

**NEW BEAVER BOROUGH
ZONING ORDINANCE**

**Adopted June 13
Amended July 11**

*ORDINANCE
2-2011*

Michael Swanik, Mayor

Borough Council

David Hairhoger, President
Thomas Hairhoger, Vice President
Charles McAnlis
Paul Morrison
David Badger
Joseph Gubish
Mathew Kingman

Steering Committee

Michael Swanik
David Badger
Matthew Kingman
Jon Bobin
Edward McCready
Tammy Romesburg
Janet Yost

Municipal Staff

Lorraine Leslie, Secretary/Treasurer
Drita L. Crawford, Assistant Secretary/Treasurer

Committee's Vision:

**“Create an easy to use ordinance, that will promote growth in New Beaver Borough,
while preserving the rural feel and protecting property rights.”**

Louis Pomerico, Solicitor

Lawrence County Planning Department

TABLE OF CONTENTS

	Page Number
Article 1 General Provisions	

101 Title.....	5
102 Effective Date.....	5
103 Compliance.....	5
104 Severability.....	5
105 Repeal.....	5
106 Authority.....	5
107 Purpose and Provisions.....	5
108 Statement of Community Development Objectives.....	5
 Article 2 District Regulations	
201 Zoning Map.....	6
202 Zoning Districts.....	6
203 Zoning District Purposes.....	6-7
204 Lot and Yard Requirement Chart.....	7-8
205 Permitted Uses and Conditional Use Chart.....	8-10
206 Criteria for Permitted Uses with Conditions, Conditional Uses, and Special Exceptions.....	10-22
 Article 3 Supplementary Regulations	
301 Nonconforming Uses and Structures.....	23
302 Existing Lots of Record.....	24
303 Application of Yard Regulations.....	24
304 Temporary Structures.....	24
305 Height Limitations.....	25
306 Performance Standards.....	25
307 Off-Street Loading and Parking.....	25-29
308 Water Recreation and Storage Areas.....	29
309 Junk and Junk Yards.....	30
310 Agriculture.....	30
311 Individual Mobile or Manufactured Homes.....	30
312 Lighting.....	30
313 Signs.....	30-33
314 Vehicle Storage.....	33
 Article 4 Administration and Enforcement	
410 Zoning Officer.....	34
402 Zoning Permits.....	34
403 Violations and Penalties.....	35
404 Method of Appeal.....	36
 Article 5 Amendments	
501 General.....	37
502 Petitions.....	37
503 Referral.....	37
504 Action.....	37

505 Curative Amendments.....	37
506 Provision for Optional Notices.....	38
 Article 6 The Zoning Hearing Board and Conditional Uses	
601 Creation.....	39
602 Appointment.....	39
603 Removal of Members.....	39
604 Organization of Board.....	39
605 Expenditures for Services.....	39
606 Legal Counsel.....	39
607 Hearings.....	39-42
608 Board’s Function and Jurisdiction.....	42-43
609 Parties Appellant Before Board.....	43
610 Time Limitations, Persons Aggrieved.....	43
611 Stay of Proceedings.....	44
612 Conditional Uses.....	44-45
 Article 7 Definitions	 46-56
 Article 8 Floodplain Regulations	
801 Statutory Authorization.....	57
802 General Provision.....	57-58
803 Administration.....	58-64
804 Identification of Floodplain Areas.....	64-66
805 Technical Provisions.....	67-75
806 Activities Requiring Special Permits.....	75-79
807 Existing Structures in Identified Floodplain.....	79-80
808 Variances.....	80-81
809 Definitions.....	81-86
 Enactment	 87
 Map	

Article 1 General Provisions

101 Title: The official title of this Ordinance is the “New Beaver Borough Zoning Ordinance, Lawrence County, Pennsylvania.”

102 Effective Date: this Ordinance shall become effective ten (10) days after the final passage by the Borough Council.

103 Compliance: No structure shall be located, erected, constructed, reconstructed, moved, converted, substantially improved, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

104 Severability: The provisions of this Ordinance shall be severable, and, if any of its provisions shall be unconstitutional, the decision so holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent that this Ordinance would have been adopted had such unconstitutional provisions not been included therein.

105 Repeal: All ordinance or part thereof conflicting herewith be and are hereby repealed.

106 Authority: This Ordinance is adopted pursuant to the powers granted to the Borough by Article VI of the Pennsylvania Municipalities Planning Code.

107 Purpose and Provisions: The purpose and provisions of this Ordinance are those as set forth by Sections 603, 603.1, 604, and 605 of the Pennsylvania Municipalities Planning Code.

108 Statement of Community Development Objectives: To implement the New Beaver Borough Municipal Comprehensive Plan.

- a. "Maintain a country atmosphere. Keep the Borough rural, keep farm areas, foster a productive farm economy, maintain quiet surroundings, and keep the country feel."
- b. "Development along the Route 18 corridor. Route 18 is prime developable land for commercial and industrial development."
- c. "Enact ordinances to protect the Borough from unwanted uses..."
- d. "Communication, New Beaver Borough residents want to be kept aware of what is going on within the Borough."

Article 2 District Regulations

201 Zoning Map: A map entitled "Official Zoning Map, New Beaver Borough, Lawrence County, Pennsylvania," is hereby adopted as part of this Ordinance. The

Official Zoning Map shall be kept on file and available for examination at the Borough Office. Copies of the Zoning Map, together with the Zoning Ordinance, shall be made available to the general public by the Borough at a reasonable fee to be determined by resolution of the Borough Council.

202.1 Zoning Districts: The Borough is divided into the districts stated in this Ordinance as shown by the district boundaries on the Official Zoning Map:

- A- Agriculture District
- R- Residential District
- GL- Game Land District
- C- Commercial District
- I- Industrial District
- T- Transitional Mixed District
- FOD- Floodplain Overlay District

202.2 Interpretation of District Boundaries: District boundaries shown within the line of streets, streams, and transportation rights-of-way shall be deemed to follow their centerline. The vacation of streets shall not affect the location of such district boundaries. When the Zoning Officer cannot definitely determine the location of the district boundary by such centerlines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line shown on the Zoning Map, he shall deny the application and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary with reference to the scale of the zoning Map and the intentions and purposes set forth in all relevant provisions of this Ordinance.

202.3 Interpretation of Regulations: Whenever the provisions of this Ordinance are at variance with provisions in other parts of this Ordinance, or with any other lawfully adopted rules, regulations, or ordinances, the more restrictive requirements shall govern.

203. District Purposes

203.1 A-Agricultural District: This is intended to preserve and foster agricultural development within New Beaver Borough while providing space for low-density residential development. Developmental standards in this district are intended to minimize any potential conflicts between residential and agricultural uses. The primary uses in this district are farming, single-family dwellings, and compatible uses.

203.2 R-Residential District: The purpose of this district is to provide for and maintain residential requirements in New Beaver Borough. The district shall contain single-family, two-family dwellings, multiple family-dwellings, recreational and others as detailed.

203.3 GL- Game Lands: The district is intended to preserve and foster Game Land Development within New Beaver Borough. The primary use in this district is that of programs offered or sponsored by the Pennsylvania State Game Commission.

203.4 C- Commercial: The purpose of this district is to provide for and maintain suitable areas which will satisfy the commercial requirements and potential of New Beaver Borough. The Commercial District shall include commercial, office, and fee-based recreational activities.

203.5 I- Industrial: The purpose of the Industrial District is to provide suitable space for existing industries and their expansion, as well as future industrial developments. Commercial uses are also allowed. Performance standards, loading and parking specifications and yard regulations are set forth in the Ordinance in order to insure, insofar as possible, safe, non-objectionable industrial installations.

203.6 T-Transitional Mixed: The purpose of the Transitional Mixed District is to offer flexibility for properties to be developed in the future. The district shall allow for commercial, light industrial, residential, recreational, or agricultural.

203.7 FOD- Floodplain Overlay District: The purpose of this Overlay District is to satisfy FEMA Ordinance Requirements based on the approved and amended FIRM. (Flood Insurance Rate Map)

204 Lot and Yard Requirement Chart

New Beaver Borough Lot and Yard Requirements							
Draft Districts	Lot Area	Lot width	Front Yard	Side Yard **	Rear Yard	Height *	Lot Coverage
Agriculture:							
All uses	2 Acres	200 feet	60 feet	10 feet	50 feet	35 feet	20%
Residential:							
Single Family***	1.5 Acres	175 feet	60 feet	10 feet	50 feet	35 feet	15%
Two-family Dwelling Units***	2 Acres	200 feet	60 feet	10 feet	50 feet	35 feet	15%
Multi-Family Dwelling Units***	2 Acres + 5,000 Sq Ft	200 feet	60 feet	10 feet	50 feet	35 feet	20%
Commercial	2 Acres	100 feet	40 feet	10 feet	50 feet	100 feet	50%
Industrial	2 Acres	200 feet	40 feet	10 feet	50 feet	100 feet	50%
Transitional	2	100	40 feet	10 feet	50 feet	100	50%

	Acres	feet				feet	
Regardless of the lot size listed, all lots, except duly certified non-building lots, must be approved by the Borough's Sewage Enforcement Officer.							
*Height Restriction does not apply to silo or agricultural containment areas.							
** Corner Lots in Agriculture and Residential shall provide an additional 10 feet of side yard along the non-frontage road.							
***In Residential when public sanitary sewers and water are available for use, lot area required for single-family and two-family shall be 1/2 acre and lot width 120 feet.							

