

CODE OF WAYMART BOROUGH
ZONING – CHAPTER 125

CHAPTER 125
Zoning

[HISTORY: Adopted by the Borough Council of Waymart Borough On August 8, 1988 as amended through July 9, 2013 and via this codification.]

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Article I - General Provisions

§ 125-01. Title and Short Title.

An ordinance establishing regulations and restrictions for the location and use of lots, land, buildings and other structures; the height, number of stories and size or bulk of buildings and structures; the density of population; off-street parking and signs in Waymart Borough, Wayne County, Pennsylvania. This Chapter shall be known as and may be cited as the "Waymart Borough Zoning Ordinance."

§ 125-02. Purpose.

This Chapter is created for the purpose of promoting and protecting the public health, safety, morals and general welfare; coordinated and practical community development; proper density of population; adequate light and air; necessary police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements as well as preventing overcrowding of land, blight, traffic congestion and hazards, loss of health, life or property from fire, flood, panic or other dangers.

§ 125-03. Community Development Objectives.

The community development objectives of this Chapter shall be identical to goals and objectives for Waymart Borough as expressed in the Waymart Borough Comprehensive Plan, as adopted by the Waymart Borough Council.

§ 125-04. Interpretation.

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals and/ or general welfare of the residents and inhabitants of the Borough.

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Article II - Definitions

§ 125-05. Introduction.

For the purpose of this Chapter the following words, terms and phrases have the meaning herein indicated. The definitions below are also supplemented by those contained in other Waymart Borough Ordinances. Where there is any conflict between definitions or provisions contained in this Chapter and other ordinances, the definitions or provisions contained herein shall apply insofar as they affect regulations part of this Chapter.

§ 125-06. Definitions of Terms.

Accessory Building or Structure—A subordinate structure or building, or portion of the main building lot, the use of which is customarily incidental to that of the main or principal building, including fences, electronic reception devices and all private swimming pools as herein defined. It shall be constructed of a combination of materials which is safe and stable.

Accessory Use—A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use including accessory buildings and structures.

Adult Stores—Use of a building or land for a business which has obscene materials or drug paraphernalia as the major portion of its stock-in-trade. Obscene materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, video recording, article, instrument or any other written or recorded matter which depicts or describes sexual conduct and which, taken as a whole, does not have serious literary, artistic, political or scientific value. Drug paraphernalia includes any objects, devices, instruments, apparatus or contrivances whose primary and traditionally exclusive use is involved with the illegal use of any controlled substances under the Pennsylvania statutes.

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

Area (Building)—that portion of a lot which is covered by structures.

Assisted Living—The provision of independent residential care in a home environment for seniors needing some help with their daily living and medications. A freestanding facility, or a part of a nursing home, where residents live with varying degrees of independence.

Boarding or Tourist Home—Any dwelling in which more than three persons either individually or as families, are housed for hire with meals normally included as a part of the services rendered.

Body and Fender Shop—A building or use involving the repair of car bodies, painting and similar vehicular work

Building Height—The vertical distance measured from the average ground level grade to the highest

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point of the structure, excluding chimneys or antennae.

Campground or Recreational Vehicle (RV) Park—A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles.

Clear Sight Triangle—An area of unobstructed vision for purposes of vehicular safety at a street intersection(s), defined by lines of light between points at a given distance from the intersecting street right-of-way lines.

Cluster Development—A form of development for single-family residential and/ or commercial subdivisions that permits a reduction in lot area and certain development standards provided unit densities permitted under a conventional subdivision/commercial development are maintained and the resultant land area is devoted to •common open space.

Comprehensive Plan—The Waymart Borough Comprehensive Plan, including all maps, charts and textual matter.

Conditional Use—A use which is not appropriate to a particular zone district as a whole but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Chapter are present. Conditional uses are allowed or denied by the Waymart Borough Council after recommendations by the Waymart planning committee.

Condominium—An individually owned unit of real estate, especially an apartment or townhouse, in a building or on land that is owned in common by the owners of the units.

Cultural Facilities—Buildings, structures or uses designed and/or operated for purposes of displaying (as opposed to selling) the crafts of artisans, not including theaters or adult stores.

Dwelling—A structure or portion thereof which is used exclusively for human habitation.

Dwelling Unit—One or more rooms in a dwelling structure including a kitchen, sleeping facilities, bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one family at a time.

Dwelling, Multi-Family—A building or buildings designed for occupancy by three or more families living independently of each other in separate dwelling units. The term "multifamily dwelling" shall include condominium as well as non-condominium housing units including the following construction types:

- (1) **Residential Conversion to Apartments**—Conversion of an existing single-family detached dwelling having been used as such for 10 or more years into three to five dwelling units and not exceeding 2 1/2 stories in height.
- (2) **Garden Apartment**—Multi-family dwelling originally designed as such; containing three or more dwelling units and not exceeding 2 ½ stories in height, not including townhouses.
- (3) **Townhouse**—Multifamily dwelling of three or more dwelling units of no more than 2 1/2 stories in

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height in which each unit has its own front and rear accesses to the outside; no unit is located over another unit and separated from any other unit by one or more common fire resistant walls.

- (4) **Medium High-Rise Apartments**—Multifamily dwellings of more than 2 1/2 stories but not exceeding the height limitations (in feet) of this Chapter.

Dwelling, Single-Family—A dwelling unit-accommodating a single family and having two side yards.

Dwelling, Two-Family—Dwelling accommodating two families either with units which are attached side by side through the use of a party wall and having two side yards, one adjacent to each dwelling unit; or upstairs/downstairs units.

Essential Services—Public utility uses and public or semipublic providers of emergency services such as fire and ambulance uses.

Family—Either an individual or two or more persons related by blood or marriage or ad option or a group of not more than five persons living together as a household in a dwelling unit.

Farm Stand—A booth or stall on a farm and from which produce and farm products are sold to the general public.

Fast Food Establishments—Restaurants offering limited menus of which a substantial portion of the items are sold for consumption off premises.

Forestry Enterprises—Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or in performing forest services including the operation of a sawmill but excluding other wood manufacturing businesses.

Garage (Residential)—A structure either attached or detached to the principal structure which is primarily used for storing noncommercial vehicles on property that is not used for a place of business with the exception of a Borough approved home occupation.

Gasoline Service Station—A structure, building or area of land or any portion thereof used for the sale, on either a full-service or self-service basis, of gasoline and oil or any other motor vehicle fuel and/ or other lubricating substance which may or may not include facilities for lubricating, washing, sale of accessories and otherwise servicing motor vehicles, but not including the painting and/or body work thereof. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station.

Health Facilities—Establishments primarily engaged in providing services for human health maintenance including hospital facilities, nursing and adult homes and medical clinics and offices whether publicly or privately operated.

Home Occupation—Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling and no goods are publicly

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displayed on the premises other than signs as provided herein; including, but not limited to, the following occupations: the professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers and veterinarians, excluding stables, kennels or motor vehicle or small engine repair shops and does not permit the employment of more than two persons not living on the premises.

Hotel—A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals and providing additional services such as restaurants, meeting rooms and recreational facilities.

indoor Theaters—Facilities operated for the purpose of showing films inside a closed structure not including adult stores.

Junk—Includes scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc, and all other scrap metals and their tin alloys; and bones; rags; used cloth; used rubber; used rope; used tin foil; used bottles; old, used or dismantled machinery or vehicles; used tools, used appliances; used fixtures; used utensils; used lumber; used boxes or crates; used pallets; used pipe or pipe fittings; used tires; and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Junkyard—An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials including, but not limited to, wastepaper, rags, metal, building materials, house furnishings, machines, vehicles or parts thereof for purposes of dismantling, processing, salvage, sale or other commercial use or disposition of the same.

Kennel—The keeping of four or more dogs that are more than 6 months of age.

Light Manufacturing—Industries involving generally unobtrusive processes. These include, but are not limited to, research, engineering or testing laboratories, assembly from components, fabrication of products, textile and clothing manufacturing, warehousing, distribution centers, wood products industries, similar uses and heavy commercial activities.

Livestock Operation—The fattening or raising of beef cattle, hogs, poultry or other animals for the purpose of obtaining meat, eggs or wool for marketing. Any livestock operation which involves the keeping of more than ten cows or beef cattle or ten hogs or ten sheep or ten goats or 50 fur-bearing animals or 500 poultry shall be considered intensive.

Lot—Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter for a lot in the district which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot Coverage—That portion or percentage of the lot area which is covered by buildings.

Lot Width—The average shortest distances between the opposite side property lines, taking into

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account the full depth.

Mobile Home—A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation.

Mobile Home Lot—A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

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

Motel—A facility offering temporary (generally for periods of 2 weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals with at least 25% of the rooms having direct access to the outside.

Nonconforming Use—(See § 125-29.)

Nursing Homes—Facilities providing room and board plus professional nursing care to persons requiring such services.

Off-Site Sewage Disposal—A sanitary sewage collection system in which sewage is carried from individual lot or dwelling units by a system of pipes to a central treatment and disposal plant which may be publicly or privately owned and operated. A system designed to serve a two-family dwelling or two dwelling units located on the same property or adjacent properties shall not be considered as off-site sewerage and in such a case all development standards will apply the same for each dwelling or unit as any single-family unit.

On-Site Sewage Disposal—A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil

Permanent Foundation—A structural support system the base of which is a concrete footer below frost line or a minimum of 42 inches unless solid rock has been previously encountered. The wall may be constructed of concrete, concrete and stone, treated wood, cinder block or other similar materials whose physical properties are structurally sound and capable of withstanding the applicable loads and conditions present in the soil. These materials must be approved by the Zoning Officer.

Plat—A plan of lots.

Private Recreational Facilities—Outdoor or indoor areas or structures, operated by private nonprofit or private commercial entities, open to the public, which contain entertainment and amusement devices or attractions including animal farms, zoological parks, tennis and racquetball courts, ski areas, golf courses and the like, but excluding theaters, public parks and playgrounds.

