” (Low Density Single Family) Residential Districts, “B” (Medium Density Single Family) Residential Districts, and “C” (High Density

Single Family) Residential Districts, shall comply with the following regulations and standards:

- (a) Relative quarters shall be in a single-family detached dwelling, shall include cooking facilities.
- (b) No more than two persons related to the principal occupant by blood, marriage or adoption shall be permitted to live in the relative quarters.
- (c) Neither the present structure nor any proposed addition shall at any time be occupied by any person other than the property owner and members of his or her immediate family.
- (d) Any sale, lease, transfer or other alienation of the property shall be as a single-family detached dwelling and shall include the entire structure located on the property.
- (e) The relative quarters shall not be leased or rented as an apartment or separate dwelling, except to persons specified in (b) above.
- (f) Any relative quarters' kitchen or cooking facility on the property shall be removed prior to sale, transfer or other alienation of the property, unless the appropriate deed restriction has been filed with the Recorder of Deeds that the property is being continued as a relative quarters by the new owner/buyer.
- (g) Relative quarters must be located in the existing dwelling or must be attached to the existing dwelling, and there shall always be maintained a single shared standard doorway connecting the principal residence and the relative quarters. Relative quarters shall not be located in a separate freestanding building. Relative quarters shall be limited to a single floor not greater than 700 square feet of floor area, except when approved as a special exception by the Zoning Hearing Board.
- (h) The applicant shall prepare and file with the Recorder of Deeds a deed restriction, in a form acceptable to the Borough Solicitor, setting forth the conditions set forth in sections 1607.1 through 1607.4, above, which shall reflect that the property is encumbered with those specific conditions. Upon sale of the property, seller shall disclose to buyer the nature of any deed restriction regarding the conditions of any future use of the relative quarters.
- (i) A one-year renewable permit issued by the Borough Zoning Officer shall be required to ensure compliance with this chapter. The fee for this permit

shall be eighty dollars (\$80.00) as of the effective date of this Ordinance, and may be adjusted from time to time by resolution of Borough Council.

Section 1608. Conditional Uses – Standards.

- 1608.1 Borough Council may grant approval of a listed conditional use for any district, provided that the applicant complies with standards and criteria set forth in this section, in addition to standards applicable to specific conditional uses found elsewhere in this Zoning Ordinance. The burden of proving compliance with such standards and criteria shall be on the applicant.
- (a) The applicant shall establish, by credible evidence, that the use or other subject of consideration for approval complies with the declaration of legislative intent of the Zoning Ordinance and with any declaration of legislative intent that may apply specifically to the district for which approval is sought.
 - (b) The applicant shall establish, by credible evidence, compliance with all specific conditions applicable to the conditional use for which approval is sought.
 - (c) The applicant shall establish, by credible evidence, that the proposed use will not adversely affect neighboring land uses in any way and, further, that the proposed use does not impose upon its neighbors in any way but rather blends in with them in a harmonious manner.
 - (d) The applicant shall establish, by credible evidence, that the proposed use will be properly serviced by all existing public service systems. The peak traffic generated by the subject of the approval must be accommodated for in a safe and efficient manner, and, if necessary, improvements must be made in order to achieve the same. Similar responsibility must be assumed with respect to other public service systems, including police protection, fire protection, utilities, parks and recreation.
 - (e) The applicant shall establish, by credible evidence, that the proposed use will be properly designed with regard to internal traffic and pedestrian circulation, parking, buffering and all other elements of proper design.
 - (f) The applicant shall provide Borough Council with sufficient plans, studies or other data to demonstrate that compliance with the permitted uses or with such other regulations as may be the subject of consideration for a conditional use approval is unreasonable or inappropriate for instance at hand.
 - (g) Borough Council shall impose such conditions as are necessary to ensure compliance with the purpose and intent of this Zoning Ordinance, which

conditions may include planting and buffers, harmonious design of buildings and the elimination of noxious, offensive or hazardous elements.

Unless otherwise specified in the decision of Borough Council, a conditional use shall expire if the applicant fails to obtain a permit in connection therewith within one year of the date of the order of Borough Council or court granting such conditional use. In those instances where land development/subdivision approval is a necessary prerequisite to obtaining a building permit, the conditional use shall expire if the applicant fails to make a diligent effort to obtain such approval within six months following the date of approval. Upon receipt of land development approval, the conditional use shall if a building permit is not obtained within six months of the date of the land development/subdivision approval.

ARTICLE 17

Administration

Section 1700. Zoning Officer Appointment and Qualifications. The provisions of this Ordinance shall be enforced by a Zoning Officer with the aid of the police department and other municipal agencies. The Zoning Officer shall be appointed at the first meeting of the Borough Council following the adoption of this Ordinance to serve until the first day of January next following; and shall thereafter be appointed annually to serve a term of one year and/or until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such compensation as the Borough Council by resolution shall provide, and may hold other offices in the Borough.

Section 1701. Duties and Powers. It shall be the duty of the Zoning Officer and he shall have power to:

- 1701.1 Keep a record of all plans and applications for permits ad all permits issued with notations as to special conditions attached thereto. A permit shall be issued or denied within ten (10) days from the application therefore. All records shall be open for public inspection.
- 1701.2 Review applications for zoning permits for erections or alterations of structures or changes of use, determine whether such construction or use is in accordance with this Ordinance, all applicable Ordinances and with the laws and regulations of the Commonwealth. The Zoning Office shall issue permits when he determines that such construction conforms with this Ordinance and all other applicable ordinances, statutes and regulations.

- 1701.3 Issue, modify or revoke zoning permits as a result of decisions of the Zoning Hearing Board. Such action shall be taken within five (5) days after written notification from the Board.
- 1701.4 Conduct inspection and surveys to determine compliance or non-compliance with the terms of this Ordinance. In carrying out such surveys, the Zoning Officer or his representative may enter upon any land or buildings.
- 1701.5 Make written orders requiring compliance with the provisions of this Ordinance to be served personally or by registered mail.
- 1701.6 Institute proceedings in courts of proper jurisdiction for the enforcement of provisions of this Ordinance.
- 1701.7 Maintain a map showing the current zoning classification of all land in the Borough.
- 1701.8 Maintain a map and register showing the registration, identity, location and type of all non-conforming uses and structures.
- 1701.9 Participate in all proceedings before the Zoning Hearing Board: present facts and information to assist the Board in reaching a decision which shall be compatible with this Ordinance; and have decisions of Board reviewed in a court of proper jurisdiction when, in the judgment of the Zoning Officer, such review is desirable or indicated.
- 1701.10 Whenever he has issued a Zoning Permit, he shall notify the Board for the Assessment and Revision of Taxes, Court, House, Norristown, Pennsylvania by sending that board a copy of the permit.