205 Permitted Uses and Conditional Use Chart: The permitted uses and conditional uses for each district are shown below and are considered principal uses unless clearly noted. Uses in each category shall be according to the common meaning of the term or according to definition set forth in Article 7.

Use	Agriculture	Residential	Commercial	Industrial	Transitional
Single Family	P	P	C		C
Multi Family Less than 5 Dwelling units 206.33	P	C	P		C
More than 5 Dwelling Units 206.33	C	C	C		C
Home Occupation (employees up to four) 206.1	P	P	P	P	C
Public Facilities (municipal utilities) 206.20	P	C	P	P	C
Sexually Oriented Business 206.32				P	
Light Industrial			C	P	C
Heavy Industrial 206.17				P	C
Daycare Center (7 or more) 206.8			P		C
Family Day Care Center (Less than 12 more than four) 206.8	P	P	P		C
Family Day Care Home (less than four children) 206.8	P	P	P		C
Medical Dental Office/ Clinics/ Urgent Care/ Health Center 206.2		C	P	P	C
Hospital 206.2			P	P	C
Jails / Prison				P	
Use	Agriculture	Residential	Commercial	Industrial	Transitional
School 206.2	C		P		C
Church 206.2	C	C	P	P	C
Golf Course 206.6	C	C	C	C	C

Cemetery 206.14	C	C	C	C	C
Methadone Clinic 206.2				P	
Driving Range	C		C	C	C
Parks and Playgrounds Public	P	P	P	P	C
Agriculture	P	P	P	P	C
Mobile Homes / Mobile Home Parks 206.15	C	C	C		C
Manufactured Homes	P	P	P		C
Mineral Extraction 206.13	P		C	C	C
Airport, Heliports, Ultra-light Airports 206.22	C		C	C	C
Campground, RV Parks 206.25	C		C		C
Agricultural Related Business 206.24	P	C	P	P	C
Outdoor Commercial Recreation (sportsmen club) 206.11	P	C	C		C
Veterinarian Office/Kennel 206.19	P	C	P	P	C
Greenhouse and Nurseries	P	C	P	P	C
Stable, Riding Arena 206.19	P	C	P		C
Forestry	P	P	P	P	C
No-Impact Home-Based Business (no employees)	P	P	P	P	C
Bed and Breakfast 206.3	P	P	P		C
Communication Towers 206.7	P	C	C	P	C
Oil and Gas Wellheads 206.12	P	C	C	C	C
Restaurant 206.28	C		P	P	C
Car wash 206.5			P	P	C
Clubs, private 206.28	C	C	P	P	C
Auto/Truck Equipment Sales and Service Center 206.23			P	P	C
Retail Business 206.27	C		P	P	C
Offices All types 206.27	C	C	P	P	C
Funeral Home 206.4	C	C	P	P	C
Supply Yards/ Landscaping/Contractor	C		P	P	C
Hotel and Motels 206.10			P	P	C
Personal Care Homes 206.26	C	C	P	P	C
Gas Station 206.29	C		P	P	C
Warehouse/Wholesale Business	C		P	P	C
Junk Yard 206.16				P	C
Industrial Park 206.18				P	C
Use	Agriculture	Residential	Commercial	Industrial	Transitional
Sewage Treatment Plants 206.31			C	P	C
Sanitary Landfills 206.30				P	C

Self Storage Facilities 206.9	C		P	P	C
Convenience Store 206.29	C		P	P	C
Essential Services (water/sewer infrastructure) 206.28	P	P	P	P	C
Saw Mills 206.21	P		P	P	C
Halfway Home				P	C
Group Home	P	P	P		C
Accessory uses and structures	P	P	P	P	C

205.1 Special Provisions: This section is intended to comply with the requirements of Section 603 (C) of the PAMPC:

1. Prime Agricultural Land: The Borough is a rural place and is not fully developed. There are active farms currently within its borders. Provision to promote and preserve agriculture is found in the A- District.

2. Historic Preservation: The Borough supports the concept of historic preservation and will entertain proposals to create Historic District under Act 167 of 1961.

3. Forestry: The practice of forestry, including timber harvesting, is declared as a permitted use in all districts. It is subject to the following conditions:

- a) Any harvesting shall present an approved erosion and sedimentation control plan prior to the issuance of a zoning permit, as needed.

206 Criteria for Permitted Uses with Conditions, Conditional Uses, and special Exceptions: The criteria for permitted uses with conditions, conditional uses, and special exceptions are listed below. In addition to these criteria, the Zoning Hearing Board, in granting special exceptions, and the Borough Council, as advised by the Planning Committee, in considering conditional uses, are charged with considering the effect that such proposed uses will have upon the community. In granting a special exception or conditional use, the Zoning Hearing Board or Borough Council (as appropriate) may attach reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of the PAMPC and this Ordinance. Permitted uses that have conditions attached will be granted or denied by the Zoning Officer based upon the criteria set forth in this section as well as other appropriate sections of this Ordinance.

206.1 Home Occupations: A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purpose. Note: see also No-Impact Home Based Business (Section 7). The Following conditions for home occupations shall be observed:

- a) The occupation is carried on by a member of the family residing in the dwelling unit. Up to four (4) additional employees will be permitted.
 - a) There shall be no exterior display, no exterior sign other than permitted by this Ordinance, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal structure.

- b) The occupation shall occupy no more than forty-five percent (45%) of the principal structure.
- b) Home occupation may include, but are not limited to, art studios; dressmaking; professional offices of physicians, dentists, lawyers, engineers, architects or accountants; real estate offices; insurance offices; barbershops and beauty parlors; teaching; motor repair service, woodworking, gunsmiths, auto repair, but not restaurants.

206.2 Schools, Hospitals, Church, Medical Dental Office/Clinics, Urgent Care, Health Center, and Methadone Clinics

- a) Shall provide all parking and loading/unloading requirements as required by this Ordinance.
- b) Shall be located on a public street with a paved cartway.
- c) All parking and recreation/play areas, which abut residential uses, shall be screened. (See definition of Screening.)
- d) Any outdoor lighting shall use fully shielded fixtures.
- e) All necessary licenses or permits issued by county, state, or federal agencies shall be presented and these required license, certificates, or permits shall be a condition for final approval.

206.3 Bed and Breakfast: Such uses are intended to provide overnight or short-term accommodations for transient guests in a home-like atmosphere. They must meet the following regulations:

- a) All signs shall conform to this Ordinance.
- b) No more than five (5) guest rooms will be permitted.
- c) One (1) off-street parking space for each guest room shall be required. Parking shall be on-lot.
- d) Any meal served shall be provided to guests only.
- e) The facility shall comply with state laws regarding such facilities.

206.4 Funeral Homes: Funeral homes shall meet the following criteria:

- a) For the conversion of an existing structure with approval by DEP.
- b) The driveway system shall be arranged so the hearse and funeral cortege formation will be completed on the lot and not on a public street.

206.5 Car Wash: car washes are subject to the following express standards and criteria:

- a) All drainage water from car washing operations shall be contained on site, so as to not become a nuisance or hazard to adjoining properties, berms, or roadways.
- b) All property lines adjoining residential use or zoning classification shall be screened by a buffer area as defined by this Ordinance which is at least twenty (20) feet in depth measured from the property line.
- c) Outdoor areas for parking and queuing shall be covered with an impervious surface, off the public right-of-way.
- d) Shall provide all parking and loading/unloading requirements as required by this Ordinance.

206.6 Restaurant with Golf Course or Country Club: are subject to the following express standards and criteria:

- a) If operation provides for eating and/or drinking facilities then parking requirements for restaurants shall apply in addition to the parking requirements for the primary use.

206.7 Communication Towers: applications for communication towers shall comply with the following requirements.

- a) The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.
- b) The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- c) Communications towers shall comply with all applicable Federal Aviation Administration, Commonwealth Bureau of aviation and applicable zoning regulations.
- d) Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
 - a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
 - b. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
 - c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
 - e. A commercially reasonable agreement could not be reached with the owners of such structures.
- e) Access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a mud-free, all-weather surface for its entire length.