Professional Services—Law offices, accounting services, engineers and like professions and medical

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offices.

Public Hearing—A formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment prior to taking action in accordance with this Chapter.

Public Meeting—A forum held pursuant to notice under the Act of June 3, 1986 (P.L.388, No. 84, known as the "Sunshine Act," 53 P.S. §§271 et seq.

Public Notice—Notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of 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 7 days from the date of the hearing.

Recreational Vehicle—A vehicle with or without motor power which may be towed on the public highways by a passenger automobile or truck without a special hauling permit or which may be driven under its own power. This definition includes, but is not limited to, campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes, motor homes, snowmobiles, ATV's, dirt bikes, Go-Carts and motorcycles.

Recreational Vehicle Park—(See "Campground.")

Retail Establishments, Serving Need of Immediate Area—Retail stores and services operated primarily for the purposes of serving local clientele including grocery stores, clothing shops, bakeries, pharmacies and the like but excluding mobile home sales, shopping centers and other facilities oriented primarily toward highway-related trade and/or regional markets.

Setback—That horizontal distance measured from a vertical plane through the closest point of the structure to a corresponding vertical plane along the adjoining property line or edge of right-of-way as applicable.

Sign—(See § 125-24.)

Shopping Center or Mall—A group of three or more commercial establishments whose individual floor space is a minimum of 1,000 square feet and is constructed and managed as a total entity with customer and employee parking provided on the site; provision for goods delivery separate from the customer access and aesthetic consideration and protection from the elements under one roof.

Speciality Shops—Establishments primarily engaged in providing services involving the care of a person or his or her apparel or specializing in a specific type or class of foods such as a bakery, butcher shop, fish store or similar shops.

Stable (Commercial)—A structure or use which involves the keeping of donkeys, horses or mules not for hire, remuneration or sale.

Stable (Private)—An accessory structure or use which involves the keeping of donkeys, horses or mules not for hire, remuneration or sale.

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Structure—An assembly of building materials forming a stable, safe unit that may be considered, but not limited to, the following: buildings, dwellings, factories, stadiums, platforms, towers, sheds, storage bins and display signs.

Supermarket—A retail establishment offering food and "kindred products which contains more than 5,000 square feet of shopping area.

Swimming Pool (Private)—Any structure, whether of temporary or permanent nature, either above or below ground, which contains water to a depth of 1 ½ feet or more and is used for swimming purposes and which is not available for public use.

Transient Use—Occupancy of a dwelling by three or more families at separate times over the course of year, not including persons who may, during such period, be temporarily staying at the location as guests of the principal occupant.

Trip Ends—The total of trips entering and leaving a specific land use or site over a designated period of time.

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

Variance—The permission granted by the Zoning Hearing Board, following a public that has been properly advertised as required by the appropriate municipal code, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship and where the permission granted would not be contrary to the public interest and would maintain the spirit and original intent of this Chapter.

Vehicle and Equipment Sales Operation—The use of any building, parking area or other premises for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles or farm or construction equipment including any warranty repair work and other repair service as an accessory use, No business or facility which generates less than 50% of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described (excluding parts and repairs) shall be considered a vehicle and equipment sales operation.

Yard—That entire area of land within the established property lines which is unoccupied by any structures.

Yard, Front—That area of land beginning at the edge of the right-of-way and continuing parallel to the right-of-way from one side property line to the opposite side property line, the depth of which is measured perpendicular to the edge of the right-of-way to the closest point of the principal structure.

Yard, Rear—That area of land beginning at the rear property line and continuing parallel to the rear property line from one side property line to the opposite side property line, the depth of which is measured perpendicular to the rear property line to the closest point of the principal structure.

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Yard, Side—That area of land beginning at the side property line and extending parallel to the side property line to the front and rear property lines, the depth of which is measured perpendicular from the side property line to the closest point of the principal structure.

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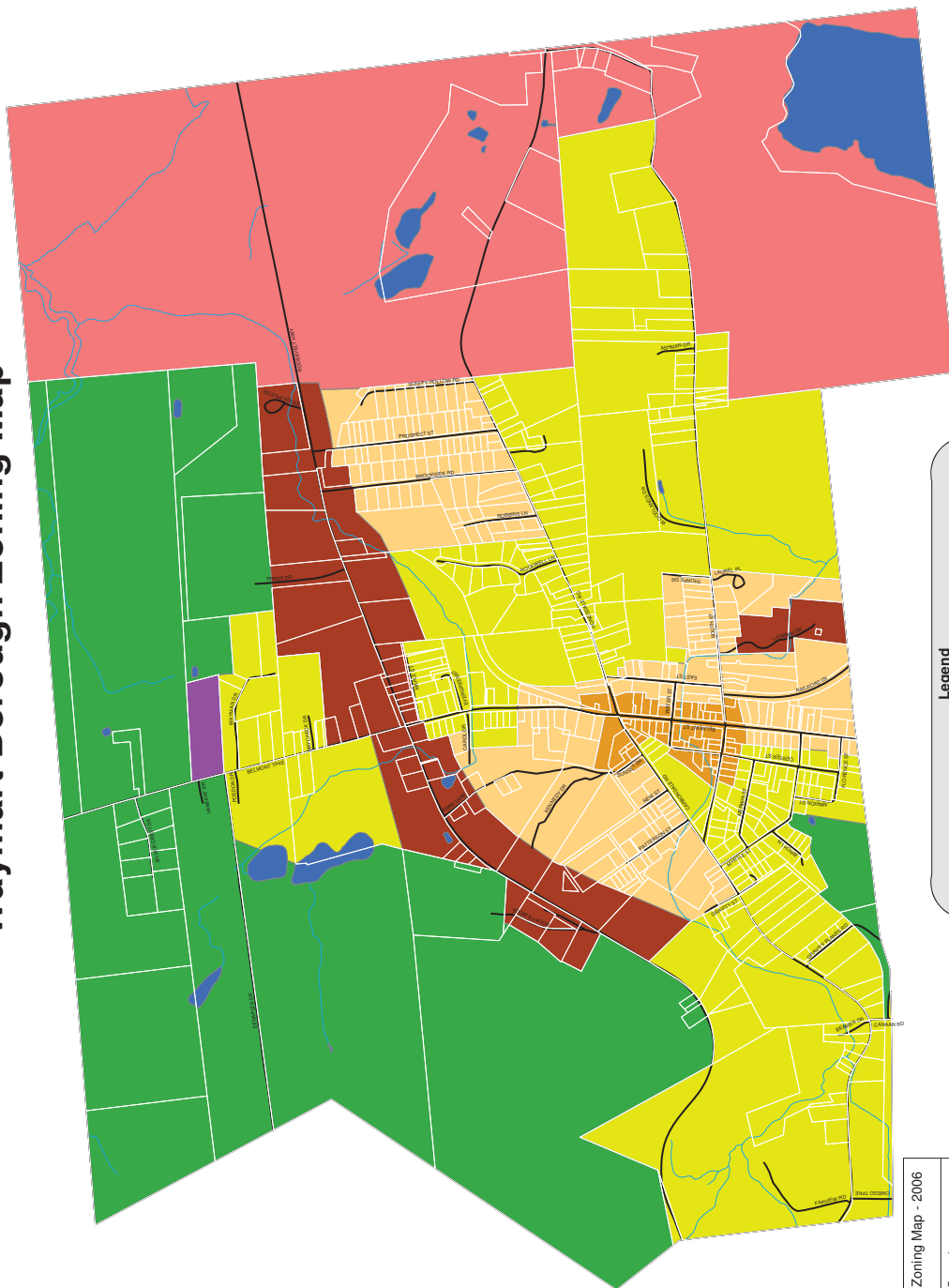
Article III - Basic Zoning Regulations

§ 125-07. Official Zoning Map.

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

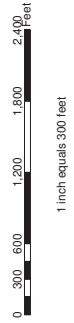
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Waymart Borough Zoning Map



Legend

Features	Districts	Districts
Parcels	Industrial	Rural Residential
Roads	General Commercial	Low Density Residential
Water Courses	Commercial Recreation	High Density Residential
Water Bodies	Neighborhood Commercial	



Waymart Borough Zoning Map - 2006
Waymart Borough Wayne County, Pennsylvania
Adopted by Waymart Borough Council on _____
Attest: _____
Zoning map information compiled from Waymart Borough Zoning Ordinance adopted August 2, 1989
Parcel file data obtained from Wayne County Assessment Office
Prepared by Wayne County Department of Planning

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§ 125-08. Classes of Districts.

A. Waymart Borough shall consist of seven zoning districts as follows:

- R-R Rural Residential
- R-1 Low Density Residential
- R-2 High Density Residential
- C-G Commercial-General
- C-N Commercial-Neighborhood
- C-R Commercial-Recreational
- I Industrial

B. The intent of each district and regulations that shall apply in each are given in the Schedule of District Regulations, § 125-13.

C. An additional classification is hereby made for the purpose of-regulating floodplains as designated by the Federal Emergency Management Agency and the U.S.D.A. Soil Conservation Service.

§ 125-09. District Boundaries.

District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads and lot or property lines as they exist on a recorded deed or plan of record in the Wayne County Recorder of Deed's Office and the Wayne County Tax Maps at the time of the enactment of this Chapter unless such district boundary lines are fixed by dimensions as shown on the Zoning Map. In any case of uncertainty, the Waymart Borough Council shall interpret the intent of the map as to location of district boundaries.

§ 125-10. District Regulations Generally.

District regulations are of two types: use regulations and development standards which shall apply to any proposed new use, expansion of an existing use or change of use of land and/or structures in Waymart Borough.

§ 125-11. Use Regulations.

A. Use regulations and statements of intent for each district are provided in the Schedule of District Regulations, § 125-13. Permits for principal permitted uses and accessory uses shall be issued as a matter of right; provided, the standards contained in this Chapter are otherwise met. Conditional uses shall be subject to additional review procedures as specified herein.