ARTICLE 18

Zoning Hearing Board

Section 1800. Establishment of Board; terms of office. A Zoning Hearing Board is hereby established. The membership of the Zoning Hearing Board (hereinafter sometimes referred to simply as “the Board”) shall consist of three residents of the Borough appointed by Borough Council. Their terms of office shall be three years. The term of office of any one member shall expire each year. The Board shall promptly notify Borough Council if vacancies occur. Appointments to fill vacancies shall be only for the unexpired terms. Member of the Board shall hold no other office in the Borough, except that one member and one member only may also be a member of the Borough Planning Commission.

Section 1801. Removal of Members. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or any other just cause by a majority vote of Borough Council, taken after the member has received fifteen days’ advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests a hearing in writing.

Section 1802. Organization of the Board.

- 1802.1 The Board shall elect from its own membership its officers, to include a Chairman and Vice Chairman, who shall serve annual terms as such and may succeed themselves.
- 1802.2 The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth.

- 1802.3 Within the limits of funds provided by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- 1802.4 The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the Borough Council. All action taken by the Board shall be fully set forth in the minutes of the Board which shall indicate the vote of each member of each question before the Board.
- 1802.5 Members of the Board may receive compensation for the performance of their duties, as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council. Alternate members of the Board, if any, may receive compensation, as may be fixed by Borough Council, for the performance of their duties when designated as alternate members, but in no case shall such compensation exceed the rate of compensation authorized to be paid to members of the Board.

Section 1803. Powers, duties and jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following land use matters:

- 1803.1 Appeals where it is alleged there is an error in any order, requirement, or determination made by an administrative official responsible for, and in the enforcement of, this Zoning Ordinance, including but not limited to the determination of the Zoning officer regarding the applicability of the words, terms, rules, regulations, provisions and restrictions of this chapter including determinations in specific instances to whether questionable uses are permitted by virtue of being “similar to” or “customarily incidental to” permitted uses as provided by this zoning ordinance.
- 1803.2 Substantive challenges to the validity of any land use ordinance, except those brought before Borough Council pursuant to the landowner curative amendment sections, i.e., sections 609.1 and 916.1(a)(2), of the Municipalities Planning Code.
- 1803.3 Appeals from a determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, or the issuance of any enforcement order.

Section 1803. Persons entitled to initiate action before Board. Appeals under this Article may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and/or a special exception may be filed with the Board by any landowner or his duly authorized agent.

Section 1804. Manner of initiating action before the Board. All actions before the Board shall be initiated by a written application for a hearing which shall be filed with the Zoning Officer. All

applications shall be made on forms specified by the Board, and no applications shall be accepted unless the same shall be fully and legibly completed and unless all exhibits, fees and supplemental material required by the application shall be attached. Every appeal or application shall refer to the specific provision of the chapter involved. In the case of an application for a variance, the application shall set forth the grounds on which it is claimed that a variance should be granted. In the case of a special exception, the applicant shall demonstrate that the criteria pertaining to the special exception in question have been met.

- 1804.1 Each application shall be accompanied by:
- A. A statement as to the proposed use of any proposed building.
 - B. A plan drawn to scale showing the location of existing and proposed buildings in relation to lot and street lines. Such plan shall bear the seal of a registered professional land surveyor.
 - C. A statement that the side lines of all roads shown on the plan have been located and staked on the premises by a registered professional land surveyor.
 - D. If on-site sewage disposal is planned, that percolation tests have been made and meet the requirements of the Commonwealth of Pennsylvania and the Montgomery County Board of Health.

Section 1805. Functions of the Board; Variances and Special Exceptions.

- 1805.1 **Variances.** The Board shall hear requests for variances where it is alleged that the provisions of this Zoning Ordinance inflict unnecessary hardship on the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Zoning Ordinance. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:
- A. 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 this Zoning Ordinance in the neighborhood or district in which the property is located.
 - B. 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 this Zoning Ordinance and that the authorization of a

variance is therefore necessary to enable the reasonable use of the property.

- C. That such unnecessary hardship has not been created by the applicant.
- D. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. That the variance, if granted, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

1805.2 **Special Exceptions.** In any instance where the Zoning Hearing Board is required to consider an application for the approval of a special exception, the Board may grant approval, provided that the following standards and criteria are complied with by the applicant. The burden of proof rests with the applicant.

- A. The applicant shall establish, by credible evidence that the special exception complies with the intent of this Zoning Ordinance.
- B. The applicant shall establish, by credible evidence, compliance with all conditions of the special exception enumerated in Article 16 of this Zoning Ordinance.
- C. The applicant shall establish, by credible evidence, that the proposed special exception shall not adversely affect neighboring land uses in any way and shall not impose upon its neighbors in any way, but rather shall blend in with them in a harmonious manner.
- D. The applicant shall establish, by credible evidence, that the proposed special exception will be properly serviced by all existing public service systems. The peak traffic generated by the subject of the approval must be accommodated for in a safe and efficient manner, or improvements must be made in order to affect the same. Similar responsibility must be assumed with respect to other public service systems, including but not limited to police protection, fire protection, utilities, parks and recreation.
- E. The applicant shall establish, by credible evidence, that the proposed special exception will be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of proper design.
- F. The Board shall impose such conditions as are necessary to ensure compliance with the purpose and intent of this Zoning Ordinance, which

conditions may include plantings and buffers, harmonious design of buildings and the elimination of noxious, offensive or hazardous elements.