- f) A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot which meets the minimum lot size requirements for the Zoning District.
- g) Recording of a plat of subdivision or land development shall not be required for a lease parcel on which a communications tower is proposed to be constructed, provided the communications equipment building is unmanned.
- h) The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
- i) In all zoning districts except I-Industrial, the maximum height of any communications tower shall be one hundred fifty (150) feet; provided, however, that such height may be increased to no more than two hundred (200) feet, providing the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of one hundred fifty (150) feet. In the I-Industrial Zoning District, the maximum height of any communications tower shall be one hundred eighty (180) feet.
- j) The foundation and base of any communications tower shall be set back from a property line (not lease line) located in any residential district at least one hundred (100) feet and shall be set back from any other property line (not lease line) at least fifty (50) feet.
- k) The base of a communications tower shall be landscaped so as to screen the foundation, base and communications equipment building from abutting properties.
- l) The communications equipment building shall comply with the required yards and height requirements of the applicable zoning district for an accessory structure.
- m) The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Boroughs Building Code (UCC).
- n) The applicant shall submit a copy of its current Federal Communications Commission license; the name, address, and emergency telephone number for the operator of the communications tower; and a certificate of Insurance evidencing general liability coverage in the minimum amount of \$1 million per occurrence and property damage coverage in the minimum amount of \$1 million per occurrence covering the communication tower and antennas. All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure. The site of a communications tower shall be secured by a fence with a maximum height of eight (8) feet to limit accessibility by the general public.
- o) No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.
- p) Communication Towers shall be protected and maintained in accordance with the requirement of New Beaver Borough's Building Code (the UCC).

- q) If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the communications tower within six (6) months of the expiration of such twelve (12) month period.

206.8 Day Care Facilities, All Types: The purpose of this section is to set forth standards for the three types of day care covered by this Ordinance (see definitions section).

- a) Family Day Care Home
 - a. Such operation must obtain any permit/certificates required by the state.
 - b. At least two (2) additional parking spaces shall be required.
- b) Family Day Care Center
 - a. Such operations must obtain any permits/certificates as required by the State of Pennsylvania (Department of Welfare).
 - b. Outdoor play areas shall be effectively screened from nearby residential uses through fencing or screening.
 - c. At least two (2) additional parking places shall be required plus those required for the dwelling or other use.
 - d. The operator shall demonstrate how children shall be dropped off and picked up considering their safety and the safety of other pedestrian and vehicular traffic in the area.
- c) Day Care Center
 - a. Outdoor play areas shall be effectively screened from nearby residential uses through fencing or screening.
 - b. For all new construction, and where feasible for existing structures, circular driveways shall be provided to deliver and pick up children off public streets. These facilities are intended for the safety of the children and the protection of the neighborhood. In any event, the developer shall demonstrate how pick up and delivery shall occur in a safe manner.
 - c. One (1) parking space for each employee shall be required, in addition to at least four (4), for parents or guests.
 - d. Such facilities must be licensed by the Pennsylvania Department of Public Welfare.

206.9 Self-Storage Facilities: These uses shall:

- a) Provide screened planting along side and rear yards of ten (10) feet when adjacent to any residential use.
- b) Any lighting shall be fully shielded and directed away from any residential use.
- c) Any fencing along boundaries with a residential use shall be set back at least six (6) feet.

206.10 Motels and Hotels: Such uses shall:

- a) Present proof that all plans for the construction/development of the facilities have been approved by the Pennsylvania Department of Labor and Industry.

- b) Are constructed or renovated in accordance with the Borough's building codes and all other applicable building regulations.
- c) All rear and side property lines shall be screened as defined by this Ordinance.
- d) Present evidence that water and sanitary sewer facilities have been approved, as needed, by DEP, or the Borough SEO, and are adequately sized.

206.11 Outdoor Commercial Recreation: These uses can be intrusive and shall adhere to the following standards:

- a) All lighting shall be fully shielded fixtures.
- b) A landscaped screening ten (10) feet in width shall be provided on all side and rear lot lines that abut residential uses or districts. The screening shall provide effective light screen. Paintball, motocross, and any type of motorized racing facilities will require landscaped screening of seventy-five (75) feet in depth from any area where active paintball or racing activities will take place.
- c) Commercial shooting ranges shall illustrate that the design and direction of all firing lanes shall not present a danger to public health and safety. The developer shall show adherence to best design practices, such as the National Rifle Associations' *NRA Range Source Book* to ensure safety.

206.12 Oil and Gas Wellheads: Oil and gas wells in built-up areas present an intrusive use and a potential attractive nuisance. In consequence, the following regulations are hereby set forth:

- a) All such operations must obtain a zoning permit.
- b) The well operator shall present to the Zoning Officer a copy of an approved gas well permit from the Pennsylvania Department of Environmental Protection. Said permit must be available at the public hearing.
- c) The well operator shall present a map clearly showing the location of the proposed gas well.
- d) The well operator shall inform the Borough, by letter, at least three (3) weeks before the initiation of drilling activities.
- e) The well operator shall provide security twenty-four (24) hours a day during the drilling process to protect against injury or death to persons who may wander on, or be around the well site.
- f) The well operator shall annually file with the Borough a report on the status of the well, active or inactive.
- g) If the well is plugged, a copy of the needed permit or authorization from the Pennsylvania Department of Environmental Protection will be delivered to the Zoning Officer.
- h) The name of a twenty-four (24) hour emergency contact for the well operator will be filed with the New Beaver Borough Volunteer Fire Department.
- i) Any facilities which are located upon, or use public roads, shall comply with the following standards:
 - a. Where required, roads shall be bonded.
 - b. All roads to and from the site shall be maintained in a mud-free condition on a daily basis.

206.13 Mineral Extraction:

- a) All such operations must obtain a zoning permit.
- b) All required State permits shall be presented before the zoning permit can be issued.
- c) If access to the mining/pit operation is by Borough road, then the applicant is required to comply with all appropriate Borough ordinances and provide bonding.
- d) All roads to and from the site shall be maintained in a mud-free condition on a daily basis.
- e) Reclamation plan must be submitted.

206.14 Cemetery: Cemeteries are subject to the following standards and criteria:

- a) A drainage plan shall be submitted with the application for approval to show existing and proposed runoff characteristics.
- b) Ingress, egress, and internal circulation shall be designed to ensure safety and minimize impact on local roads.
- c) All property lines adjoining residential uses shall be screened as defined by this Ordinance.
- d) Provisions for perpetual care acceptable to the Borough must be provided.
- e) Interior roads shall be mud free.
- f) Private Property burials shall be permitted as long as all applicable paper work is completed and approved by the property authorities.

206.15 Mobile Home Parks

- a) Shall fully comply with the Borough's Subdivision and Land Development Ordinance.
- b) Shall front upon a public paved road.
- c) Shall not be permitted within a designated floodplain. (See Article 8)

206.16 Junk or Salvage Yards: Scrap yards shall comply with the following requirements:

- a) There shall be no storage of scrap, machinery, or equipment of any kind in the front yard area or in areas visible from the surrounding properties. All storage shall be inside the required fences.
- b) The processing or storage of hazardous materials, as the same are defined by the Department of Environmental Protection, shall not be permitted.
- c) The facility shall provide a fence around the premises at least eight (8) feet in height, constructed to block the line of sight and the fence shall be constructed at the yard setback lines.
- d) All such uses must obtain an annual permit from the Borough.
- e) All requirements in the Borough SALDO shall apply, as applicable.

206.17 Heavy Industrial: Heavy industrial shall meet the following performance standards:

- a) All needed permits from federal or state environmental agencies shall be identified and presented.

- b) Glare: Lighting or such activities as welding shall be shielded from any residential use or district. Outside lighting shall use full shielded fixtures.

206.18 Industrial Parks:

- a) Off-Street Parking: Space for off-street parking of employees, customers, and visitors shall be as required in this Ordinance.
- b) Signs: All on-premise signage shall be in accordance with the standards set forth in this Ordinance
- c) Streets: All streets in any industrial park must be private streets and shall meet the design and construction standards specified by the Borough's Subdivision and Land Development Ordinance. Streets shall be maintained by the property owner.
- d) Areas of properties on a developed lot not occupied by buildings or paved shall be landscaped and maintained in accordance with the park site plan. At least one (1) tree or shrub shall be planted for each two hundred (200) square feet of property are not covered by buildings or paved. Of the total required planting, at least thirty percent (30%) shall be deciduous trees not less than two-inch (2") caliper when planted. Trees shall be planted not less than thirty (30) feet apart or twenty (20) feet from any building.
- e) Water and sewer services shall be approved by the Borough SEO and/or DEP, as appropriate.

206.19 Commercial Kennels, Veterinarian Office, Commercial Stables, or Riding Arena:

- a. The property to contain any outdoor kennel, commercial stables, riding arena, or veterinarian office shall meet all applicable State requirements and documentation submitted with application.
- b. Outdoor areas to be occupied by animals shall be as remote as possible from neighboring residences. Buildings on the site, landscaping, and/or changes of grade may be used to screen adjacent housing areas or potential areas of housing.
- c. All outdoor areas to which animals have access shall be fenced to contain the animals, and such outdoor area shall not be closer than required in 204 from any property line.
- d. All dogs in a kennel shall be kept in an enclosed building at night.