B. Whenever any proposed use is neither specifically permitted nor denied under this Chapter as presently written, the Zoning Officer shall refer the application to the Council, which shall determine whether the use shall be permitted or denied based on its similarity to other permitted or denied uses which are specifically identified in this Chapter. The Council shall, if it determines the use is permitted, classify it as either a principal permitted, conditional or accessory use and direct the Zoning Officer to proceed accordingly.

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§ 125-12. Development Standards.

The development standards which apply to each district include minimum lot sizes, minimum average widths, minimum lot depth, yard requirements, maximum lot coverage for buildings and maximum height. These standards vary among districts and are so depicted in the Schedule of District Regulations which follows. Supplementary regulations (Article IV) may establish additional or differing standards as they apply to specific uses. .

§ 125-13. Schedule of District Regulations.

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DISTRICT DESIGNATION AND INTENT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	CONDITIONAL USES	DEVELOPMENT REGULATION
R-R Rural Residential District: The purpose of this district is to ensure the preservation of certain agricultural areas and open space while providing for development compatible with the objective of protecting environmentally sensitive areas	1) Agricultural activities including the raising of crops and livestock operations, horticultural and forestry enterprises 2) Public recreational facilities 3) Single-family detached dwellings	1) Private Swimming pools 2) Private garages 3) Tool sheds 4) Barns 5) Private stables 6) Electronic reception devices 7) Fences 8) Other accessory uses common to residential and agricultural uses	1) Excavating and quarrying 2) Cluster Development 3) Mobile home parks 4) Boarding or tourist homes 5) Private recreational facilities 6) Medical clinics, nursing homes, etc. 7) Kennels 8) Undertaking establishments 9) Junkyards 10) Adult stores 11) Commercial stables 12) Greenhouses 13) Home occupations 14) Multifamily dwellings	Minimum lot size: 1 acre Minimum average width: 150 feet Minimum front yard: 50 feet Minimum side/rear yard: 25 feet Maximum building height: 50 feet Max. lot coverage: 25%
R-1 Low Density Residential District: The purpose of this district is to provide for low density residential development on lots served with offsite sewage disposal in order to provide for overcrowding but provide for residential needs of the Borough	1) Single family detached dwellings not including mobile homes 2) Two-family dwellings 3) Public recreational facilities 4) Essential services	1) Private swimming pools 2) Private garages 3) Tool sheds 4) Electronic reception devices 5) Fences 6) Other accessory uses common to residential uses	1) Boarding or tourist homes 2) Cluster development 3) Health facilities 4) Undertaking establishments 5) Professional services 6) Cultural facilities 7) Home occupation	Minimum lot size: 10,000 square feet Minimum average width: 100 feet Minimum front yard: 30 feet Minimum side/rear yard: 15 feet Maximum building height: 35 feet Max. lot coverage: 50%
R-2 High Density Residential: The purpose of this district is higher density housing appropriate to existing patterns in areas provided with offsite sewage disposal and providing; for reasons of family size, income or need to be located near commercial centers; for households who may require apartments	1) All permitted uses permitted in R-1 District 2) Garden apartments 3) Townhouses	1) Private swimming pools 2) Private garages 3) Tool sheds 4) Electronic reception devices 5) Fences	1) All conditional uses permitted R-1 District 2) Multifamily dwellings 3) Home occupations	Minimum lot size: 10,000 square feet Minimum average width: 100 feet Minimum front yard: 30 feet Minimum side/rear yard: 15 feet Maximum building height: 35 feet Max. lot coverage: 60%
C-G Commercial General: The purpose of this district is to provide locations for retail and service establishments designed to serve the needs of both the immediate area and the surrounding region and to exclude incompatible uses.	1) Retail and service establishments designed to serve needs of immediate area 2) Retail stores 3) Cultural facilities 4) Indoor theaters 5) Public recreation facilities 6) Restaurants 7) Taverns 8) Fraternal clubs 9) Medical clinics 10) Professional service shops 11) Undertaking establishments 12) Essential services	1) All accessory uses permitted in R-2 District 2) Other accessory uses common to commercial uses	1) Service stations 2) Vehicle and equipment sales operations 3) Car washes 4) Hotels and motels 5) Two-family dwellings 6) Multifamily dwelling 7) Supermarkets 8) Nursing homes 9) Fast food establishments 10) Shopping centers of malls 11) Body or fender shops	Minimum lot size: 30,000 square feet Minimum average width: 100 feet Minimum front yard: 50 feet Minimum side/rear yard: 35 feet Maximum building height: 50 feet Max. lot coverage: 50%

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DISTRICT DESIGNATION AND INTENT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	CONDITIONAL USES	DEVELOPMENT REGULATIONS
C-N Commercial-Neighborhood: The purpose of this district is to provide for the location of retail and services establishments designed to serve the immediate needs of the area and to allow the nearby locations of families and individuals who need to be within walking distance of those facilities and services	<ol style="list-style-type: none"> 1) Two-family dwellings 2) Public recreational facilities 3) Undertaking establishments 4) Professional services 5) Medical clinics 6) Cultural clinics 7) Retail and service establishments designed to serve the needs of immediate surrounding area 8) Essential services 	Same as C-G District	<ol style="list-style-type: none"> 1) Nursing homes, etc. 2) Cluster development 3) Boarding or tourist homes 4) Restaurants 5) Taverns 6) Specialty shops 7) Fraternal clubs 8) Multifamily dwellings 9) Retail stores 	<p>Minimum lot size: 7,500 square feet</p> <p>Minimum average width: 75 feet</p> <p>Minimum front yard: 25 feet</p> <p>Minimum side/rear yard: 15 feet</p> <p>Maximum building height: 50 feet</p> <p>Max. lot coverage: 50%</p>
C-R Commercial-Recreational: The purpose of this district is to provide locations for private recreational activities both for profit and nonprofit that will be compatible with other land uses in the Borough while ensuring adequate room for expansion of an important element of the Borough's economic base.	<ol style="list-style-type: none"> 1) Boarding or tourist homes 2) Children's camps 3) Fraternal clubs 4) Restaurants 5) Indoor theaters 6) Hotels and motels 7) Cultural facilities 8) Public recreational facilities 9) Essential services 	Accessory building common to recreational uses	<ol style="list-style-type: none"> 1) Amusement parks and related activities 2) Taverns 3) Outdoor theatres 4) Multifamily dwellings 5) Retail and service establishments designed to serve needs of immediate area 6) Retirement villages and retreats 7) Campgrounds 8) Ski-runs 9) Resorts 10) Single-family and two-family dwellings 	<p>Minimum lot size: 2 ½ acres</p> <p>Minimum average width: 200 feet</p> <p>Minimum front yard: 75 feet</p> <p>Minimum side/rear yard: 50 feet</p> <p>Maximum building height: 50 feet</p> <p>Max. lot coverage: 30%</p>
I-Industrial District: The purpose of this district is to provide sufficient space in appropriate locations to meet future needs for light manufacturing activity.	<ol style="list-style-type: none"> 1) Essential services 2) All other uses are conditional uses and subject to review procedures for a conditional use including preparation of a development plan. 	Accessory buildings common to industrial uses	<ol style="list-style-type: none"> 1) Research, engineering or testing laboratories 2) Administration offices 3) Assembly from components 4) Pharmaceutical production 5) Optical instruments production 6) Textile manufacturing 7) Enclosed storage facilities 8) Warehouses, distribution centers and terminals 9) Other light manufacturing uses 	<p>Minimum lot size: 2 acres</p> <p>Minimum average width: 200 feet</p> <p>Minimum front yard: 75 feet</p> <p>Minimum side/rear yard: 50 feet</p> <p>Maximum building height: 60 feet</p> <p>Max. lot coverage: 30%</p>

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Article IV - Supplementary Regulations

§ 125-14. Home Occupations.

Home occupations shall be considered conditional uses where permitted. Such occupations shall be clearly incidental or secondary to the use of the property as a residence and not change the character of or have an exterior effect on the dwelling; and shall not create noise vibration, glare, odors, fumes or electrical interference beyond the property lines. Motor vehicle or small engine repair and maintenance shops shall not be considered home occupations. Home occupations shall be limited to the employment, on premises, of not more than two persons, other than immediate family members, at any one time. An additional off-street parking space shall be provided for each employee. Home occupations shall not occupy more than 25% of the total floor area of the dwelling unit including basement and accessory buildings.

§ 125-15. Accessory Uses or Structures.

- A. No detached accessory building or structure having a floor area greater than 32 square feet or a height greater than 4 feet shall be erected in any required front yard or closer than 10 feet to any property line.
- B. Detached accessory buildings and structures having a floor area of less than 32 square feet and less than 4 feet in height may be erected no closer than 5 feet to any property line or in any front yard.
- C. An exception shall be provided for fences and signs which may be located just inside of the property line and shall comply with deer-sight triangle requirements. Fences shall not exceed a height of 6 feet from ground level.
- D. Adding mounds or soil to raise fence height is not allowed, unless otherwise specified in Borough regulations or as directed by the Borough Council for reasons of creating a special buffer from streets or neighboring lots.
- E. Below ground swimming pools and others where the water surface is less than 4 feet above the ground shall, in addition to meeting the above requirements, also be entirely enclosed with a permanent fence not less than 5 feet in height. Such fence shall be of a design adequate to restrict entry to the pool (e.g. chain link, wire mesh, solid picket, etc.).
- F. All fences shall be maintained in an upright position.
- G. Fences, tents, tarps and canopies that use plastic sheeting and/or canvas or other similar pliable materials to cover storage areas and/or create carports are regulated residential accessory uses and shall comply with setbacks and height requirements detailed above in this §125-15 for accessory buildings or structures.

§ 125-16. Mobile Homes and RV Parks.

- A. Mobile home parks shall comply fully with the applicable requirements of the Waymart Borough

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Subdivision and Land Development Ordinance (§ 100) prior to the issuance of any building or zoning permits relating to the same.