Section 1806. Hearings. The Board shall conduct open public hearings and make decisions in accordance with the following principles:

- 1806.1 **Public Notice.** Public notice as a prerequisite to the holding of a hearing by the Board shall be made in accordance with the following provisions, and any additional provisions of the Pennsylvania Municipalities Planning Code, as amended:
- A. The notice shall be published once each week for two successive weeks in a newspaper of general circulation within the Borough. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
 - B. The notice shall be mailed or served on the applicant, other parties in interest, the Zoning Officer and Borough Council.
 - C. The notice shall be mailed or served on the owners (if possible) or to the occupants of every lot within 500 feet of the property in question.
 - D. The notice shall state the location of the property in question, the particular nature of the question involved and the time and place of the hearing.
 - E. The notice shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- 1806.2 **Fees.** Borough Council may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the members of the Board, notice and advertising costs and necessary administrative overhead connected with the hearing.
- 1806.3 **Timing.** The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The Board shall render a written decision or written findings on the application within 45 days after the last hearing or, if such hearing is continued, within 45 days after said continued hearing. If the Board does not make a decision within 45 days after the hearing or continued hearing, it shall be deemed that such Board has decided in favor of the applicant affected who is seeking relief, unless the applicant has agreed in writing to an extension of time.
- 1806.4 **Conduct of hearing.** All hearings shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman or, in his absence, the acting chairman or, as necessary, a hearing officer selected from the Board's

membership, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be open to the public. The Board shall keep a stenographic record of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

- 1806.5 Standing.** 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.
- 1806.6 **Oaths and subpoenas.** The chairman or acting chairman 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 requested by the parties with standing before the Board.
- 1806.7 All parties with standing before the Board 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.
- 1806.8 **Evidence.** Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded at the discretion of the Board upon advice from the Board's solicitor.
- 1806.9 **Conduct.** The Board shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- 1806.10 **Orders.** In exercising its statutory powers, the Board may reverse or affirm, wholly or in part, or may modify the order and/or requirement from the administrative determination appealed from and, in so doing, may make such additional order and/or requirement as part of the Board's decision as may be pertinent or germane.
- 1806.11 **Decisions.**
- A. The Board or Hearing Officer, as the case may be, shall render a written decision, or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board.

Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, this Zoning Ordinance, or other rule or regulation shall contain a reference to the provisions relied on and reasons why the conclusions are deemed appropriate in the light of facts found. Where the Board fails to render the decisions within the period required or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. 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 hereinafter provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided herein. If the Board shall fail to provide such notice the applicant may do so. Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- B. A copy of the final decision, or where no decision is called for, the findings shall be delivered to the applicant personally or mailed to him not later than five days 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.

- 1806.12. **Appeals.** Any person aggrieved by any decision of the Board may, within 30 days after such decision of the Board, file an appeal to the Court of Common Pleas of Montgomery County. Such appeal shall be made in accordance with the Pennsylvania Municipalities Planning Code, as amended, and in such form as may be prescribed or otherwise authorized by law.

Section 1807. Board procedure and consideration. In passing upon applications for special exceptions and variances the Board shall consider the following factors as well as all relevant factors and procedures specified in this Zoning Ordinance.

- 1807.1 **Technical assistance.** The Zoning Hearing Board in considering any matter within its jurisdiction may consult with the Bryn Athyn Planning Commission, the Montgomery County Planning Commission, or any other specialist or groups of specialists having expert knowledge of the matter under consideration, but need not be bound thereby.

- 1807.2 **Burden of proof.** The applicant for a special exception or variance shall have the burden of proving that his application falls within the provisions of this Zoning Ordinance.
- 1807.3 **Standards for Board action.** In any instance where the Zoning Hearing Board is required to render a land use decision, the Board shall, among other things, shall adhere to the following:
- A. Consider the suitability of the property for the use desired, and assure itself that the proposed change is consistent with the spirit, purpose and intent of this Zoning Ordinance.
 - B. Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded.
 - C. Determine that the proposed change will serve the best interests of the Borough, the convenience of the community (where applicable) and the public welfare.
 - D. Consider the effect of the proposed change upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police and fire protection and public schools.
 - E. Consider the suitability of the proposed location of the use with respect to probable effects upon highway traffic, and assure adequate access arrangements in order to protect major streets from undue congestion and hazard.
 - F. Be guided in its study, review and recommendations by sound standards of land development practice where applicable.
 - G. Impose such conditions, in additions to those required, as are necessary to assure that the intent of this Zoning Ordinance is complied with, which conditions may include, but are not limited to harmonious design of buildings, planting and its maintenance as sight or sound screen, the minimizing of noxious, offensive or hazardous elements, and the provision for adequate parking and sanitation.
 - H. Determine whether there are special circumstances or conditions fully described in findings applying to the land or buildings for which the variance is sought, which support the determination that the application of the provisions of this Zoning Ordinance would deprive the applicant of the reasonable use of such land or building.
 - I. Determine whether the unique circumstances for which the variance is sought were either created by the owner of the property, or were due to,

or the result of, general conditions in the district where the property is located.

- J. Consider the effects of the proposed change with respect to the most appropriate use of land; conserving the value of land and buildings; safety from fire, panic and other dangers; the overcrowding of land; congestion of population; and the adequacy of public and community services.
- K. Consider the compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- L. Give full consideration to the size, scope, intent, and character of the exception requested and assure the compatibility of the proposed use with the spirit, purpose and intent of the Comprehensive Plan, the Subdivision and Land Development Ordinance, as last amended, and the provisions of this Zoning Ordinance.

Section 1808. Time limitations. All appeals from the administrative determinations adverse to any landowner or affected party shall be filed by the landowner or affected party with the Zoning Hearing Board within 30 days after official notice of the determination has been issued.

Section 1809. Expiration. Unless otherwise specified by the Zoning Hearing Board, a special exception or variance approved by the Board shall expire if the applicant fails to obtain a building permit in connection therewith within one year of the date of the order of the Zoning Hearing Board or court granting such special exception or variance. In those instances where land development/subdivision approval is a necessary prerequisite prior to obtaining a building permit, the special exception or variance shall expire if the applicant fails to make a diligent effort to obtain such land development/subdivision approval within six months following the date of zoning approval. Upon receipt of land development approval, the special exception or variance shall expire if a building permit is not obtained within six months of the date of land development/subdivision approval.

ARTICLE 19

Enforcement

Section 1900. Enforcement Notice.

- 1900.1 If it appears to the Borough that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Article.
- 1900.2 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 enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- 1900.3 An enforcement notice shall state at least the following:
- A. The name of the owner of record and any other person against whom the Borough intends to take action.
 - B. The location of the property alleged to be in violation.
 - C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.