206.20 Public Facilities and Essential Services:

- a. All side and rear property lines adjoining residential uses or zoning classifications shall be screened by a screened area, as defined by this Ordinance.
- b. All lights shall be shielded and directed away from adjoining properties.
- c. The entrance and exit for the facility shall be so designed as to allow adequate sight distances and generally ensure a safe entrance onto public roads.
- d. There shall be adequate space so trucks and equipment may be backed into their parking bays without using public streets.

206.21 Sawmills:

- a. The use shall be subject to the performance standards of this Ordinance.

- b. All milling operations shall be located at least three hundred (300) feet from any existing dwelling on adjoining property and at least one hundred (100) feet from any property line.
- c. Routes to be used by hauling trucks shall be approved by the Borough. If bonding of the road is required by the Borough, proof of compliance is required. All roads to and from the site shall be maintained in a mud-free condition on a daily basis.
- d. Mills will comply with all other applicable federal, state, and local requirements as may be applicable.

206.22 Airport, Heliport, Ultra-light Airport: All classes of airports, ultra- light airports, and heliports shall be allowed as a conditional use. The Borough however reserves the right to adopt specific airport zoning regulations.

- a. All airport facilities and site development shall be based on location and site plans subject to the review of the Borough Planning Committee and approval of the Borough Council.
 - a. The location map shall show the approximate location, use and height of all structures within two thousand six hundred (2,600) lineal feet of the ends of landing strips and within one thousand two hundred (1,200) lineal feet of the sides of the landing strips.
 - b. The site plan shall show the exact location of landing strips and the use and height of structures on the property.
 - c. Documentation shall be submitted which designates the anticipated types of aircraft to be accommodated and the volume of activity contemplated.
 - d. Plans for lighting and fuel handling shall be submitted.
 - e. Provide the Borough with all the technical data required by the appropriate airport zoning regulations as set forth by the Bureau of Aviation, Pennsylvania Department of Transportation.
 - f. Be responsible for all reasonable fees and cost incidental to preparing and adopting airport zoning provisions as an amendment to this Ordinance.
 - g. Assist in any enforcement proceedings, including the cost of prosecution.
- b. Ultra-light Airports are intended for private use only. This use must comply with the following criteria:
 - a. All ultra-light airports must be at least three hundred (300) feet from any property line and at least five hundred (500) feet from any dwelling.
 - b. The operator shall present evidence that the facility complies with appropriate State Regulations and has secured a license from the Pennsylvania Department of Transportation, Bureau of Aviation.
- c. Heliports are subject to the following express standards and criteria:
 - a. Heliports shall be permitted only when accessory to public safety office operations or industrial parks.
 - b. Heliports shall be located at least one hundred (100) feet from any property line or public street.
 - c. Evidence of compliance with all applicable regulations of the Federal Aviation Administration and the Pennsylvania Department of Transportation shall be submitted.

- d. The helicopter landing pad shall be clearly marked with the insignia commonly recognized to indicate same.
- e. Lighting shall be fully shielded away from adjacent properties.

206.23 Auto/Truck, New and Used Sales and Services, Boat Sales and Services, Farm and Heavy Equipment: Shall observe the following regulations:

- a. Any outside display of vehicles, boats, or boat trailers shall maintain a twenty (20) foot setback from the front property line and at least a fifteen (15) foot setback from side or rear property lines.
- b. All cleaning and repair, part storage, and painting shall occur indoors.
- c. The storage of vehicles for repair shall be only behind or beside the principal structure and shall be limited to thirty (30) calendar days.
- d. The long-term (over thirty (30) days) storage of farm and heavy equipment shall be indoors or in a fenced area [fencing height at least six (6) feet] behind the principal structure.
- e. All drainage plans shall conform to applicable Borough Ordinances.
- f. Business activities shall be operated from a permanent building on a approved foundation (UCC).
- g. No string(s) of bare light bulbs, or pennants, shall be permitted.
- h. All property lines adjoining residential uses or zoning classifications shall be screened by a buffer area as defined by this Ordinance which is at least ten (10) feet in depth measured from the property line.

206.24 Agricultural Related Businesses: Are subject to the following express standards and criteria:

- a. The use shall be subject to the Performance Standards of this Ordinance. (Section 306)
- b. All property lines adjoining residential uses or zoning classifications shall be screened by a buffer area as defined by this Ordinance which is at least ten (10) feet in depth measured from the property line.

206.25 Campgrounds and RV Parks: Shall observe the following regulations:

- a. All interior roads shall be at least six (6) inches of crushed, compacted, aggregate and built to be mud-free, year round.
- b. Water supplies and sanitary sewage disposal must be approved by the Department of Environmental Protection or, as appropriate, the Borough's SEO.
- c. There shall be a planted buffer yard of at least fifty (50) feet along the side and rear yards that shall contain evergreen shrubs at least four (4) feet in height when planted, to provide a visual buffer (see also Screen Planting).

206.26 Personal Care Home: The purpose of such homes is to provide residences for individuals in a home-like setting. Consequently, it is essential to maintain an exterior appearance that is in harmony with surrounding residences. In addition, such uses shall meet the following conditions:

- a. Signs or exterior display indicating the name of the home or its use shall not exceed that allowed by this Ordinance.

- b. At least one (1) additional on-lot parking space shall be provided for each two (2) guests for facilities offering overnight or long-term accommodations.
- c. The applicant shall identify the type of home, and present any required county and/or state certifications or licenses.

206.27 Offices All Types and/or Retail Business:

- a. All required parking, loading, and unloading shall be contained entirely on lot, including sufficient maneuvering room so that vehicles will not back onto a public road. Any parking area next to a residential use shall be screened.
- b. All lighting shall be fully shielded to prevent glare to adjoining properties.

206.28 Private Club and/or Restaurant:

- a. Shall present evidence that water and sanitary sewer facilities have been approved by the Pennsylvania Department of Environmental Protection Agency or the Borough SEO and adequately sized.
- b. Present proof that approval by the Department of Labor and Industry and any other needed State permits have been secured prior to occupancy.
- c. Provide screening for rear and side yards.
- d. All parking shall be on lot, with mud-free surface.
- e. All lighting shall be fully shielded.
- f. No outdoor speakers shall be allowed.

206.29 Convenience Store and/or Gas Station:

- a. Any fuel pumps shall be at least thirty (30) feet from the front lot line and thirty (30) feet from each side lot line.
- b. No vehicle will be parked or stored along the front lot line except on a short-term basis.
- c. Any lot line abutting a residential use or district shall provide appropriate screening. Such screening shall be at least ten (10) feet.
- d. The nearest point of canopy structures shielding gasoline pumps shall be no closer than twenty (20) feet from the front lot line and twenty (20) feet from each side lot line.

206.30 Sanitary Landfills: Such uses shall only be permitted as follows:

- a. They shall be on a paved state road.
- b. All required permits from Department of Environmental Protection shall be presented.
- c. Buffer yards at least one hundred (100) feet in width shall be used around all side and rear yards; a buffer yard of at least seventy-five (75) feet will be used in the front area.
- d. All roads to and from the site shall be maintained in a mud-free condition on a daily basis.

206.31 Sewage Treatment Plants:

- a. Shall present all needed Department of Environmental Protection approvals

- b. Shall present an Operations and Maintenance Agreement [which includes the responsible parties, and remediation procedures when closure].
- c. Shall provide screen planting along any border which abuts a residential use or district.
- d. That shall be at least fifty (50) feet from a property line.

206.32 Sexually Oriented Business: Shall show compliance and adhere to the following requirements:

- a. A professionally prepared floor plan shall be prepared and presented with the application.
- b. There shall be no opening between individual viewing rooms or booths.
- c. All viewing rooms or booths shall be visible from the manager's station
- d. A buffer area of at least fifty (50) feet shall be required along any yard that abuts a residential use. A buffer area of at least one hundred (100) feet from any school, church, or public park and/or playground.
- e. Any lot line abutting a residential use or district shall provide appropriate screening. Such screening shall be at least ten (10) feet.
- f. Present proof that approval by the Department of Labor and Industry and any other needed State permits have been secured prior to occupancy.
- g. All parking shall be on lot, with mud-free surface.
- h. All lighting shall be fully shielded.
- i. No outdoor speakers shall be allowed.
- j. Signs shall not display graphics or words above G rating.