- B. Recreational vehicle parks and campgrounds shall be considered recreational land developments and shall comply fully with the applicable requirements of the Waymart Borough Subdivision and Land Development Ordinance (§ 100) prior to issuance of any building or zoning permits relating to the same.

§ 125-17. Cluster Development.

- A. Cluster development shall be permitted in all districts as a conditional use subject to requirements of the Waymart Borough Subdivision and Land Development Ordinance (§ 100). Shopping centers or malls are also permitted as a conditional use in the C-G District and shall be subject to those same regulations. In addition to all other applicable regulations, the following rules shall apply in granting such permits.
 - (1) Any owner of a minimum of three (3) acres of land may request Waymart Borough to have the regulations of this Section apply to the development of any property in question.
 - (2) A 50% density bonus (in addition to lot size reductions achieved through clustering) shall be permitted in cluster developments. Lot coverage ratios and front, side and rear yards shall, however, be maintained as provided for the district in the Schedule of Regulations (§ 125-13).
 - (3) All uses within a cluster development shall be served with offsite sewage facilities and water supplies (as defined herein). Effluent disposal areas shall be subject to the setback requirements applicable to the principle structures of the district in question.
 - (4) No cluster development shall be designed such that individual driveways front on the public right-of-way. An emergency egress must be provided distinct from the access road.
 - (e) Any request shall be in writing and include a legal description of the property and preliminary plan showing the intended overall development plan. All other information normally required for a conditional use application as well as data required for a preliminary plan submission under the Waymart Borough Subdivision and Land Development Ordinance (§ 100) shall also be supplied at this time.
- B. Such requests shall be filed with the Waymart Borough planning agency who shall process the request on a schedule identical with requirements for review and approval of a preliminary plan under the Borough Subdivision Ordinance (§ 100). The Borough planning agency, before recommending action to the Council on the request and plan, may hold a public hearing pursuant to requirements of Pennsylvania Act 247 (Pennsylvania Municipalities Planning Code).
- C. In granting a preliminary approval of the submitted plans, the Council shall also direct the Zoning officer to issue a conditional use zoning permit for the proposed use. If preliminary plans are rejected, no conditional use permit shall be granted.

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§ 125-18. Junkyards.

Junkyards shall be allowed, as conditional uses, in the R-R District only and shall be subject to the following restrictions, which shall apply to both existing and proposed junkyards:

- A. Any junkyard located adjacent to a Federal aid highway shall comply with all regulations of the Federal Highway Commission.
- B. No junkyard created after the effective date of this Chapter shall be located closer than 1,000 feet to an existing public right-of-way.
- C. All junkyards must erect and maintain a six (6) foot high fence, adequate to prohibit the entrance of children or others into the area and to contain within such fence the materials dealt in by the owner or operator. If such area is located adjacent to a public street or residential area, the fence shall be 25 feet from the boundary line thereof and be adequate to screen all portions of the junkyard from view from the public street or from residential areas.
- D. The area used for a junkyard shall not be used as a dump area nor a place for the burning and disposal of trash.
- E. Existing junkyards in districts other than the R-R District, as well as other nonconforming junkyards, shall be eliminated or brought into conformance within a period of five (5) years following the enactment of this Chapter.

§ 125-19. Special Lot Provisions.

- A. All yards abutting a street line or corner lot shall meet the district requirements for front yards.
- B. A clear-sight triangle of not less than 75 feet in either direction from the center line of street intersections shall be maintained on all corner lots.

§ 125-20. Commercial and Manufacturing Performance Standards.

- A. Wherever a commercial or manufacturing or other nonresidential use is proposed as a conditional use, the following performance standards shall apply and be an additional basis for review of the conditional use application:
 - A. Yards and Buffers. Where a commercial or manufacturing use is contiguous to an existing residential use or a R-R, R-1 or R-2 District, the minimum side and rear yards shall be increased to 50 feet and a buffer consisting of a solid fence of wood and/or a dense evergreen planting not less than 6 feet high shall be maintained.
 - B. Fire and Explosion Hazards. All activities involving, and all manufacturing, production or storage of inflammable and explosive materials, shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local

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laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer. Minimum front, side and rear yards shall be increased to 150 feet.

- C. Radioactivity or Electric Disturbance. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
 - D. Noise. The outdoor day-night average sound level (DNL) in decibels at the property line shall not exceed 65 decibels. The Zoning Officer, in the investigation of a violation, shall initially estimate DNL using the "Walk-Away Test" as described in the U.S. Department of Housing and Urban Development's 1979 Noise Assessment Guidelines. Should the test indicate a DNL exceeding 65 decibels the officer shall notify the owner and any aggrieved party of his findings and the potential violation. He shall also recommend appropriate abatement measures. Should a subsequent investigation still indicate a problem, the officer shall determine such average sound level by taking no less than three measurements with a decibel meter, all of which shall occur within 72 hours but no less than 15 minutes apart.
 - E. Vibration. No vibration shall be permitted which is detectable without instruments at the property line.
 - F. Glare. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the property line. This restriction shall not apply to signs otherwise permitted by the provisions of this Chapter.
 - G. Smoke. No emission shall be permitted from any chimney or otherwise of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.
 - H. Other Forms of Air Pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property or which can cause any excessive soiling.
- B. Surface and Groundwater Contamination. All activities involving the possible contamination of surface or groundwater shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer.
 - C. The Zoning Officer shall ensure these standards are met prior to issuing a certificate of use and may require the applicant(s) to provide documentation from a professional engineer (Pennsylvania) as to the same.

§ 125-21. Major Traffic Impact Developments.

- A. Certain development proposals are hereby classified as having major traffic impacts on the health;

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safety and welfare of Waymart Borough; which proposals shall be subject to additional review criteria and development standards so such concerns may be adequately addressed. Major traffic impact developments shall be determined from their estimated trip generation rates and are hereby defined to include any use or any addition to a use established after the effective date of this Chapter (excluding smaller additions to pre-existing uses) which will generate more than 250 trip ends per day (equivalent to average daily traffic or "ADT"). ADT shall be estimated by applying the following trip generation rates (adapted from "Trip Generation Institute of Transportation Engineers, 1976") to the proposed use:

USE	TRIP ENDS PER DAY
Resort/recreation housing <i>with</i> transient occupancy	1.8 per dwelling unit
Mobile home parks	7.6 per dwelling unit
Multifamily residential uses	See §409(2)
Single-family residential units	9.2 per dwelling unit
RV parks and campgrounds.	10.4 per campsite
Hotel, motel or other lodging houses	13.4 per sleeping unit
Private recreational facilities	5.4 per vehicle parking space

- B. Where doubt exists as to the applicable standard or a specific use is not listed above, the aforementioned "Institute" publications shall be consulted and final determination made by the Council. Development proposals involving more than one of the above uses shall be evaluated by summing the rates and calculations for each individual use.
- C. All major traffic impact development shall be considered a conditional use. A major traffic impact development shall meet all other supplementary regulations applicable to the use and be processed like any other conditional use except that a public hearing shall be mandatory rather than optional and the following additional standards (superseding to the extent they are more strict any other contained within this Chapter or other Borough ordinances which they may be in conflict) shall apply.
- D. All major traffic impact developments are restricted to locations with direct access to U.S. Route 6 or State Route 296 and accesses to the same shall be located so as to have not less than 500 feet clear sight distances in both directions from the intersection with the public highway. These requirements notwithstanding, nothing herein shall prevent the approval of a major traffic impact development on a non-collector street not otherwise limited to certain locations by separate provisions of this Chapter if the developer shall agree to improve or finance the improvement of such street to collector standards (excepting those pertaining to width of rights-of-way) as defined in the Waymart Borough Subdivision and Land Development Ordinance (§ 100).
- E. Prior to the issuance of a conditional use permit and/or the granting of preliminary subdivision approval for any major traffic impact development involving an ADT of 750 vehicles or more per

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day, the application shall prepare a transportation impact report which shall be reviewed by the Borough Engineer and approved by Borough Council. The transportation impact report is designed to identify the transportation (traffic) impacts and problems which are likely to be generated by the proposed use as well as improvements required to ensure safe ingress to and egress from the development, maintenance of adequate street capacity and elimination of hazardous conditions.

- F. The transportation impact report shall include the following:
- (1) A detailed description of the highway network within one (1) mile of the site.
 - (2) A detailed description of existing traffic conditions for all roads which have direct access to the proposed development site. Traffic counts shall also be conducted for a period of seven (7) consecutive days on each road with direct access. Seasonally adjusted figures shall also be prepared.
 - (3) A calculation of estimated ADT after development based on the trip generation rates contained in the above table.
 - (4) Highway and intersection capacities (maximum safe traffic volumes) shall be determined for each of the roads with direct access to the proposed development.
 - (5) Projected total future traffic demands (during peak periods and on an average basis) shall be calculated for all roads with direct access to the proposed development. This demand shall consist of existing traffic volume plus an assumed normal increase of traffic volume of one percent (1%) per year and the anticipated traffic for the proposed development. Peak traffic demands for each road and each intersection shall be compared with capacity figures from above. Should peak traffic demand following completion of the development or five (5) years from the date of application (whichever would occur later) be projected to exceed capacity, the roadway or intersection shall be considered deficient and the development shall not be permitted unless the applicant/ developer addresses the road improvements necessary to increase the capacity sufficiently to accommodate the traffic from the proposed development or provides a financial guarantee suitable to the Council to ensure the completion of such improvements.
- G. Other Impacts. The applicant shall, prior to approval, also prepare and submit' a report assessing the impact of the development insofar as noise, glare and other impacts, as well as security, are concerned. The report shall detail the impacts of any proposed activities which will generate significant noise or glare including public address systems and entranceway or other lighting systems and indicate the measures which will be taken to ensure compliance with each of the various performance standards in § 125-20. These shall be applicable to all nonresidential and mixed use major traffic impact developments. The report shall also assess security needs of the proposed development, analyze impacts on local and State law enforcement programs and propose measures to alleviate unnecessary burdens on those programs. Such report shall be used for purposes of determining what, if any, conditions should be attached to an approval and shall not be used to deny an application where the proposed use meets the buffer requirements of subsection H below.