- D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of ten (10) days.
- F. 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 1901. Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, +maintained or used in violation of this Ordinance, the Borough Council or, with the approval of Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping 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 on Borough Council. No such action may be maintained until such notice has been given.

Section 1902. Enforcement Remedies.

- 1902.1 Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there as a good faith basis for the 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.
- 1902.2 The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

- 1902.3 Nothing contained in this Article shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Article.
- 1902.4 District justices shall have initial jurisdiction over proceedings brought under this Article.

ARTICLE 20

Amendments

Section 2000. Amendment by Borough Council. The Borough Council may amend or repeal this Ordinance by proceeding in the manner described below and as otherwise required by law.

Section 2001. Requests for Amendments to Zoning Regulations or Zoning Map. A petition to Borough Council requesting an amendment, supplement, change, modification or repeal of the regulations or zoning map, duly signed and acknowledged by the owners of fifty percent (50%) or more of the frontage in an area to be affected, may be filed with the Borough Secretary. The petition shall set forth the following facts:

- A. The signature and address of each petitioner, together with the number of feet frontage in any district or part thereof.
- B. The complete text proposed to be amended as currently written, and the complete text as it would read after amendment.
- C. The petition, if pertaining to the Zoning Map, shall have attached thereto plot plan of the real estate to be affected.

- 2001.1 An affirmative vote of a quorum of the full membership of Borough Council at a regular meeting or at a special meeting called for the purpose shall be required before a hearing shall be held by Borough Council on such petition.

Section 2002. Referral to Planning Commission. Any proposed amendment shall be referred to the Borough Planning Commission (unless it was prepared by them) and to the County Planning

Commission at least 30 days prior to the public hearing. Neither of the two planning commissions' recommendations shall be binding.

Section 2003. Amendment Procedure.

- 2003.1 The Borough Council by resolution adopted at a regular or special meeting shall fix the time and place of a public hearing on the proposed amendment, and cause public notice thereof to be given as follows:
- A. By publishing a notice in a newspaper of general circulation in the Borough once a week for two successive weeks. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
 - B. By mailing a notice to the owners (if possible) or occupiers of every lot within 500 feet of the property in question if a particular property is involved.
 - C. Public notice shall include either the full text of the proposed amendment or a brief summary setting forth the provisions in reasonable detail, and a reference to a place in the Borough where copies of the proposed amendment may be examined; in addition to the time and place of hearing.
- 2003.2 The proposed amendment shall be specifically found by Borough Council to be in accordance with the spirit and intent of the Comprehensive Plan before taking final action.
- 2003.3 Following the public hearing, the amendment shall not become effective except by favorable vote of a simple majority of all the members of Borough Council authorized to vote thereon, at a regular or special meeting of the Council.

ARTICLE 21

NP - Natural Preservation District

Section 2100. Declaration of Legislative Intent. It is hereby declared to be the intent of this Article to minimize the amount and impact of new development which occurs in that portion of the Borough that is now rural in character and is designated in the Bryn Athyn Comprehensive Plan Update as the Natural Preservation District and to blend any development which does occur unobtrusively and sensitively into the overall, environmentally significant, natural preservation area. Preservation of this area from intrusion of development is consistent with the goals and land use plan element of the Bryn Athyn Comprehensive Plan Update (2009), and the recommendations of the Pennypack Watershed Corridor Study Area Master Plan (1975). New development within the Borough shall be encouraged to develop in the other residential and nonresidential zoning districts which have been designed to accommodate a sufficient amount of growth to meet the Borough's share of regional demand.

Section 2101. Permitted Uses. A building may be erected, altered or used, and a lot or premises may be used for any of the following purposes and for no other:

- 2101.1 Crop lands, including individual gardens, pasture or meadow, cultivation or nursery stock.
- 2101.2 Park or recreation area for open space recreation operated by a governmental agency, non-profit organization, or watershed association.
- 2101.3 Woodland, game preserve, wilderness or nature areas, or other conservation purposes.
- 2101.4 Privately owned outdoor recreational area or use limited to park, picnic ground, riding academy, ice skating pond, and nature area and other uses of similar character.

- 2101.5 Farms and farm buildings.
- 2101.6 Municipal buildings devoted to community services.
- 2101.7 Single-family detached dwellings subject to the provisions of Section 2102.
- 2101.8 Accessory uses on the same lot with and customarily incidental to any of the foregoing uses.
- 2101.9 Any of the following purposes shall be permitted as a conditional use approved by Borough Council after recommendation by the Borough Planning Commission.
 - A. Churches
 - B. Golf course, consisting of not less than fifty (50) acres, and golf house, excluding golf driving range and miniature golf course.
 - C. Public utility facility, provided the exterior architectural design shall be of a residential character in conformity with all the regulations of this Article and shall at no time be used for the storage of equipment or vehicles or other commercial purposes.
 - D. Schools, colleges and universities, consistent with the standards contained in Article 12 of this Ordinance.
 - E. Rural residential subdivision containing either entirely single-family detached dwellings or a combination of single family detached and attached dwellings in accordance with Section 2105.

Section 2102. General Regulations. The following regulations shall apply for each lot except as provided for in Section 2105:

- 2102.1 Maximum impervious coverage -- 10%.
- 2102.2 Minimum building setback from street right-of-way line --75 feet
 - A. On lots with less than 100 feet of frontage on a public street, this setback line shall be measured from the point at which the lot attains a width of 100 feet.
 - B. In the case of a corner lot, this building setback line requirement shall apply with respect to each public street on which said lot fronts.
- 2102.3 Minimum lot size per dwelling unit – 160,000 square feet.

- 2102.4 Minimum lot width at building setback line – 200 feet.
- 2102.5 Minimum rear yard depth – 75 feet.
- 2102.6 Minimum side yard aggregate – 100 feet.
- 2102.7 Minimum for each side yard – 40 feet.
- 2102.8 An accessory building or structure may be erected in a rear yard, but no closer than 25 feet from the side lines and rear line of a lot, which 25 feet shall remain unbuilt upon and unobstructed at all times.
- 2102.9 In the case of a farm, no buildings shall be erected within a distance of seventy-five feet from the lot line.

Section 2103. Height Regulation. No building or structure shall be erected to a height greater than thirty-five feet.

Section 2104. Standards and Criteria for Conditional Uses. The following standards and criteria shall be required for Conditional Uses in the NP Natural Preservation District.