206.33 Dwelling Units:

- a. Ancillary Residential: may be authorized pursuant to the standards and criteria specified below:
 - i. Residential use ancillary to commercial establishments shall be limited to one (1) dwelling unit per commercial unit.
 - ii. Occupancy of the dwelling unit shall be limited to a person or persons directly associated and involved with the business thorough ownership or employment on an ongoing basis.
 - iii. All such dwelling units shall be situated within the primary commercial structure.
 - iv. Such units shall be compliant with the Borough's Building Code (UCC), any applicable state regulations, and have approved sewage facilities.
- b. Second Residence on-lot: a second residential structure will be allowed on a lot in the A- Agricultural District if the following conditions are met:
 - i. The secondary residential structure must be so situated on the lot so it is possible to subdivide it from the existing lot with both lots in full compliance with this Ordinance and the Boroughs Subdivision and Land Development Ordinance.
 - ii. The secondary residential structures shall have separate water supply and sanitary sewer facilities and such facilities shall comply with all applicable DEP regulations and, if needed, approved by the Borough's SEO.
- c. Multi-Family Dwellings:

- i. For three (3) or four (4) dwelling units, if on-lot sewage is to be used, the Borough SEO must approve the same.
- ii. For developments more than five (5) dwelling units:
 1. Community sewage services are required and the developer shall demonstrate sufficient potable water for the proposed units.
 2. A landscaping plan with screening along side and rear lot lines will be required.
 3. All parking shall be behind the principal building and be mud-free, as defined by this Ordinance.
 4. Any exterior lighting shall be fully shielded.

206.34 Flood Plain:

- a. This section of the Zoning Ordinance shall be known as the Floodplain Management Regulations for New Beaver Borough. See also Article 8
- b. The purpose of this section is to provide for compliancy with the Federal Requirements to participate in the National Flood Insurance Program (NFIP).
- c. Article 8 of this Ordinance outlines the requirements set by Federal and State laws.
- d. All areas identified in the Floodplain Overlay District (FOD) shall be the same as those identified on the Flood Insurance Rate Map (FIRM) for New Beaver Borough, as may be amended, in cases where the Zoning Map may be in conflict with the FIRM, the FIRM panel will supercede the Zoning Map.

Article 3
Supplementary Regulations

301 Nonconforming Uses and Structures: Every structure, use, or lot which does not conform to the regulations of the district in which it is located at this time of adoption of this Ordinance or amendment thereto, shall be considered “nonconforming.” The following provisions shall apply to all nonconforming uses and structures. It is the intentions of the Borough that all legal nonconforming uses and structures shall be able to continue; (however, all changes in such uses shall only be as allowed in this Article).

301.1: Any nonconforming use may be continued, but may not be extended or expanded unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provisions of this Ordinance.

301.2: A nonconforming structure, which has been partly or completely destroyed, other than by intent or design, may be rebuilt or repaired within one (1) year. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by any public official. (see also 301.4)

301.3: In the event that any nonconforming use voluntarily ceases for a period of one (1) year, such nonconforming use shall not be resumed and any further use shall be in conformity with the provisions of this Ordinance. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

301.4: The nonconforming use of a building may be extended throughout those parts thereof, which were manifestly arranged or designed for such use at the time of adoption of this Ordinance. A nonconforming building or structure may, with approval of the Zoning Hearing Board, be extended, enlarged or replaced, or may be changed to another use of equal or more restricted classification. However, such structures must comply with the area, yard regulations, and height restrictions of the district in which the structure is located, and must meet all off-street parking and loading requirements of this Ordinance. For any change of use, the Zoning Hearing Board may apply reasonable conditions.

301.5: Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approval and required permits have been granted prior to the effective date of this Ordinance.

301.6: Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, this Article shall also apply to any uses, which thereby become nonconforming.

301.7: Nonconforming signs may be repaired, providing that no structural alterations are made which increase the gross surface area of the sign. Nonconforming signs may not be enlarged or added to; however, the interchange of panels on nonconforming signs shall be permitted.

302 Existing Lots of Record: Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the district in which it is located even though its lot area and width are less than the minimum required by this Ordinance. However, such lot must comply with the yard, height, and coverage standards of the zoning district wherein it is located.

303 Application of Yard Regulations:

303.1: Where a structure exists on an adjacent lot and is within one hundred fifty (150) feet of either or both sidelines of the lot, and the existing structure has a front yard less than the minimum depth required, the minimum front yard shall be the average depth of the front yard of the existing structure on the adjacent lot and minimum depth required for the district; where structures exist on both adjacent lots, the minimum depth of the front yard shall be the average depth of the front yards of the existing adjacent structures.

303.2: All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yards.

303.3: Fences, Hedges, Walls, and Other Planting: Fences, hedges, walls, and other plant materials shall not be located at street corners so as to interfere with vision clearance across the corner lots. The height of such objects is restricted to three (3) feet within a triangular area formed by the intersecting street lines and a line joining points on the street lines, equidistant from the point of intersection. This distance shall be thirty (30) feet from the corner. In addition, no fence, wall hedge, or other plant materials shall be placed or allowed to grow in such a manner as to impede vision from driveways on the owner's lot or adjacent lots.

303.4: In-ground Swimming pools shall be permitted in side or rear yard areas, provided that the pool is located no less than ten (10) feet from lot line and at least one hundred (100) feet from septic system.

303.5: Accessory Uses such as garden sheds, storage sheds and similar accessory structures [of up to one hundred sixty (160) square feet in size] may be permitted in rear yards areas, provided such structures does not lie closer than five (5) feet to side lot line or within ten (10) feet of the rear property line and does not exceed fifteen (15) feet in height.

303.6: Attached Accessory Structures: When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

304 Temporary Structures: Temporary structures in conjunction with construction work shall be permitted only during the period that the construction work is in progress. They shall be removed when construction is completed. Permits for temporary structures

shall be issued for a one (1) year period. Temporary structures are subject to setback requirements.

305 Height Limitations: When the following conditions are met, height limits maybe increased:

- a) Structure height, in excess of the height permitted above the average ground level allowed in any district may be increase, provided all minimum front, side, and rear yard depths are increased by one (1) foot for each additional foot of height.
- b) The following structures are exempt from height regulations provided they do not constitute a hazard: church spires, chimneys, elevator bulk head, smoke stack, telecommunication towers* or antennas*, conveyors, flag poles, agriculture barns, silos, and similar farm structures, standpipes, elevated water tanks, and similar structures. [* covered by separate regulations]

306 Performance Standards: No use of land or structure in any district shall involve, or cause, any condition or material that may be dangerous, injurious, or noxious to any other property or person. Furthermore, every industrial or commercial use of land or structure in any district must observe the following performance requirements.

306.1 Fire Protection: Fire Protection and fighting equipment acceptable to the Board of Fire underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive material is carried on.

306.2 Electric Disturbance: No activity shall cause electrical disturbances adversely affecting radio, television or other communication equipment in the neighborhood area.

306.3 Air Pollution/Smoke: All air-borne emissions shall comply with the regulations of the Pennsylvania Department of Environmental Protection and the Environmental Protection Agency (US).

306.4 Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted. Full or partially shielded external lights shall be required.

306.5 Water Pollution: No permit shall be issued until all applicable wastewater, Stormwater or erosion/sedimentation control permits have been obtained.

307 Off-Street Loading and Parking: Off-Street loading and parking space shall be provided in accordance with the specifications in this section in all districts, whenever any new use is established or an existing one is enlarged. Handicapped parking requirements should follow the American with Disability Act (ADA) standards, and compliance with these standards are the sole responsibility of the developer

Use	First Space	Second Space*
Industrial	10,000	50,000
Manufacturing	5,000	50,000
Warehouse	10,000	50,000
Storage	10,000	50,000
Wholesale	20,000	50,000
Retail	20,000	40,000
Restaurant	40,000	80,000
Office	40,000	100,000
Hotel/Motel	20,000	100,000
Schools	10,000	100,000
Hospitals	50,000	100,000
Personal Care	50,000	100,000

* An additional space required for each additional increase at this value. For example, in Manufacturing, 5,000 square feet (sf) equals 1 space; 50,000sf equals 2 spaces; 100,000sf equals 3 spaces.

Note: All figures are given in gross feet of floor area (GFA) for each listed use.

307. 1:

- a) Size and Access: Each off-street loading space shall be not less than fourteen (14) feet in uniform width and sixty (60) feet in length with fifteen (15) feet of vertical clearance. It shall be so designed so that vehicles using loading spaces are not required to back onto public street or alley. Such spaces shall abut a public road or have an easement of access thereto. Loading spaces shall not be located in the required front yard.
- b) Uses Not Listed: For any use not listed, the Zoning Officer shall follow the requirements for the most similar use.

307.2 Off-Street Parking:

- a) Size and Access: For all uses, each parking space shall have a uniform area of one hundred eighty (180) square feet, being at least ten (10) feet wide and eighteen (18) feet long. Parking space area shall be exclusive of access drives or aisles, and shall be in useable shape and condition. Parking areas shall be designed to provide sufficient turnaround area so that vehicles are not required to back onto public roads. Where an existing lot does not abut on a public or private street, alley or easement of access, there shall be provided an access drive leading to the parking or storage areas or loading space. Access to off-street parking areas shall be limited to well-defined locations and in no case shall there be unrestricted access along a street (see section 307.3)
- b) Number of Parking Spaces Required: The number of off-street parking spaces required is set forth below. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply. If no similar uses are mentioned, the parking requirements shall be one (1) space for each two (2) proposed patrons and/or occupants of that structure. Where more than one (1) use

exists on a lot, parking regulations for each use shall be met, unless it can be shown that peak parking times will differ for the uses.