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- H. Buffer Requirements (Applicable to all Major Impact Developments). Special setback (yard) requirements to deal with the impacts detailed above and provide a buffer for adjoining landowners shall be applicable to major traffic impact developments. For all nonresidential uses a setback of 100 feet shall be provided if the yard is wooded and 150 feet if the yard is not wooded. Such setbacks shall apply to front, side and rear yards.

- I. Additional Activities. All nonresidential major traffic impact developments, such as hotels, may include other commercial activities (such as coffee shops and beauty salons) not normally permitted in the district; provided, the floor area they utilize shall not exceed 10% of the gross floor area. Any use which would exceed this limitation shall be fully subject to the provisions of this Chapter and meet all lot size, parking and other requirements separate and apart from each and every other use on the site, although more than one use may be permitted in a single building in which case the strictest applicable setbacks shall apply. Additional parking shall be provided for all additional activities at the ratio of one parking space for each 50 square feet of floor area or active recreation area open to nonresidents or persons who are not guests, including ballrooms, game rooms, tennis courts, pools, theaters and the like.

- F. Road Standards, The following special road standards (in addition to those normally applicable requirements) shall apply to all major traffic impact developments:
 - (1) No access to a major traffic impact development shall be located within 300 feet of any similar access to the public highway except if such access is directly opposite the proposed access.

 - (2) A 75 foot clear sight triangle shall be provided in the intersection of any access with the public right-of-way.

 - (3) The access may be lighted by approved street lighting but shall not be so directed as to produce glare or otherwise hamper the flow of traffic.

§ 125-22. Multi-family Dwellings.

- A. Procedure. Multi-family dwelling projects shall be conditional uses subject to the provisions of this Chapter and shall also be considered major subdivisions and land developments subject to the jurisdiction of the Waymart Borough Subdivision and Land Development Ordinance (§ 100). The major subdivision classification shall apply to all subdivision of property in connection with the development regardless of whether or not the same are connected with building development and approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multifamily dwelling projects, accordingly, will be made to Waymart Borough in the manner provided in the Subdivision and Land Development Ordinance (§ 100). The developer shall also submit all information required by said ordinance plus the following additional information:
 - (1) An application for multifamily dwelling conditional use approval on a form to be supplied by the Borough or, in the absence of such form, by a letter or brief from the developer or the developer's representative indicating how the development will specifically comply with or meet the conditional use criteria contained in § 125-45 of this Chapter.

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- (2) A proposed plot plan showing the approximate, generally within five (5) feet, location of all buildings and improvements including parking areas, planting strips (if any), signs, storm drainage facilities, water supply and distribution system, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Chapter. Building layouts, floor plans and profiles shall also be provided indicating the building dimensions, numbers and sizes of units, common ownership. or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in Waymart Borough. Setbacks from property lines, improvements and other buildings shall also be indicated.
- (3) A schedule or plan and proposed agreement(s), either with the Borough or a property owners' association, for the purpose of dedicating, in perpetuity, the exclusive use and/ or ownership of the recreation area and open space required by this Chapter to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions but shall, in any event, provide to the satisfaction of the Borough that maintenance and use of the property, regardless of ownership, be restricted to either; (1) activities intended for the sole benefit of the occupants of the particular project proposed, or (2) permanent open space as hereinafter provided.
- (4) The application package shall be processed on a schedule identical with requirements for review and approval of other preliminary plans under the Subdivision and Land Development Ordinance (§ 100) including providing the Wayne County Planning Agency with a 45 day opportunity to review copies of the entire package. The Borough planning agency, before recommending action to Borough Council, may also hold a public hearing pursuant to the Pennsylvania Municipalities Planning Code. The planning agency shall then report its findings together with a. recommendation indicating whether the conditional use criteria contained in § 125-45 will be met.
- (5) Borough Council shall act on the preliminary plan, conditional use and planning module for land development concurrently, making the preliminary plan approval, if one shall be given, subject to approval by the Pennsylvania Department of Environmental Protection (DEP). No zoning permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary plan, including DEP approval of the planning module, shall have been satisfied and nothing herein shall be construed as permitting 'the issuance of a building permit prior to preliminary approval This requirement notwithstanding, the conditional use building permit application shall be made with the preliminary plan and shall, if granted, be valid for a period equal to that for preliminary plan approval. If the preliminary plan shall be rejected, no conditional use building or zoning permit shall be granted.
- (6) Following preliminary plan approval the developer shall provide for the installation of required or proposed improvements including, but not limited to, streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for final approval. No certificate of use shall, however, be issued until such time as; (1) final plan approval shall have been granted in accordance with the procedures and informational requirements of the Subdivision and Land Development Ordinance (§ 100) and (2) buildings have been completed

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and inspected by the Zoning Officer

- (7) Complete final building plans shall also be submitted as part of the final plan application.
- (8) No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or building or interests in the individual dwelling units to be created or erect any building thereon except in accord with the provisions of this Section unless approval has been granted and the plan has been recorded in the office of the Wayne County Recorder of Deeds.

B. Location. Multifamily dwellings, within those districts where they are permitted, shall be subject to compliance with the following requirements related to location:

- (1) No multifamily development shall be permitted within 100 feet of any R-R, R-1 District or existing residential structure (150 feet if not wooded) unless there shall be a 100 foot (150 feet if not wooded) setback of all buildings and improvements from the property lines of any adjacent parcels and 75 feet from any public right-of-way.
- (2) Vehicle trip generation for the development shall be estimated at 9.2 trip ends per lot per day for multifamily dwellings intended for use by a single-family and 11.8 trip ends per unit per day for units occupied on a transient basis. (Adapted from "Trip Generation Institute of Traffic Engineers.") Developments generating a total of 250 or more trip ends per day or additions to developments which are approved after the effective date of these amendments which would increase the total of 250 trip ends per day shall only be permitted with direct access to the roads set forth in § 125-21.D. This shall not be construed as requiring additions to developments existing prior to the effective date of this Chapter to meet the criteria unless such additions themselves involve a cumulative total of 250 or more trip ends per day.

C. Density. Multifamily dwelling projects shall be granted a 100% density bonus above the number of dwelling units per acre which would be permitted within the district if the parcel on which the lots are to be constructed were to be developed for single family residential use. A minimum of ten (10) acres shall be required for multifamily projects in the R-R District. Density shall be calculated by taking the total acreage of the development, deducting the following acreages:

- (1) Land contained within public rights-of-way.
- (2) Land contained within the rights-of-way of existing or proposed private streets. Where formal rights-of-way are not involved the width of the street shall be assumed as 50 feet wide.
- (3) Land contained with the boundaries of easements previously granted to public utility corporations providing electrical or telephone service and dividing by the number of proposed units.

D. Open Space. All areas of a multifamily development not conveyed to individual owners and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the

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residents of the particular units being proposed. Such open space shall be part of the same parcel and contiguous and shall be subject to the following regulations:

- (1) Recreation areas shall be immediately adjacent to the proposed units and freely and safely accessible to all residents of the development and shall not be used to fulfill open space requirements or provide recreational areas for residents of other units excepting those provided for in subsection (2) below. No less than 50% of the open space to be provided shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed.
- (2) Land designated simply as open space shall be maintained as open space and may not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed, excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist; provided, such lands are specifically defined and indicated as "reserved for future development" on all plats. Such land shall not be included in calculating permitted density for the proposed development. These provisions, however; shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a pre-approved plan if density or other zoning requirements shall have been modified to preclude such development.
- (3) Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by either one or both of the following mechanisms:
 - (1) Dedication to a property owners association which assumes full responsibility for maintenance of the open space.
 - (2) Deed-restricted private ownership which shall prevent development of the open space provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner I developer to retain ownership and use of a portion of the property (for hunting, fishing etc.); provided, the permanence of the open space is guaranteed.

Whichever mechanism(s) may be used, the developer shall provide, to the satisfaction of the Borough and prior to the granting of any final plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.

- (4) At least 50% of the designated recreation area shall be usable for active recreational activities and shall not include swamps, quarries, slopes over 24% in grade, acreage used for improvements and wetlands. Storm drainage facilities and sewage effluent disposal areas are considered improvements.
- (5) Developments of 50 units or more shall also provide 1/2 acre of parks and playgrounds per

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50 units.

E. Design Criteria. The following design criteria shall apply to multifamily developments:

- (1) There shall be no more than ten dwelling units in each multifamily building.
- (2) No structure shall be constructed within 50 feet of the edge of any access road to or through the development or within 10 feet of the edge of any parking area.
- (3) Access roads through the development shall comply with minor street requirements as specified in the Subdivision and Land Development Ordinance (§ 100) and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area. An emergency egress must be provided distinct from the access road or a second access road provided. Both access roads must be maintained to standards and passable.
- (4) No multifamily development shall be served by more than two access roads to any public highway unless topography or other physical circumstances would preclude the use of a two access/egress roads in a safe manner.
- (5) Parking shall comply with the parking provisions of this Chapter excepting that, in addition to the two spaces per unit, there shall be specifically provided, for every two units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.
- (6) No more than 60 parking spaces shall be provided in one lot nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct light away from residences.
- (7) All multifamily structures shall be a minimum of 100 feet from any of the exterior property or boundary lines of the particular project involved and 75 feet from any public right-of-way.
- (8) Where a property line is not wooded, a planting strip of 50 feet in width shall be required to buffer adjoining property owners and ensure privacy. A landscaping plan shall be prepared by the developer and approved by the Borough.
- (9) Multifamily developments shall be subject to the storm water management requirements of the Subdivision and Land Development Ordinance (§ 100) and facilities shall be designed to accommodate storms of a 10 year frequency unless a more stringent standard shall be recommended by the Borough Engineer or required by DEP. The general performance shall be that the amount of uncontrolled storm water leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where storm water facilities are impractical for engineering reasons the Borough Engineer may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances.