- 2104.1 **Scale.** The proposed use shall not impose upon its surroundings through either functional or visual means, but rather blend within the topography and vegetation in a quiet and unobtrusive manner; the scale or bulk of any proposed structures shall relate to and complement those in the surrounding area.
- 2104.2 **Rural Character.** The building and/or uses shall be designed, located, and constructed so as to minimize their impact on floodplains, stream valleys, steep slopes, wooded areas, prime agricultural soils, and similar environmentally sensitive areas, and shall be planned to minimize the perceived density or intensity of development; after development, the site shall retain a basically open or semi-rural character. All tree masses and significant vegetation areas shall be identified and protected to the maximum extent possible.
- 2104.3 **Traffic.** The existing road system must be able to accommodate the peak traffic generated by the development in a safe and efficient manner, or the developer must be willing to assume responsibility for improving the roads up to the appropriate standards without destroying the area's rural character.
- 2104.4 **Water Supply.** Sufficient water must be available to accommodate the needs of the development without adversely affecting existing water supply systems in the area or depleting the water supplies faster than they can be replenished naturally.

- 2104.5 **Sewage Disposal.** Sewage from the proposed conditional use should be processed and the effluent discharged utilizing land application techniques or small community septic systems in conformance with Pennsylvania Department of Environmental Protection standards. No application shall be given conditional use approval which would require an extension of public sewage collector facilities not proposed by the existing Act 537 Plan, unless in the discretion of the Borough Council, with the advice of the Borough Engineer a connection to a nearby existing sewer line is a more suitable means of sewage disposal.
- 2104.6 **Visual.** The proposed buildings must be screened from view or visually blend into the surrounding natural environment or, alternately, adequate buffering must be provided to accomplish this. Relationship to natural screens, such as woods and terrain, shall be a criterion for approval of the site design. If natural screens are not available a vegetative buffer of fifteen feet in depth shall be provided.
- 2104.7 **Topography.**
- A. Notwithstanding the otherwise permissible densities of development, lot sizes, and other area regulations contained in Section 2102 hereof, all areas of a tract proposed for residential development having the attributes set forth in subsection b. hereof, shall be permanently restricted against development. Any area so restricted may be included within common open space areas prescribed by Section 2108 and/or within individual lot areas.
- B. The following types of land area within a tract proposed for residential development shall be restricted as prescribed in subsection a. hereof:
1. Areas within any Floodplain Conservation District, as defined in the Bryn Athyn Floodplain Ordinance No. 678, adopted May 2, 2016.
 2. All areas having a slope greater than 25% as described in Article 23.
- 2104.8 **Utilities.** All utility lines (electric, telephone, etc.) shall be placed underground.
- 2104.9 **Development Plan.** The application for development shall be accompanied by a plan, or plans, showing the detailed use of the entire tract, which plan or plans also shall comply with all requirements of the Borough of Bryn Athyn Subdivision and Land Development Ordinance and other applicable ordinance. The plan shall clearly designate the proposed use(s) of each area of the tract.

- 2104.10 **Development Stages and Permits.** The development of a tract carried out in either a single phase or in stages, shall be executed in accordance with a development agreement. The owner, developer and Borough shall enter into said agreement embodying all details regarding compliance with this Article to assure the binding nature thereof on the overall tract and its development. This agreement shall be recorded with the final development plan.

Section 2105. Special Regulations for Rural Residential Subdivision. Where an application for conditional use approval of a rural residential subdivision is filed, it must comply with the following regulations:

- 2105.1 **Ownership, use and design, and maintenance of open space.** The provisions for ownership, use and design, and maintenance of the undeveloped and restricted open space created as part of a rural residential subdivision shall be as specified in Section 2108 of this Ordinance.
- 2105.2 **Minimum Tract Size.** The minimum tract size for a rural residential subdivision shall be 8 acres.
- 2105.3 **Area Regulations.** The following regulations shall apply for each detached single-family dwelling:
- A. Maximum gross density: one dwelling unit per 160,000 square feet.
 - B. Minimum lot size: 15,000 square feet.
 - C. Maximum impervious coverage: 35% of any lot.
 - D. Minimum building setback from street right-of-way: 35 feet.
 - E. Minimum lot width at the building setback line: 100 feet.
 - F. Minimum rear yard depth: 45 feet.
 - G. Minimum side yard aggregate: 40 feet.
 - H. Minimum for each side yard: 16 feet.
 - I. Accessory structure location: minimum of 5 feet from any side or rear property line.
 - J. Minimum undeveloped and restricted open space: 75%.

Section 2106. Special Regulations of Attached Dwelling Units. Within the NP Natural Preservation District attached dwellings may be permitted in conjunction with, and as a stipulated proportion of, a rural residential subdivision.

- 2106.1 For purposes of this section, attached dwellings shall be defined as a group of two or more, but not more than six dwellings in which each dwelling has independent and separate outside access, has one or more common party walls, and fully occupies the space from ground to roof.
- 2106.2 Attached dwelling units, at a ratio of up to two for each single-family detached dwelling, may be substituted for up to 1/3 the total number of single-family detached dwellings otherwise permitted as part of a rural residential subdivision.
- 2106.3 The design of any attached unit structure shall be varied such that no common adjacent roof line or equal adjacent front yard setbacks shall be permitted without approval of the Borough Council. Variation in building widths, heights, and orientations shall be incorporated into the design.
- 2106.4 The following area regulations shall apply to those portions devoted to attached dwellings:
- A. Maximum gross density: for each of the single-family detached dwellings within the rural residential subdivision for which attached dwellings are to be substituted (up to the maximum of 33% of the total single-family detached dwellings), two attached dwellings may be built, in accordance with Section 2106.2.
 - B. Maximum impervious lot coverage: 40%.
 - C. Minimum lot size per dwelling units where applicable.
 - Twin: 7,000 square feet.
 - Triplex or quadraplex: 4,000 square feet.
 - Townhouse: 2,000 square feet.
 - D. Minimum setback from boundaries of the portion of the tract undergoing development: 50 feet; and from an adjacent street: 75 feet.
 - E. Minimum setback from any interior street right-of-way, solid waste collection station, common parking area (or access road thereto): 20 feet.
 - F. Distance between buildings - the horizontal distance measured in feet, at the closest point between any two buildings shall not be less than twenty-five (25) feet. The horizontal distances, measured in feet, between parallel elements of buildings forming courts and courtyards (i.e., enclosed on at least three sides by buildings) shall not be less than twice the height of the taller building, measured in feet.