- c) Location and Parking: Required parking spaces shall be located on the same lot with the principal use.
- d) Screening and Landscaping: Off-Street parking areas for more than five (5) vehicles, and off-street loading areas, shall be effectively screened on any side which adjoins a residential use.
- e) Minimum Distance and Setbacks: No off-street loading or parking area for more than five (5) vehicles shall be closer than ten (10) feet to any adjoining property line containing a dwelling, residential district, school, hospital, or similar institution.
- f) Surfacing: With the exception of single-family and two-family dwellings and uses accessory to parking and loading areas and access drives shall have a dust-free and mud-free surface, graded with positive drainage to prevent the flow of surface water onto neighboring properties. Parking areas larger than ten thousand (10,000) square feet shall submit a plan, including drainage provisions for approval. Lots shall be designed to provide for orderly and safe loading and parking. At a minimum, the parking lot and access drive shall be covered with four (4) inches of crushed aggregate, rolled and compacted.

Parking Requirements	
Use Spaces	Required Parking
Single and two- Family Dwelling	2.0 per dwelling unit
Daycare Center (more than twelve children)	1 for each 300 square feet GFA
Family Day Care (less than four children)	2.0 per dwelling unit + 1 for every two children
Family Day Care Center (Less than 12 more than four)	2.0 per dwelling unit + 1 for every two children
Medical Dental Office/Clinics	8 spaces per doctor
Hospital	1 per each bed
School	1 per teacher/staff + 1 for each 4 classrooms
Church	1 per each 3 seats
Methadone Clinic	8 spaces per doctor
Mobile Homes	2.0 per dwelling unit
Manufactured Homes	2.0 per dwelling unit
Mineral Extraction	1 for every 2 workers
Veterinarian Office Kennel	5 per doctor
Stable, Riding Arena	1 for every two rentable stalls
Bed and Breakfast	1 per room + 2 for dwelling unit
Communication Towers	1 per site
Oil and Gas Wellheads	1 per ever two workers
Restaurant, Club, Outdoor Recreation,	1 for every two persons permitted in maximum occupancy.
Auto/Truck Equipment Sales and Service Center	1 for each 300 square feet GFA
Retail Business	1 for each 300 square feet GFA
Offices All types	1 for each 300 square feet GFA
Funeral Home	20 for the first parlor, 10 for each additional parlor

Supply Yards/ Landscaping/Contractor	1 space per employee
Hotel and Motels	1 per guest room
Personal Care Homes	1 per bed
Gas Station	1 for each 300 square feet GFA
Warehouse/Wholesale Business	1 space per employee, on the largest shift + 1 space for each 10,000 GFA for visitors
Sewage Treatment Plants	1 space per employee
Sanitary Landfills	1 space per employee
Convenience Store	1 space for 300 square feet GFA
Essential Services (water/sewer infrastructure)	1 space per employee
<i>Note GFA means gross floor area</i>	

- g) Lighting: Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from the adjoining premise of any residential use and away from roads or highways. Fully shielded fixtures required.
- h) Parking Lot Landscaping: The objective of this section is to improve the appearance of parking lots and to protect and preserve the appearance, character, and value of the surrounding neighborhoods and thereby promote the general welfare by providing for the installation and maintenance of landscaping for both screening and the lot interior for lots ten thousand (10,000) square feet or more. At least five percent (5%) of the parking lot area, excluding perimeter screening, shall be landscaped. The landscaping plan shall use plant species suited for high traffic areas and for this geographic area. Landscaping shall be regularly maintained. Landscaping along public roads shall be maintained in low growing [under three (3) feet] shrubs and/or deciduous trees to allow adequate sight distance. All landscaping plants shall be properly maintained. Dead plants shall be replaced annually.
- i) Stacking Requirements for Drive-In, Drive-Through Facilities: This section provides vehicle standards for drive-in, drive-through facilities. These may include such uses as banks, fast-food restaurants and car washes. The purpose of these standards is to provide minimal stacking capacity for various uses so vehicles will not use public streets while queuing in line for service. All references to stacking capacity relates to typical automobiles. A length of twenty (20) feet per auto will be used to accommodate one (1) vehicle and minimal head space. Minimal stacking lane width is nine (9) feet.

Use	Stacking Capacity Per Drive-In Window
Restaurant	8 per drive-in window
Bank	5 per drive-in window 3 per ATM
Car Wash	4 per wash bay

For other uses, guidelines from the Institute of Transportation Engineers may be used or the written recommendations of a professional traffic engineer.

Note: Stacking capacity is to be measured from the lot line to, but, not including the service window or order window (if present) and is not to include any area of the public right-of-way.

307.3 Driveways: This section is intended for driveways on Borough Roads.

- a) Location: A driveway will not be any closer than:
 - a. 30 feet to any road intersection
 - b. 30 feet to any other driveway on this same side of the road.
- b) Width: Driveways shall be ten (10) feet to twelve (12) feet in width with a reasonable radius flare where it connects the roadway.
- c) No wall, fence, or other structure shall be erected or altered, and no hedge, tree, shrub, or other growth shall be permitted higher than three (3) feet along any street right-of-way so that sight distance from any driveway or other point of entry onto a public highway is restricted.
- d) Driveway grades shall not exceed fifteen percent (15%) except upon a variance for cause issued by the Zoning Hearing Board.
- e) Driveways shall be designed in such a manner that would prevent the driveway material and associated stormwater from entering onto a public road, or adjacent properties.
- f) Driveways for commercial and industrial uses shall follow PennDOT standards.
- g) Entrance to the street shall not vary more than fifteen (15) degrees as measured from the perpendicular extended to the centerline of the intersected street.

308 Water Recreation and Storage Areas: Any outdoor facility for water recreation such as private swimming pools, swimming clubs, and commercial fishing ponds, or any other water storage facility such as reservoirs, fish hatcheries, sewage lagoons, and farm ponds shall comply with the following regulations:

308.1: The facility must meet the setback requirements of the district.

308.2: The facility, if operated to attract visitors, must comply with parking requirements established in this Ordinance.

308.3: Before a permit for any facility to be used by the public shall be issued to the operator or owner of the facility, a plan must be submitted to the Planning Department showing the size of the facility, its proposed use, parking arrangements, the use of buildings on the site, surrounding properties and their usage and any other pertinent information.

308.4: Private swimming pools shall be in the side or rear yard and at least ten (10) feet from any lot line. Swimming pools, spas, and hot tubs shall comply with the Uniform Construction Code (UCC).

308.5: Any applicable Department of Environmental Protection and/or Pennsylvania Fish and Boat Commission regulations, as applicable, shall be presented to the Zoning Officer.

309 Junk and Junk Yards:

- a) The visible storage of junk is not permitted in the residential district.
- b) Junk yards are a permitted use in the Industrial District.
- c) An annual permit shall be required including any fee that maybe set annually by resolution.

310 Agriculture: Where agriculture is a permitted use, the following restrictions shall apply:

- a) Farm and animal care uses shall be conducted in ways that do not create a danger to public safety or health to neighboring residential uses. The fact that a farm uses creates an annoyance or inconvenience shall not be deemed a danger to public health and safety.
- b) Buildings or kennel in which animals or poultry are kept shall not be erected within one hundred (100) feet of any property line if the zoning district or the use of the property which abuts said property is residential, providing that this shall not apply to buildings not housing more than two (2) dogs or other pets.
- c) Storage of manure or odor or dust producing substances shall not be permitted within one hundred (100) feet of any property line if the zoning district or use of abutting property is residential.
- d) Proof that all applicable state, federal, and local regulations must be complied with and available to the Zoning Officer upon his or her written request.
- e) Roadside stands in any District for sale of agricultural products.
 - a. Structures shall be a minimum distance of twenty (20) feet from the highway right-of-way.
 - b. All parking spaces shall be a minimum of ten (10) feet from the highway cartway.

311 Individual Mobile or Manufactured Homes: Individual or manufactured homes shall be permitted on individual lots only if they meet the following conditions:

- a) The proposed lot shall meet all area and yard requirements of the district.
- b) The mobile home shall comply with building code standards, as applicable.
- c) The homes shall be installed per Uniform Construction Code (UCC) standards.

312 Lighting: To the extent possible, it is this Ordinance's policy to reduce glare by requiring "full cutoff" lighting fixtures unless the applicant can demonstrate such fixtures will not perform adequately. In addition, lighting shall be designed and aimed to avoid glare on neighboring properties.

313 Signs:

- a) Authority: Signs may be erected and maintained only when in compliance with the provisions of this section and any and all other ordinances and regulations of the Borough which may be applicable.