F. Water and Sewage. All multifamily developments shall be served with offsite sewage facilities (as

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defined herein).

- G. Nonresidential Use. Nonresidential uses shall not be permitted in a multifamily development. This, however, shall not preclude such additional facilities as laundry areas, service buildings, recreational facilities and the like. Where a developer proposes to construct multifamily units on property on which there are existing or proposed nonresidential uses (other than ancillary facilities and open space uses) there shall be a minimum setback of the multifamily structures from such uses of 200 feet and the parcels shall be clearly segregated.
- H. Conversions of Existing Structures. Conversions of motels, hotels or other existing structures to multifamily dwelling use, regardless of whether such conversions involve structural alterations, shall be considered land development and major subdivisions subject to the Borough Subdivision and Land Development Ordinance (§ 100) to the extent the same apply and, moreover, subject to the provisions of this Section. If the proposed project does involve structural alterations, the preliminary plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness.

§ 125-23. Off-Street Parking, Loading and Unloading Requirements.

- A. Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.
- B. Each parking space shall consist of not less than an average of 270 square feet of usable area for each motor vehicle including interior driveways, driveways connecting the garage or parking space with a street or alley. Garages, carports and driveways not in the public right-of-way may be considered parking spaces. The net parking space per vehicle shall be not less than nine (9) feet wide and 20 feet long.
- C. Parking spaces may be located on a lot other than that containing the principal use with the approval of the planning agency; provided, a written agreement, approved by Borough Council, shall be filed with the application for a zoning certificate.
- D. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.
- E. Parking shall not be permitted on public rights-of-way.
- F. Any structure or building hereafter erected, converted or enlarged for any of the following uses or any open area hereafter used for commercial purposes shall be provided with not less than the minimum spaces, as follows, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

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Use	Parking Space(s) Required
Bowling alley	5 vehicle spaces for each alley
Churches, theaters, stadiums and other places of assembly	1per every 3 seats
Drive-in eating facilities	3 per employee
Food markets and grocery stores	1per 100 square feet of floor area for public use
Funeral homes	1 per 100 square feet of public floor area
Golf courses and other commercial outdoor recreation enterprises	1 per every 2 persons for whom playing area is provided
Home occupations	1per additional employee other than occupant
Hospitals	1per bed plus 1per employee on largest shift
Industrial establishments	1per employee on largest shift
Motels, hotels, boarding houses	1 per guest room unit
Office building	1.5 per employee
Personal services	4 parking spaces each patron capacity
Recreational buildings	1per 200 square feet of floor area
Restaurants and taverns	1 per 50 square feet of floor
Retail business	1 per 200 square feet of floor area for public use
Schools	1 per every 15 classroom seats
Service stations and garages	1per 100 square feet of floor area
Swimming pool	1 per 10 square feet of water surface
Wholesale and trucking establishments	1 per employee on largest shift

- G. In addition to the off-street parking space required above, any building erected, converted or enlarged in any district for commercial, office building, manufacturing, wholesale, hospital or similar uses shall provide adequate off-street areas for loading and unloading of vehicles. The minimum size loading space shall be 60 feet in depth, 12 feet in width with an overhead clearance of 14 feet. In no case where a building is erected, converted or enlarged for commercial, manufacturing or business purposes shall the public rights-of-way be used for loading or unloading of materials.
- H. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-Way shall consist of well- defined separate or common entrances and exits and shall comply with the following provisions:
 - I. All nonresidential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare and adjoining property lines by a buffer zone at least 20 feet in depth.

§ 125-24. Sign Regulations.

- A. Definitions.

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Off-Premises Sign—Any permitted sign not located on the lot upon which the concern advertised by such sign is located.

Sign—Any outdoor sign, display, painting, drawing, message, plaque, billboard or other thing which is designed, intended or used to advertise or inform. As used herein, it shall also include a publicly displayed notice to advertise the business where transacted or profession practiced and the name of the person or firm conducting such profession. It also shall include signs attached to buildings or roadside signs wherever visible from the highway.

Yard Signs—Signs temporarily may be placed for Yard/Garage Sales. Signs can appear on property where sale is to take place and throughout community on trees and other objects along roads/streets where allowed. (State law regulates no signs with metal staples or nails can be placed on telephone/utility poles.) All Yard/Garage signs must be removed within two days after the event. Yard/garage signs are not a continuous event. They must state designated days or day.

Surface Area—The size of one side of any sign computed by multiplying its greatest length by its greatest height. Structural members not bearing advertising material or not in the form of a symbol shall not be included in the computation of surface area. In the case of signs with no definable edges (e.g. raised letters attached to a facade), surface area shall be that area within the perimeter of a single line enclosing the extreme limits of the advertising material.

B. Business and Advertising Signs.

- (1) The owner, lessee or occupant of lot in Waymart Borough may erect and maintain on such land not more than two signs advertising the business or profession of such owner, lessee or occupant of the property if only one side of such sign is used for advertising. If both sides of one sign area is used for advertising, then only one sign may be erected to advertise the business or profession of the owner, lessee or occupant of such property. Each sign shall not exceed 40 square feet in surface area.
- (2) Such signs may only be placed on and maintained by the owner, lessee or occupant of the lot upon which is located the main office or principal place of business or where a branch office, store or warehouse is maintained by the said owner, lessee or occupant of such land. In such event, the number of signs shall be limited as herein set forth.
- (3) The signs actually physically attached to a business building shall not be counted in the number of signs permitted here under but such signs attached to the business building as aforesaid shall not exceed a total surface area of 20 square feet and shall not endanger the traveling public. Such signs shall advertise only the business or profession in the building.
- (4) Nothing herein contained shall prevent:
 - (a) The owner, occupant or lessee of a business or profession without direct access to Routes 6 and PA 296 from erecting one sign per route on his own or rented land directing the public to such business or profession. Such sign shall not have a surface area of more than 40 square feet One additional directional sign not exceeding eight (8) square feet may be

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erected. Additional directional signs may be granted as a conditional use. This Section shall not apply to home occupations.

- (b) The installation and maintenance of a central directory sign board not more than six (6) feet high and not more than ten (10) feet wide at the intersection of two or more roads advertising one or more businesses and directional arrows thereto. An individual sign on this board advertising a single business shall not exceed a surface area of ten (10) square feet and shall be uniform with other signs on the sign board. Evidence of the ownership and proposed maintenance of such directory shall be submitted with the permit application.
- (c) Signs bearing the words "sold" or "rented" or similar phrases, together with the name of the person effecting the sale or rental. Such signs shall be removed within 14 days after the sale, rental or lease.
- (d) Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other person interested in such sale or development, provided:
 - [1] The size of such sign is not in excess of twelve (12) square feet.
 - [2] Not more than two signs are placed upon any property unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.
 - [3] Such sign is not illuminated.
- (5) Signs to provide for the normal and safe flow of traffic into and out of the place of business, such as entrance, exit and parking signs. Such signs shall not be of a size greater than necessary for persons of normal visual acuity to observe.
- C. Home Occupancy Signs. One sign advertising a home occupation is permitted provided it does not exceed four (4) square feet in area.
- D. Multifamily Project Signs. One sign identifying a multifamily project is permitted on the premises of such project providing the sign does not exceed 20 square feet in surface area. Signs identifying each building shall also be permitted. Such signs shall not exceed 1 square foot and are attached to the building facade.
- E. Cluster Commercial Signs.
 - (1) One free-standing sign identifying the cluster commercial project is permitted on the premises of such project provided the sign does not exceed 40 square feet in surface area.
 - (2) One sign identifying each business or profession located in the cluster project is permitted provided the sign does not exceed ten (10) square feet in surface area. Such signs shall be attached to the same frame as the cluster commercial project sign provided for in subsection (1) above.

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- (3) One additional sign identifying each business or profession in the cluster project is permitted provided the sign does not exceed 20 square feet in surface area and the sign is attached directly to the facade of the structure housing the business or profession.

F. Shopping Center or Mall Signs.

- (1) One free-standing sign identifying the shopping mall is permitted on the premises of the mall provided the sign does not exceed 150 square feet in surface area.
- (2) Two (2) additional signs are permitted for each separate tenant in the mall provided that such signs are attached directly to the wall of the structure and each sign does not exceed 10% of the area of the wall to which it is attached with a maximum size of 32 square feet in size.

G. Location of Signs.

- (1) Signs shall not project into, onto or over any public right-of-way and shall not be erected, installed, maintained or replaced so as to be a hazard to the users of a public right-of-way.
- (2) No signs shall be erected, installed or maintained in a location which will constitute an obstruction to vision or endanger the safety of the traveling public.

H. Temporary Signs. The following temporary signs shall be permitted:

- (1) Special advertising or business identification signs or banners not exceeding 40 square feet in total surface area including, but not limited to, signs announcing to the general public any special events such as commercial sales days, cultural or entertainment attractions or charitable activities signs shall be permitted in an Commercial Districts. These shall be permitted for the entire length of the activity but in no case exceeding 6 months. Temporary signs shall be permitted for the length of the activity but in no case exceeding 10 days.
- (2) Yard or garage sale signs shall be permitted in Residential or Commercial Districts. Signs may appear on property where sale is to take place and throughout the community on trees and other objects along roads where allowed. State law provides that no signs with metal staples or nails may be attached to telephone/electric poles and this standard shall be observed. All signs must be removed within two days from the event. Yard/garage Sales are not a continuous event. The event must be on designated days or days not to exceed three (3) days.

I. General Regulations. The following regulations shall apply to all permitted signs:

- (1) A sign shall be permitted only in connection with a permitted use.
- (2) All signs shall be removed within five (5) days after the business or event advertised no longer applies.
- (3) Signs shall not be permitted on the roof or above the roof line of the building to which they are attached.