- G. Parking requirements:
 - 1. All attached dwellings shall be provided with off-street parking and off-street delivery/collection areas. Not less than two (2) off-street parking spaces shall be required for each dwelling unit.
 - 2. No parking shall be permitted within forty (40) feet of a property line or right-of-way line.

2106.5 **Setbacks.** Where individual yard requirements are not applicable such as rental or condominium developments the following minimum setbacks shall be applied:

- A. From the property line or district boundary line: 50 feet.
- B. From the ultimate right-of-way line of an adjacent street: 75 feet.
- C. From any parking area or interior street: 20 feet.

Section 2107. Phasing of Development. In the case of any application for conditional use approval of a rural residential subdivision in which any portion of the land then owned by the applicant (or by the legal owner in the event that the applicant is not the legal owner) is not part of the gross area of the tract for density purposes, such additional land shall be designated on the plans accompanying the application for conditional use approval, and such plans shall also designate the manner in which the landowner intends to develop such remaining land, and the portions thereof which, in the event of such subsequent development as a rural residential subdivision, are proposed to be designated as undeveloped and restricted open space. Conditional use approval by the Borough Council of the application may be conditioned upon the landowner's covenant to adhere to such plan (subject to modification by the Borough Council) in the event of such subsequent development.

Section 2108. Undeveloped and Restricted Open Space. It is the purpose of the Ordinance, in authorizing rural residential subdivisions of single-family residences, to foster the preservation of agricultural and other rural uses of a substantial portion of the land area by which permitted density is measured. Hence, it is not intended to require that undeveloped and restricted open space areas be owned by and/or made available for public use, but rather that it may, after being subject to restriction against development, be held in ownership and use separate and apart from the owners and/or residents of the subdivision. Undeveloped and restricted open space shall therefore be governed in the following manner:

- 2108.1 **Amount.** Not less than 75% of the total area of a rural residential subdivision shall be designated as undeveloped and restricted open space.
- 2108.2 **Ownership.**

- A. All or a portion of the undeveloped and restricted open space may be designated as common open space in which event all residents of the subdivision shall have access to and use of such common open space, and ownership thereof shall comply with the requirements of the Subdivision and Land Development Ordinance.
- B. All or a portion of the undeveloped and restricted open space may be reserved for the use and ownership of the landowner, his heirs and assigns, in which event the residents of the subdivision shall have no rights of ownership, use, or access thereto. In such event, the ownership and use thereof shall be retained by the landowner, subject to the imposition thereon of a deed of easement totally and permanently restricting open space. The said deed of easement shall designate the owner, his heirs, successors and assigns, of the portion of the tract to be developed as the grantee of the easement, and shall also designate as third party donee beneficiary, and the restrictions and covenants therein contained shall be enforceable by either the grantee, his heirs, successors and assigns, or by the Borough.

2108.3 Use and Design of Open Space.

- A. **Common open space** within the portion of a tract designated for the common access and use of the residents shall be governed by the requirements of the Subdivision and Land Development Ordinance.
- B. **Undeveloped and restricted open space.** All portions of a tract designated as undeveloped and restricted open space as stipulated in Section 2105.3(j) shall be permanently restricted against development, and, provided that additional impervious cover shall not exceed 3% of the undeveloped and restricted open space, may be used for the following purposes, and no other:
 1. Crop lands, including individual gardens.
 2. Pasture or meadow.
 3. Cultivation of nursery stock.
 4. Park or recreation area for open space recreation operated by a governmental agency, non-profit organization, or watershed association.
 5. Woodland, game preserve, wilderness or nature areas, or other conservation purposes.

6. Privately owned outdoor recreational area or use limited to park, picnic ground, riding academy, golf course, ice skating pond, and nature area and other uses of similar character.
7. Uses accessory to permitted uses providing that each building or structure be clearly incidental to the permitted outdoor use.
8. Historic monuments and publicly-owned buildings.
9. Public utility use consistent with maintenance of the natural environment character of the preserved area.

2108.4 Any such use shall prohibit topsoil stripping, and shall, where applicable, be conducted in accordance with appropriate soil and water conservation measures. In addition, the land shall be subject to all restrictions imposed thereon, by virtue of the deed of easement, whether or not such restrictions or restrictive covenants are specifically enumerated in this Ordinance.

2108.5 **Maintenance of Open Space.** The maintenance of common open space designated for the common areas and use of the residents, shall be accomplished in accordance with the provisions of the Subdivision and Land Development Ordinance.

ARTICLE 22

CL - Cluster Development District

Section 2200. Declaration of Legislative Intent. It is the purpose of this article to encourage a more creative approach to the use of land and to enable the preservation of usable open space areas throughout the borough while allowing for more efficient development patterns in terms of utilities and roads. This article is intended to provide for a variation in normally required lot sizes for single family detached dwellings, in applicable residential districts, so that the present permitted density of dwelling units contemplated by the minimum lot sizes prescribed in the applicable zoning district is maintained or an overall basis and desirable open space, tree cover, historic sites, recreation areas, scenic vistas, stream valleys, or other lands for public purposes are preserved within these developments for the benefit of the residents of the development and in furtherance of the general welfare of the Borough of Bryn Athyn.

Section 2201. Delineation of the Cluster Development District. The Cluster Development District shall be allowed by right in the “A” Low Density Residential District and as a conditional use in the “MD” Mixed Dwelling Type District. Borough Council will act on the delineation of a Cluster Development following review and comment by the Borough Planning Commission.

Section 2202. Prerequisites for Cluster Development. The following necessary conditions must be satisfied before the Borough Council will grant preliminary plan approval for a subdivision plan in accordance with the requirements of this article.

- 2202.1 The tract of land must be not less than five acres in size unless the tract and its open space abut an existing open area owned and maintained by the Borough.
- 2202.2 The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly by the owners of the entire tract, and it shall be agreed that the tract will be developed under single direction and completely in accordance with the approved plan. Development of the tract must commence in earnest within twelve months of approval under this section

or the cluster provisions shall revert to the applicable zoning requirements of the district.