- b) Exclusions: The following shall not be subject to the provisions of this Section unless otherwise specifically cited herein:
 - a. Signs of a duly constituted local, state, or federal government body, including traffic or similar safety and regulatory devices, legal notice, or railway warning signals.
 - b. Small signs with a surface area not exceeding four (4) square feet, displayed for the direction or convenience of the public which identify landmarks, parking areas, convenience facilities, and similar features.
 - c. One (1) temporary non-lighted sign on a construction site, not exceeding an area of thirty-two (32) square feet, denoting engineer, architect, contractor, and funding agencies and related information regarding the development.
- c) Permitted Signs- Residential: In the Residential District, the following requirements shall apply:
 - a. One (1) permanent identification sign for each dwelling unit, which may cite the name of the occupant, address, and other distinguishing features of the structure or property. Such signs shall not exceed four (4) square feet.
 - b. One (1) temporary non-lighted real estate sign pertaining to the sale, lease, hire, or rental of property on which the sign is displayed, not to exceed six (6) square feet.
 - c. One (1) announcement sign designating home occupations, group residential facility, or day care service, provided all such signs shall be limited to four (4) square feet in area.
 - d. One (1) permanent announcement sign erected by churches, schools, cemeteries, hospitals, clinics, multi-family dwelling developments with five (5) or more units, municipal facilities or similar permitted uses, which may include any appropriate message, provided that the area of such sign shall not exceed thirty-two (32) square feet in area.
 - e. Temporary signs advertising a garage sale, street fair, or other temporary activity, or a temporary sign directing persons to the location of such activity. Signs must be removed within twenty-four (24) hours of termination of the activity and shall not exceed ten (10) square feet in area.
 - f. Signs relating to the sale of farm products produced on the premises in the Agricultural District shall be limited to a total of two such signs that do not exceed a cumulative total of twenty (20) square feet in area.
 - g. Signs relating to funeral homes, greenhouses, convenience commercial establishments, private and commercial recreation, agricultural supply and garden centers, commercial stables, kennels, veterinary clinics, motels, hotels, tourist homes, auto service and repair, and mobile home and RV parks shall be limited to two (2) signs per each such use. Individual signs shall not exceed twenty (20) square feet in area, except that, when two signs are erected on a site, the combined area of both signs shall not exceed forty (40) square feet.
 - h. Signs shall be located a minimum distance of ten (10) feet from the street right-of-way.

- d) Permitted Signs- Agriculture, Commercial, and Industrial Districts: In the A and C Districts and the I District, the following requirements shall apply to individual lots:
- a. Business signs not to exceed one-and one-half (1 ½) square feet of total sign frontage up to a maximum cumulative total sign area of two hundred (200) square feet.
 - b. Individual free-standing signs or projecting signs extending outward from a building shall not exceed sixteen (16) square feet in area.
 - c. Temporary signs advertising the sale, rental, or development of property, buildings, or portions thereof, not to exceed thirty-two (32) square feet.
 - d. Portable or mobile signs and other similar advertising displays may be used for special sales, announcements, and related purposes, subject to the following provisions:
 - i. Display area of such signs shall not exceed thirty-two (32) square feet.
 - ii. No portion of the sign or its supporting structure shall occupy a public right-of-way.
 - iii. All lighting and illumination restrictions which apply to displays, signs, and structures under this Ordinance shall apply.
 - iv. Permits for the placement of such signs shall be issued for a maximum of thirty (30) consecutive days. No reissue of a permit shall be permitted until sixty (60) days from the expiration date of a preceding permit.
 - e. Electronic Signs: This section regulates the use of electronic signs within the Borough to minimize the impact of such signs that may distract drivers and be detrimental to the neighboring properties. Such signs may be used according to the following provisions:
 - i. Each message displayed on an electronic sign must be static or depicted for a minimum of eight (8) seconds and the screen must completely fade out before a new message is displayed.
 - ii. There shall be no more than one (1) second between messages.
 - iii. Each complete message must fit onto one (1) screen (e.g., no scrolling or incomplete messages permitted).
 - iv. The sign shall not be illuminated in any manner which causes undue distraction, confusion, or hazard to vehicular traffic.
 - v. Electronic signs shall not exceed fifty (50) square feet in size.
 - f. No sign shall exceed the height of a related building or thirty (30) feet, whichever is greater.
 - g. No sign shall face an adjoining residential use.
 - h. In the I District, billboards shall be permitted. The sign face shall not exceed three hundred (300) feet.
- e) General Standards: The following standards shall apply to signs in all zoning districts of the Borough:
- a. No sign shall be located or constructed to obstruct or interfere with any traffic control signal, sign, device, or intersection sight triangle.

- b. Signs shall not be attached to utility poles except for authorized public purposes.
- c. A sign shall be removed within thirty (30) days when the circumstances that led to its erection no longer apply or if safety violations occur. Circumstances that dictate sign removal shall include, but not be limited to, the following:
 - i. The creation of a safety hazard.
 - ii. Dilapidation.
 - iii. Vacancy or termination of the subject business for more than ninety (90) days.
 - iv. The completion of an event, business transaction, or other activity for which the sign was originally installed.
 - v. Any illegality under the provisions of this Ordinance or regulation of a duly constituted governmental authority.
- d. Signs shall be subject to the following regulations:
 - i. Lighting and illumination of signs shall not cause distraction, confusion, or hazard to traffic movements within the Borough.
 - ii. Signs or devices with flashing, moving, or similar lighting or animation are prohibited in all zoning districts.
 - iii. Freestanding and projecting signs of all types may have two (2) faces. Each face may contain the area as permitted by this Ordinance.
- e. Permits:
 - i. A separate zoning permit shall be required for the erection of signs under this Ordinance, unless specifically exempted.
 - ii. Each application for a permit shall be accompanied by a drawing to scale showing the proposed sign, the size, general characteristics, method of illumination, the exact location of the sign in relation to the lot and structure involved and other data as may be required by the Zoning Officer.
 - iii. A fee shall accompany each application for a permit. Such fees shall be established by resolution of the Borough Council.

314 Vehicle Storage: Except for motor vehicles actively used in connection with farming, commercial, historical collections, or mining activities in zoning districts where permitted by this Ordinance, the exterior storage of not more than four (4) motor and recreational vehicles, or equipment, or any combination thereof, that does not have a current registration sticker shall be considered an accessory use, but five (5) or more shall constitute a junk yard and shall not be permitted as an accessory use. (See section 309)

Article 4
Administration and Enforcement

401 Zoning Officer: The Zoning Officer, who shall be appointed by Borough Council, shall:

401.1: Administer literally and enforce the provisions of this Ordinance. (See Section 403)

401.2: Issue zoning permits.

401.3: Maintain a permanent file on all zoning permits and applications as public records.

401.4: Take in and review applications and issue such other permits, do inspections and have such other duties as assigned.

401.5: Receive all applications for appeals, special exceptions, and conditional uses and refer to the proper bodies.

In addition, the Zoning Officer shall review all applications for completeness and reject, in writing with cause given, any incomplete or incorrect application.

402 Zoning Permits: A zoning permit application shall be submitted at least thirty (30) days prior to the start of the project.

402.1: A zoning permit shall be obtained before any person may:

- a) Occupy or use any vacant land;
- b) Occupy or use any structure hereafter constructed, reconstructed, moved or enlarged;
- c) Change the use of a structure or land to a different use; or
- d) Change a nonconforming use.

402.2: Applications for a zoning permit shall be accompanied by an application provided by the Borough and such other information as the Zoning Officer may require for administration of this Ordinance, together with a filing fee as periodically established by the Borough.

402.3: All permits and certificates which are granted by the Zoning Officer or those granted as special exceptions, on appeal to the Board or as a conditional use shall be exercised promptly. If the use and/or the work so authorized are not initiated within one (1) year from the date of permit or certificate, then such certificate or permit shall be null and void.

403 Violations and Penalties:

403.1 Enforcement Notice: When it appears to the Zoning Officer that a violation has occurred, the Zoning Officer shall send an enforcement notice. The enforcement notice shall be sent to the owner on record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. The enforcement notice shall state the following:

- a) The name of the owner of record and any other person against whom the Borough intends to take action.
- b) The location of the property in violation by address and tax parcel number(s).
- c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
- d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days.
- f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions. These sanctions shall include a filing for additional fines (See Enforcement Remedies below) and a refusal to issue any other permits on this subject property.

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

403.3 Enforcement Remedies: Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney 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 judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation

further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of the violation continues shall constitute a separate violation. All judgments, cost and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Borough. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the Borough and its Zoning Officer the right to commence any action for enforcement pursuant to this Section.

404 Method of Appeal: Any person or Borough official aggrieved or affected by any decision of the Zoning Officer may appeal to the Board within thirty (30) days, as provided by the PAMPC and by the rules of the Board, by filing a notice of appeal specifying the ground thereof. (See also Section 506)

Article 5
Amendments and Certain Notices of Actions and Decisions

501 General: The Borough Council may introduce and/or consider amendments to this Ordinance and to the Zoning Map, as proposed by a member of the Borough Council, the Planning Committee, or by a petition of a person or persons residing or owning property with in the Borough.