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- (4) No part of any sign shall project above the top or beyond the ends of the wall surface upon which it is located.
 - (5) Signs other than official traffic signs shall comply with side yard set backs as established for principal structures in the district where the sign is located.
 - (6) No sign, except a public sign, visible from a public-street, shall use the words "stop," "danger;" or any other word, phrase, symbol or character which could be interpreted by a motorist as being a public safety warning or traffic sign.
 - (7) No light shall be permitted that by reason of intensity, color, location, movement or direction of its beam may interfere with public safety. This shall include flashing, oscillating and "spot" lights when improperly placed.
 - (8) No revolving sign or any other type of moving sign shall be permitted, with the exception of barber poles.
 - (9) No sign shall be attached to any tree, fence, utility pole or other object not intended for such use.
 - (10) Not more than two (2) off-premises signs shall be permitted per 100 feet of road distance (excepting central directory signs).
 - (11) Portable signs are prohibited as a matter of public safety unless such signs are properly secured to the ground.
 - (12) Signs exceeding a height of 25 feet from the ground surface shall be considered conditional uses.
 - (13) Permits are required for any changes made on existing signs that effect the size of the structure, the advertisement on the surface area or the size of the surface area.
 - (14) Permits are required prior to the erection or display of any advertising sign or its framework.
- J. Illumination. Where permitted, signs shall be illuminated only by a steady, stationary (excepting for indicators of time and temperature), shielded light source directed solely at the sign without causing glare for motorists, pedestrians or neighboring premises, The illumination, if produced in such place or manner as may tend to make it resemble traffic signals, shall not be green, red or orange-yellow.
- K. Application. An application for a permit to install or relocate a sign shall be made on a form obtained from the Borough Zoning Officer and filed with the Borough Secretary, together with the fee determined by the Borough Council.
- L. Nonconforming Signs. Existing nonconforming signs may be repaired or reconstructed on the same site but shall not be relocated.
- M. Penalties.

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- (1) No owner of any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsightly or in disrepair so as to endanger the public or to become a public nuisance.
- (2) In the event such a sign is not repaired or properly restored or removed within 30 days after written notice has been given to the owner of the sign or the owner or lessee of the land upon which the sign is located the Borough Council may institute appropriate actions to prevent the violation or abate the nuisance.

§ 125-25. Floodplain Development Standards.

There is hereby created a special zoning district, the boundaries of which shall be congruent with those areas identified as Special Flood Hazard Areas (Zone A) on the Flood Hazard Boundary Maps as issued and/or amended by the Federal Insurance Administration or its successor agencies for Waymart Borough. The district shall be an overlay zone in which the normal provisions of the district indicated on the Official Zoning Map shall apply except that no development shall be permitted which is not completely in accord with the provisions of the Waymart Borough Floodplain Ordinance (§ 20).

§ 125-26. Stables and Kennels.

- A. Stables, Private. Private stables are permitted as an accessory use to a single-family residence in any district subject to the following conditions:
 - (1) A minimum parcel of two (2) acres shall be required for the residence and stable.
 - (2) No more than two (2) equines shall be kept except that one (1) additional equine may be kept for each additional acre of land.
 - (3) A minimum of 200 square feet of stable building area shall be provided for each equine kept on the property.
 - (4) No stable building or corral shall be located within 50 feet of an adjoining property line and 50 feet from any public or private road right-of-way.
 - (5) All equines shall be restricted from grazing or intruding on an adjoining property and any fences erected for the same shall be at least five (5) feet from the property line or public or private road.
- B. Stables, Commercial. Commercial stables are permitted as a conditional use in the R-R District subject to § 125-45 of this Chapter and the following conditions:
 - (1) A minimum parcel of five (5) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other sections of this Chapter and other applicable standards are met.
 - (2) No more than three (3) equine are kept with the exception that one additional equine may be kept for each additional acre of land.

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- (3) The building shall not be less than 200 square feet in size for one equine with an additional 200 square feet for each equine.
 - (4) All equine shall be restricted from gazing or intruding on an adjoining property and any fences erected for the same shall be at least five (5) feet away from the property line or public or private road right-of-way.
 - (5) Adequate off-street parking shall be provided pursuant to § 125-23 of this Chapter with one space provided for each nonresident employee and one space for two equines kept on the premises.
 - (6) No stable building or corral shall be located with 100 feet of an adjoining property line and 75 feet from any public or private road.
- C. Kennels. Kennels are permitted as a conditional use in the R-R District subject to §125-45 of this Chapter and the following conditions:
- (1) A minimum parcel of three (3) acres shall be required.
 - (2) No structure used for the keeping of dogs shall be located closer than 125 feet to any property line or 100 feet to any public or private road.
 - (3) Adequate off-street parking shall be provided pursuant to § 125-23 of this Chapter with one (1) space for each nonresident employee and one space per four (4) dogs kept on the premises.
 - (4) A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas not enclosed in a building.
 - (5) Dogs shall be restricted from using kennel areas not fully enclosed in a building from 8 p.m. to 8 a.m..

§ 125-27. Adult Stores.

Adult stores shall not be located within 1,000 feet of any residence, church, synagogue, public or semipublic or health institution.

§ 125-28. Individual Mobile Homes.

- A. Any mobile home parked or placed outside duly permitted mobile home park shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system meeting Borough Ordinances.
- B. Not more than two (2) occupied mobile homes shall be placed or parked on any parcel of land which is located outside a licensed mobile home park.

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- C. Skirting shall be of a suitable construction material that will sustain weather events and have durability. This skirting shall be installed along the perimeter of each mobile home permitted under this Section, which screening shall extend from the ground to the bottom of the trailer.

- D. All mobile homes shall be constructed on a poured wall or block construction foundation or a poured concrete slab.

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Article V - Non-Conforming Uses, Structures, and Lots

It is the purpose of this Part to limit the injurious impact of nonconforming uses and/or structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of nonconforming uses and/or structures may not be contrary to the public interest or the general purpose of this Chapter, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration. It is further the purpose of this Chapter to prescribe those standards which are to be applied by the Borough in determining the reasonableness of a proposal to alter, continue or extend a nonconforming use. The following are regulations which shall apply to the alteration, continuation or extension of nonconforming uses.

§ 125-29. Definition.

A nonconforming use or building shall be a building, structure of use legally existing on or before February 19, 1979, or a building, structure or use, planned and under construction in compliance with existing laws prior to the effective date of this Chapter or any amendment thereto and completed within a one (1) year period after the effective date of this Chapter or amendment thereto and which does not with the use regulations of the district in which located. A building, structure or use allowed by variance in a district where it is nonconforming with any regulations of this Chapter shall be considered a nonconforming use.

§ 125-30. Normal Maintenance and Repair Activities.

Normal maintenance and repair activities such as painting, etc., are permitted. Permitted also are interior renovations that do not structurally alter the building or area or result in increased use of the building or area or a different nature of use than that existing at the present time or otherwise created more incompatibility with the surrounding permitted uses.

§ 125-31. Changes and Additions.

All changes and additions to nonconforming uses, excepting those identified above, shall be considered conditional uses and permits for alterations, changes in use or additions shall be granted only after a determination by the Borough that the following conditions have been or will be satisfied.

- A. Storage of Materials. There shall be no increase in the amount of materials, supplies and/or products that are stored outside a nonconforming facility, as on a lot in a nonconforming use, excepting those types of uses outline in subsection B below.
- B. Screening. Where the nonconforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as sawmill, farm machinery, sales operation or similar operation) the use may only be expanded if a solid fence of wood and/or a dense evergreen screen, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum.
- C. Yards and Setbacks. No addition, change or expansion of a nonconforming use shall further violate

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setback and/or height regulations of the district in which it is located.

- D. Storm Water. There shall be no increase in the amount of storm water runoff for the site over which was existing as the date of the enactment of this Chapter. The Wayne County Conservation District may be relied upon to recommend appropriate measures to control storm water runoff, which may be attached as conditions of approval by the Borough.
- E. Parking and Traffic. In no case will a change, addition or expansion of a nonconforming use be allowed which would result in the division of traffic or relocation of a driveway on the site to any point nearer a residential property or result in violation of any of the parking and unloading requirements of this Chapter. If the total number of parking spaces for the site is to be increased more than 24% over those available as of the date of this Chapter, the Borough may require vegetative screening of the parking area from nearby residential areas.
- F. Extension Onto Other Properties. The use may only be expanded or extended onto another property of record if: that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this Chapter or amendments hereto; the owner has clearly exhausted the alternative available for expansion on the existing property and the use is not one which has been altogether prohibited as a new use under this Chapter.
- G. Prohibited Expansions. Should the use proposed for expansion or extension be one which specifically prohibited as a new use in the Borough or is a use judged by Borough Council, with the advice of the planning agency, to be one similar to such a use or such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Chapter, the requested expansion or extension shall be denied.

§ 125-32. Re-Establishment.

A nonconforming use may be re-established within a period of 18 months if it has been discontinued or vacated with an extension in time allowable where proven necessary.

§ 125-33. Restoration or Reconstruction.

If less than 75% of the floor area of any nonconforming use is damaged it may be restored or reconstructed within eighteen (18) months of the date of the damage.

§ 125-34. Existing Lots of Record.

A structure may be erected on any existing lot of record providing the owner does not own adjoining property; no yard is reduced to less than 50% of the requirement for the district in which it is located and a sewage permit can be properly issued.

§ 125-35. Certificate of Nonconformance.

The Zoning Officer shall, upon request, issue a certificate of nonconformance to any property owner who so requests, provided the nonconformance was legally established at the time this Chapter or the applicable provisions were enacted.

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Article VII - Administration and Enactment

§ 125-36. Zoning Officer.

It shall be the duty of a Zoning Officer, to be appointed by Borough Council, to enforce the provisions of this Chapter. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Chapter, record and file all applications for permits with accompanying plans and documents and make such reports as the Borough Council may require. Permits for construction and uses which are conditional uses shall be issued only upon written order of the planning agency and the Borough Council. Permits for construction and uses which are variances to requirements of this Chapter shall be issued only upon written order of the Zoning Hearing Board.