- 2202.3 The cluster development shall be served by centralized water facilities and public sewer facilities deemed acceptable to the Borough Council upon recommendation by the Borough Engineer.
- 2202.4 The application for development shall be accompanied by a plan, or plans, showing the detailed use of the entire tract, which plan or plans also shall comply with all requirements of the Borough Subdivision and Land Development Ordinance and other applicable ordinances unless these requirements are relaxed according to Section 2203 herein. The plan shall clearly designate the proposed use of each area of the tract.

Section 2203. Provisions of Cluster Development. Following the review and recommendations of the Planning Commission, and subject also to the requirements of this Section and Borough Council may:

- 2203.1 Authorize a reduction of not less than 25% and not more than 75% in the lot areas per family dwelling unit for (A) Low Density Zoning District;
- 2203.2 Permit modifications of the yard and other area requirements of the district so that the front yard requirement shall be no less than thirty feet measured from the ultimate right-of-way and the two (2) side yards, one on each side, together shall have an aggregate width of not less than thirty feet while neither shall have a width of less than twelve feet. The rear yard on each lot shall have a minimum depth of twenty-five feet.
- 2203.3 Permit modifications of lot width requirements of not more than 50% for the (A) Low Density Zoning District, and to allow properties abutting a cul-de-sac or curvilinear street to have the lot width calculated at the building line, i.e. front yard setback, rather than at the ultimate right-of-way line; however, in no case shall the lot width at the curb line be less than 30 feet.
- 2203.4 Permit modifications of the Subdivision Ordinance of Zoning Ordinance as described below:

The uniqueness of each proposal for a cluster development may require that the specifications for the width and surfacing of streets and highways, alleys, ways for public utilities, for curbs, gutters, sidewalks, street lights, storm water drainage, water supply and sewage collection shall be subject to modification from the specifications established in other provisions of the Borough Zoning Ordinance as heretofore amended, and the Subdivision Ordinance as heretofore amended. The Borough Council may therefore, waive or modify the specifications otherwise applicable for a particular public facility where the Council finds that such specifications are not required in the interest of the residents of the cluster development and that the modifications of such

specifications are not inconsistent with the interest of the entire Borough. Proposed specifications and standards that are contrary to those required under the prevailing Borough regulatory codes shall be termed acceptable upon approval by the Borough Engineer. A summary of the normal requirements of the (A) Low Density Residential District is presented in the following table. Also included is a summary of the modifications which may be permitted according to the provisions of this Section (2203).

SUMMARY CHART	
	District A Low Density
DISTRICT NORMALLY REQUIRES	
Lot Area	43,560
Building Setback	50
Lot Width	150
Rear Yard	30
Maximum Building Coverage	15%
REDUCTIONS PERMITTED	
Maximum Lot Reduction	75%
Minimum Lot Reduction	25%
Lot Areas in Special Cluster	
Minimum Lot (i.e., Maximum Reduction)	10,890
Maximum Lot (i.e., Minimum Reduction)	32,670
Other Requirements	
Setback	30
Side Yards	
a. Total for two (2)	40
b. Minimum, one side	15
Rear Yards (No Reduction)	30
Lot Width Reduction ⁽¹⁾	Up to 50%

Lot Width at Curbside on Cul-de-sac and Curvilinear	Minimum 30 feet
Maximum Building Coverage	25%
<i>(1) On cul-de-sacs and curvilinear streets, width requirements are at building line (setback).</i>	

Section 2204. Special Requirements Governing Open Space. A minimum of ten percent of the development area shall be preserved as common open space subject to the following:

- 2204.1 Any areas to be set aside or reserved for parks, woodlands, conservation, or other open space purposes, such as the preservation of natural features or historical areas, shall (1) be suitable for the designated purpose, (2) be consistent with the plan and policy for future land use for the Borough, and (3) contain no new structures, paving, or other physical improvements except for natural plantings, necessary underground utilities and pedestrian walkways.
- 2204.2 The height and placement of buildings and any variation in setbacks or lot sizes shall create and result in aesthetically pleasing frontages and lots.
- 2204.3 Necessary covenants, easements and/or restrictions must be established to provide for public utilities, drainage, trails for hiking and bicycling, or any other permitted use designated for the benefit of owners or occupants of the development.
- 2204.4 Areas for common open space use may be reserved for private use, or dedicated to the Borough. Maintenance and use of said open space shall be consistent with the provisions of the Subdivision and Land Development Ordinance.
- 2204.5 Whenever possible, land set aside from development should contain any one or a combination of the following amenities:
 - A. Floodplain as defined in Ordinance No. 671 adopted February 29, 2016.
 - B. Slopes of 15% or greater as defined in Article 23.
 - C. Mature permanent vegetation.
 - D. Other natural features of irreplaceable value.

- E. Historic sites.
- F. Land suitable for active recreation use.

ARTICLE 23

SS – Steep Slope Conservation District

Section 2300. Purposes. The purpose of this Article is to provide for the reasonable use of steep slopes while ensuring development will not induce soil erosion, require excessive grading, increase slope instability, or create sewage disposal problems and shall be in conformance with the following objectives:

- 2300.1 Guard against property damage and personal injury, and minimize the potential for erosion, slope failure, stream siltation, increased runoff, flooding and contamination of surface waters caused by the adverse effects of site preparation and construction on steep slopes.
- 2300.2 Conserve existing woodlands for air and water quality benefits.
- 2300.3 Permit land uses by right that are compatible with protection of steep slope areas, and encourage the use of steep slope areas for open space and conservation uses.
- 2300.4 Require development to avoid steep slope areas wherever possible, and require all land use, clearing, grading, and construction to satisfy development standards.
- 2300.5 Regulate expansion of land use or development that existed on steep slope areas prior to enactment of these requirements.
- 2300.6 Protect adjoining properties from harmful consequences of development permitted under these requirements.

Section 2301. Definitions. The following words and phrases when used in this Article shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

- 2301.1 **Borough.** The Borough of Bryn Athyn, County of Montgomery, Commonwealth of Pennsylvania.
- 2301.2 **Diameter at Breast Height (DBH).** The diameter of a tree trunk measured at a point four (4) feet above ground level.
- 2301.3 **Disturbance.** Any physical activity which results in the modification of topography by cutting or filling, stripping of topsoil, and/or placing of physical structures or improvements thereon.
- 2301.4 **Drip Line.** An imaginary circular line on the soil around a tree that mirrors the circumference of the tree's canopy. The tree's roots usually extend well beyond this line.
- 2301.5 **Fill.** Any clean soil or rock materials (sand or clay) used to raise the ground elevation.
- 2301.6 **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.
- 2301.7 **Land disturbing activity.** Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure. An agricultural activity such as the planting, growing, cultivating and harvesting of crops is exempt from this definition.
- 2301.8 **Open space.** An area of land or water, or a combination of land and water on a parcel of land that is free of improvement and impervious surfaces.
- 2301.9 **Slopes of 25% or more.** Slopes of twenty-five (25) percent or greater slope (i.e., sloping twenty-five (25) feet or more vertical per one hundred (100) feet horizontal) when there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least twenty-five (25) percent.
- 2301.10 **Woodland.** A plant community where tree species are dominant or co-dominant and the branches of the trees form a complete or nearly complete aerial canopy. Any area, grove or stand of mature or largely mature trees (larger than six inches DBH) covering an area of one-quarter acre or more, or consisting of ten (10) individual trees larger than eight (8) inches DBH, shall be considered a woodland. The extent of any woodland shall be measured from the outer-most drip line of all the trees in the community.

Section 2302. Identification and Establishment of Steep Slope Overlay District.

- 2302.1 The Steep Slope Overlay District is defined and established as those areas having slopes of 25% or greater as delineated on a map(s) prepared for Bryn Athyn Borough.

- 2302.2 The boundaries shown on the Steep Slope Overlay District Map may be supplemented or modified by examination of one or more of the following sources by the Borough of Bryn Athyn whenever a subdivision or land development plan is submitted for review:
 - A. Soil Survey of Montgomery County, Pennsylvania, USDA Soil Conservation Service.
 - B. Contour maps prepared from aerial photography.
 - C. On-site survey prepared by a Registered Professional Engineer or Surveyor.

- 2302.3 The Steep Slope Overlay District shall be areas with slopes of 25% or greater slope (i.e., sloping twenty-five (25) feet or more vertical per one hundred (100) feet horizontal) when there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least twenty-five (25) percent.

- 2302.4 The Borough Engineer shall determine whether or not the Steep Slope Overlay District has been shown with sufficient accuracy on the applicant’s plans. Based on the Municipal Engineer’s advice, the Borough may require applicants to revise the boundaries shown on the plans.

- 2302.5 The burden of proving the correct boundary shall be on the applicant, supported by engineering and/or surveying data or mapping, testimony of a soil scientist, or other acceptable evidence.

Section 2303. General Provisions.

- 2303.1 The Steep Slope Overlay District shall be an overlay on all zoning districts. For any lot or portion thereof lying within the Steep Slope Overlay District, the regulations of the overlay district shall take precedence over the regulations of the underlying district.

- 2303.2 These regulations apply to lots where the proposed land disturbing activity is greater than 5,000 square feet.

- 2303.3 All uses, activities and development occurring within any Steep Slope Overlay District shall be undertaken only in strict compliance with the provisions of this Article, with all federal and state laws, and with all other applicable Borough codes and ordinances.
- 2303.4 Finished slopes of all cuts and fills shall not exceed 33%, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately to the satisfaction of the Borough.
- 2303.5 All cuts shall be supported by retaining walls or other appropriate retaining structures when, depending upon the nature of the soil characteristics, such structures are approved by the Borough Engineer in order to prevent erosion.
- 2303.5 Any fill placed on the lot shall be properly stabilized and, when found necessary depending upon existing slopes and soil types, supported by retaining walls or other appropriate structures as approved by the Borough Engineer.
- 2303.7 No retaining wall shall exceed eight (8) feet in height, and there shall be at least 10 feet between stepped retaining walls. All retaining walls require a certification by a professional engineer that the wall was constructed in accordance with approved plans and applicable building codes.
- 2303.8 Any disturbance of steep slopes shall be completed within one construction season, and disturbed areas shall not be left bare and exposed during the winter and spring thaw periods. Permanent vegetative cover shall be planted within three days after completion of grading.
- 2303.9 No trees with a diameter at breast height (DBH) of eight (8) inches or more shall be removed from steep slope areas.
- 2303.10 The alignment of roads and driveways shall follow the natural topography, minimize regrading and comply with design standards for maximum grades set forth in Borough Subdivision and Land Development Ordinance.
- 2303.11 The maximum grade of a road or driveway shall not exceed 10%.
- 2303.12 The degree of steep slope protection sought by the provisions of this Article is considered reasonable for regulatory purposes. This Article does not imply that areas outside the Steep Slope Overlay District or permitted uses within the zoning district will be free from erosion or slope instability. This Article shall not create liability on the part of (Municipality) or any officer or employee thereof for any damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

Section 2304. Permitted Uses and Development on Slopes of 25% or More.

- 2304.1 Open space and conservation uses are permitted by right on slopes of 25% or more, provided that they shall not include any structures, roads, driveways, parking areas, construction, or other development, or grading, or clearing of vegetation.
- A. Wildlife sanctuary, woodland preserve, arboretum, and passive park and recreation areas.
 - B. Forestry and reforestation in accordance with recognized natural resource and soil conservation practices, and as permitted by municipal and state regulations.
 - C. Pasture and grazing land in accordance with recognized natural resource and soil conservation practices.
 - D. Outdoor plant nursery or orchard in accordance with recognized natural resource and soil conservation practices.
 - E. Cultivation and harvesting of crops in accordance with recognized natural resource and soil conservation practices.
 - F. Front, side, or rear yards, and required lot area for any underlying zoning district, subject to the requirements of Section 2303 General Provisions, herein, and provided such yards shall not be used for any use prohibited under Section 2308, herein.
 - G. Non-structural accessory uses necessary to the operation and maintenance of the above permitted uses.

Section 2305. Prohibited Uses on Slopes of 25% or More.

- 2305.1 The following uses are specifically prohibited on slopes of 25% or more:
- A. Removal of topsoil.
 - B. Solid waste disposal, recycling uses, junk yards, or other outdoor storage uses.
 - C. Structures, roads, driveways, parking areas, construction or other development.
 - D. Clearing of vegetation or grading, including the addition of fill.
 - E. Sealed public water supply wells.

- F. Sanitary or storm sewers and stormwater detention basins.
- G. On-lot sewage disposal systems.
- H. Utility transmission lines and above ground utility line structures.
- I. Extractive uses.