§ 125-37. Permits.

- A. Requirements of Permits. A zoning permit shall be required prior to the erection, addition or alteration of any building or portion thereof (including accessory buildings of 100 square feet or more in size); prior to the use or change in use of a building or land prior to the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the land use until a permit has been duly issued therefor. No zoning permit and/or building permit shall be required in cases of normal maintenance activities (painting, replacement of siding or new roofing), minor repairs or alterations which do not structurally change a building, structure or change the use. No zoning permit and/or building permit shall be required in cases of removal of part of a structure and replaced on the same foundation with same dimensions and height. The removal and rebuilding must be completed within two years. Accessory uses not involving new construction or are less than 100 square feet in size and portable shall be exempt but fences and other accessory structures permanently affixed shall require permits. In the case of accessory uses and building attachments, however, shall not exempt one from otherwise conforming with the requirements of this Chapter.
- B. Applications for Permits. All applications for permits shall be accompanied by plot sketch in duplicate, drawn to show the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings, existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate and such information as may be necessary to determine compliance with this Chapter and all other pertinent ordinances. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied. Applications for uses which also necessitate approvals under the Waymart Borough Subdivision and Land Development Ordinance (Chapter 22) shall be processed in the manner provided for plat approval under that ordinance. Such applications shall also contain all information or data normally required for a submission under the Subdivision and Land Development Ordinance (§ 100). A zoning permit shall not be issued until the proposed use has been granted a preliminary approval under the Subdivision and Land Development Ordinance (§ 100).
- C. Issuance of Permits. No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration complies with all the provisions of this Chapter as well as

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with all the provisions of other applicable regulations. A permit issued hereunder shall become void twenty-four (24) months after the issuance date.

- D. Temporary Permit. A temporary permit may be authorized by Borough Council for nonconforming structure or use which it deems necessary to promote the proper development of the community; provided that such nonconformity structure or use shall be completely removed upon expiration of the permit for a specified period of time not to exceed two (2) years and may be renewed bi-annually for an aggregate period not exceeding four (4) years.
- E. Permit View. A copy of permit must be displayed to be viewed from a public highway or street. It shall be placed, in or on, a building or structure on the front window or door. In a vacant lot the permit must be displayed for public view on a free standing sign board facing the public highway or street.

§ 125-38. Fees.

- A. Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, special permits, variances and other matters pertaining to this Chapter.
- B. Said schedule of fees shall be posted in the office of the Borough.
- C. Permits, conditional uses and variances shall be issued only after fees have been paid in full and the Zoning Hearing Board shall take no action on appeals until preliminary charges have been paid in full.

§ 125-39. Inspection.

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

- A. At the Beginning of Construction. A record shall be made indicating the time and date of the inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the application for the building. If the actual construction does not conform to the application, a written notice of the violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
- B. At the Completion of Construction. A record shall be made indicating the time and date of the inspection of the findings of the Zoning Officer in regard to the issuance of the certificate of use permit.

§ 125-40. Certificate of Use.

- A. A certificate of use shall be a statement issued by the Zoning Officer setting forth either that a building, structure or parcel of land complies with the provisions of this Chapter or that a building or structure lawfully may be employed for specified uses under this Chapter or both.

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- B. No vacant land shall be occupied or used and no structure or part of a structure, hereafter erected, structurally altered or changed in use shall be occupied or used until a certificate of use shall have been issued therefor by the Zoning Officer.
- C. A certificate of use, either for the whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building permit and shall be issued within 15 days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this Chapter.
- D. A certificate of use for the use or occupancy of vacant land or for a change in the use of land or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used or such land or building changed in use and such certificate shall be issued within fifteen (15) days after application has been made; provided, such proposed use is in conformity with the provisions of this Chapter.
- E. A certificate of use for changing or extending a nonconforming use existing at the time of the passage of this Chapter or of an amendment thereto shall be applied for and issued before any such nonconforming use shall be changed or extended. Such certificate shall be issued with fifteen (15) days after application has been made; provided, such proposed change or extension is in conformity with the provisions of this Chapter.
- F. A record of all certificates of use shall be kept on file in the office of the Zoning Officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

§ 125-41. Violations.

Failure to comply with any provision of this Chapter, failure to secure or comply with a decision of Borough Council or the Zoning Hearing Board or the failure to secure a zoning permit when required prior to or (when ordered) after the erection, construction, extension or addition to a building or prior to or after the use or change of use of land or failure to secure a certificate of use permit shall be violations of this Chapter. When written notice of a violation of any of the provisions of this Chapter has been served by the Zoning Officer on the owner, occupant and/or contractor, such violation shall be discontinued immediately.

§ 125-42. Enforcement Notice.

- A. If it appears to the Borough that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requesting in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the Borough intends

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to take action.

- (2) The location of the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

§ 125-43. 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 Chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building , structure, landscaping 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 land owner or tenant, notice of that actions shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

§ 125-44. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$1,000 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 was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

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

§ 125-45. Conditional Uses

1. Uses specified as conditional uses under the Schedule of Regulations, §307, shall be permitted only after review by the Waymart Borough planning agency and approval by the Waymart Borough Council pursuant to the express standards and criteria set forth below:

- A. The proposed use shall be in harmony with purpose, goals, objectives and standards of the Waymart Borough Comprehensive Plan, this Chapter and all other ordinances of Waymart Borough
- B. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of the Comprehensive Plan, this Chapter or any other plan, program, map or ordinance of Waymart Borough or other government agencies having jurisdiction to guide growth and development.
- C. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities and services of the Borough, whether such services are provided by the Borough or some other agency. The applicant shall be wholly responsible for providing such improvements, facilities, utilities or services as may be required to adequately serve the proposed use when the same are not available or adequate to service the proposed use in the proposed location. As part of the application and as a condition to approval of the proposed conditional use permit, the applicant shall be responsible for establishing ability, willingness and binding commitment to provide such improvement, facilities, utilities and services in sufficient time and in a manner consistent with this Chapter and other ordinances of Waymart Borough. The permit approval shall be so conditioned.
- D. No application for issuance of a conditional use permit shall be approved unless the planning agency and Borough Council shall find that, in addition to complying with each of the standards enumerated above, as well as other portions of this Chapter shall be met. In instances where the standards contained herein do not adequately protect the general health, safety and welfare of parties affected, the Borough shall be obligated to impose such conditions in issuance of a permit. Conditions which might be imposed shall include (but not limited to) provisions for additional parking, traffic control, submission of landscaping plans, setbacks, special measures addressing sales period activities and other measures which can be effectuated to remove any potential

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adverse influence the use may have on adjoining uses.

- E. Certain types of uses may require the application of additional review criteria specified herein for those particular uses.
- F. Upon determining an application for a specific use could only be granted as a conditional use under the terms of this Chapter, the Zoning Officer shall forward a copy of said application, along with the required supporting data, to the Waymart Borough planning agency. The planning agency shall review the application within 30 days following its next regular meeting and may hold a public hearing to receive comment on the proposed use. The hearing shall be advertised once in a newspaper of general circulation no less than seven (7) days prior to the hearing. A record of the hearing shall be maintained but need not be taken in stenographic form.
- G. The planning agency shall report its findings, together with a recommendation indicating whether the criteria listed above and any applicable performance standards have been met. Upon receipt of the conditional use application and the recommendation of the planning agency, Borough Council shall decide to grant or deny the application, such decision being made solely with respect to the above criteria. If the application is granted, Borough Council shall direct the Zoning Officer, in writing, to issue a permit for the same. If the application is denied the applicant shall be notified within fifteen (15) days of the action in person or by certified mail and the reason for action.

§ 125-46. Zoning Hearing Board.

- A. Borough Council shall appoint a Zoning Hearing Board which shall have the number and members and such powers and authority as set forth in Article IX of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended. The duties of the Zoning Hearing Board shall be limited to the following:
 - (1) The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provisions of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.
 - (2) The Board shall hear challenges to the validity of this Chapter or map, excepting cases where there has been an alleged defect in the process of enactment or adoption and where a landowner, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest.
 - (3) The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant.
- A. Applications to the Zoning Hearing Board shall include:
 - (1) A statement of the present zoning classification of the real estate in question, the improvements thereon and the present use granted.

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- (2) A statement of the Section of this Chapter under which a variance may be allowed and reasons why it should be granted, if applicable.
 - (3) Any reasonable accurate description of the present improvements and the additions intended to be made under this application indicating the size of such proposed improvements, material and general construction thereof. In addition there shall be attached a plot plan of the real estate to be affected, as required to accompany applications for building permits, indicating the location and size of the lot and size of improvements now erected and proposed to be erected thereon.
- C. If the Zoning Hearing Board finds the appeal or request outside its scope of jurisdiction it shall return the application for the same to the Zoning Officer for proper processing.

§ 125-47. Appeals.

Appeals shall otherwise be processed in conformance with the requirements of Article X-A of the Pennsylvania Municipalities Planning Code.

§ 125-48. Variances.

- A. The Zoning Hearing Board shall have the right to authorize such variances from this Chapter as are permitted under the Pennsylvania Municipalities Planning Code. The Board may grant a variance provided the following findings are made where relevant in a given case:
- (1) 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 Chapter in the neighborhood or district in which the property is located.
 - (2) 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 Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) Such unnecessary hardship has not been created by the applicant.
 - (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. In granting any variance the Board may attach such reasonable conditions and safeguards as it

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may deem necessary to implement the purposes of Article VI of Act 247 and this Chapter.

- C. It may also adopt rules for the notification of adjacent landowners when variances are to be considered.
- D. This authority shall not include the right to grant a use variance that would, in fact, alter the Zoning Map and thus constitute a rezoning.

§ 125-49. Amendments.

- A. The Borough Council may amend this Chapter by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended.
- B. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided on as provided in §1004 of the Pennsylvania Municipalities Planning Code, as enacted and hereafter amended.