502 Petitions: Petitions for amendments shall be filed with the Zoning Officer; and the petitioners, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a fee schedule fixed by the Borough Council as set forth in a Resolution.

503 Referral: Any proposed amendment presented to the Borough Council without written findings and recommendations from the Borough Planning Committee and the Lawrence County Department of Planning shall be referred to these agencies for their review and recommendation prior to the public hearing by the Borough Council. The Council shall not hold a public hearing upon such amendments until required reviews and recommendations are received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to the Borough and the Lawrence County Planning Department. (See Section 304 of the PAMPC)

504 Action: Before acting upon a proposed amendment, the Council shall, as required by law, hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same be examined, and shall be published in accordance with the provisions of the PAMPC. If the proposed amendment involves a change to the Zoning Map, notice of the public hearing shall be posted at the affected tract in accordance with Section 609 of the PAMPC at least one (1) week prior to the date of the hearing.

In addition to the requirements that notice be posted where the proposed amendment involves a Zoning Map change, notice of the public hearing shall be mailed by the Borough at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all property located within the area being re-zoning, as evidenced by tax records within the possession of the Borough. Notice shall include the location, date, and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of the subsection.

505 Curative Amendments: A landowner who desires to challenge on substantive ground the validity of this Zoning Ordinance or Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative Amendment to the Council with a written request that his/her challenges and proposed amendment be heard and decided as provided in Section 916 of the PAMPC. The Council shall commence a hearing thereon within sixty (60) days. As with other proposed amendments, the Curative Amendment shall be referred to the Borough Council and Lawrence County Planning Department at least thirty (30) days before the hearing is conducted by the Council. Public notice shall be given in

accordance with all applicable provision of the PAMPC. The hearing shall be conducted in accordance with instructions as set forth by Section 916.1 of PAMPC. The findings, actions, and considerations of the Council shall be in accordance with Section 609.1 of the PAMPC. The Borough may institute a municipal Curative Amendment in accordance with Section 609.2 of the PAMPC.

506 Provision for Optional Notices: In accordance with the provision of Act 39 of 2008 and Section 108 of the PAMPC, the Borough may publish a notice of municipal action. This notice may include amendments to this Ordinance or certain decisions that have been entered under this Ordinance. Typically, the decisions would be the approval of conditional use or special exceptions. Such notices shall include, among other items, any amendments to this Ordinance or the Zoning Map, decisions concerning conditional uses or special exceptions or any other decision as defined by Sections 107 and 108 of the PAMPC. Such notices are intended to set limits on the time for certain challenges.

506.1 Content of a Notice of Municipal Action Relating to this Ordinance:

- a) Municipal ordinance number, name, and brief statement of the content of the ordinance.
- b) Address of the Borough Building and time when the ordinance can be read or viewed by the public.

506.2 Content of a Notice of a Decision Entered Under this Ordinance: Said notice shall contain:

- a) The name of the applicant or owner of the subject property.
- b) Street address, location of the property.
- c) The type of decision and the file or docket number of the decision.
- d) A brief description of the nature of the decision.
- e) The date of the decision.
- f) Address and business hours of the Borough building where the decision can be read by the public.

506.3 Statement of Purpose: Notice provided under this section shall contain the following statement:

The publication of this announcement is intended to provide notification of the adoption of an ordinance or entering a decision and that any person claiming a right to challenge the validity of the procedures or the process of adoption or enactment of the ordinance or decision must bring a legal action within thirty (30) days of the publication of the second notice on this matter.

506.4 Notice: This notice shall be published in a newspaper of general publication once each week for two successive weeks. The dates of publication shall be included in the notice.

506.5 Proof of Publication: The Borough shall obtain and keep for its records a proof of publication of the notice.

Article 6
The Zoning Hearing Board and Conditional Uses

601 Creation: There is hereby created a Zoning Hearing Board, herein referred to as the "Board," consisting of three (3) residents of the Borough appointed by Borough Council pursuant to the PAMPC. Said Board shall perform all the duties, and exercise all powers prescribed by PAMPC and as herein further provided.

602 Appointment: The terms of office of the Board shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in the Borough, nor be a member of the Planning Committee. The Borough Council may also appoint up to three alternate member(s) of the Board.

603 Removal of Members: Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by majority vote of Borough Council, taken after the member has received fifteen (15) day advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

604 Organization of Board: The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum shall be not less than the majority of all members of the Board, but when any member is disqualified to act in a particular matter, an alternate member shall be seated. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 908 of the PAMPC. The Board may make, alter and rescind rules and forms for its procedure, consistent with Borough ordinances and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its activities to the Council annually.

605 Expenditures for Services: Within the limits of funds appropriated by the Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

606 Legal Counsel: Where legal counsel is desired, an attorney, other than the Borough Solicitor, shall be used.

607 Hearings: The Board shall conduct hearings and make decisions in accordance with Article IX of the PAMPC and the following requirements.

- a. Notice of hearings shall be given to the public by public notice as set forth in the PAMPC in the newspaper of general circulation in the County. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Written notice shall be given to the

applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notice shall be prescribed by rules of the Board. In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

- b. The Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the Secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning hearing Board, expenses for engineering, architectural, or other technical consultants or expert witness costs.
- c. The first hearing shall be held within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days of the first hearing, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Borough, be granted additional hearing to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- d. The hearing shall be conducted by the Board or the Board may appoint any member or an independent attorney as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing Officer as final.
- e. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, the Borough Planning Committee, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- f. The Chairman or Acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

- g. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- h. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- i. The Board or Hearing Officer, as the case may be, may keep a stenographic record of the proceedings. Both parties must agree mutually in writing to wave the stenographic record. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- j. The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, except that advice from the Board's Solicitor is exempt from this restriction; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- k. The Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for; make written findings on the application within forty-five (45) days after the last hearing before the Board or Hearing Officer. Where application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Ordinance or the MPC, or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing Officer. Except for challenges filed under 916.1 of PAMPC, where the Board fails to render the decision within the period required by this Ordinance or the PAMPC, or fails to commence, conduct, or complete the required hearing as required by Article IX of the MPC, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten

(10) days in the same manner as provided in subsection 607 (1) of the PAMPC. Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.

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

608 Board's Functions and Jurisdiction:

- a. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Section 609.1 and 916.1 (a)(2) of the PAMPC.
- b. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- c. Appeals shall comply with all applicable PAMPC requirements as outlined and amended from time to time.
- d. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- e. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
- f. Applications for variances from the terms of the Zoning Ordinance and Flood Hazard or such provisions within a land use ordinance, pursuant to Section 910.2 of PAMPC.
- g. Applications for special exceptions under this Ordinance or the Floodplain Ordinance.
- h. Appeals from the Zoning Officer's determination under Section 916.2 of PAMPC.
- i. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and Stormwater management insofar as the same relate to development not involving Article V and VII application of PAMPC.
- j. Variances: The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following finds are made where relevant in a given case:

- a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;
 - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - c. That such unnecessary hardship has not been created by the applicant;
 - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
 - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
 - f. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance.
- k. **Special Exceptions:** The Board shall hear and decide requests for such special exceptions in accordance with the standards and criteria of this Ordinance. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of the PAMPC and the Zoning Ordinance.

When this Ordinance requires certificates, licenses, permits or similar documents, and when, in the Board's opinion, such documents will be issued in a matter of time, the Board may issue a conditional approval based upon the final issuance of such documents.

609 Parties Appellant Before Board: Appeals under Section 608 and proceeding to challenge the Ordinance under Section 608 may be filed with the Board, in writing, by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance under Section 608 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

610 Time Limitations; Persons Aggrieved: No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate Borough Officer,

agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. See Section 914.1 of the PAMPC and Section 506 of this Ordinance.

611 Stay of Proceedings: Upon filing of any proceeding referred to in Section 913.3 of PAMPC and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. See Section 915.1 of PAMPC.

612 Conditional Uses: certain uses, as specified by this Ordinance, are conditional uses to be granted or denied by the Borough Council. The Planning Committee is to advise Borough Council relative to conditional uses. In general, Borough Council is to be governed by the specific criteria set forth by this Ordinance, the general intent of the Ordinance, the welfare of the community and the recommendations of the Planning Committee in rendering its decision. Borough Council may attach reasonable conditions to its decision. Specific procedures for action follow:

- a) Where the Borough Council, in the zoning ordinances, has stated conditional uses to be granted or denied by Council pursuant to express standards and criteria, the Council shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by Council and the Council may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by Council. However, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decisions or findings by the Council and accept the decision or findings of the Hearing Officer as final. In granting a conditional use, Council may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this act in the Zoning Ordinance.
- b) The Council shall render a written decision or, when no decision is called for, make written findings on the conditional use applications within forty-five (45) days after the last hearing before the Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons thereof. Conclusions based on any provisions of the PAMPC or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

- c) Where Council fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing, as provided in Section 908 (1.2) of the PAMPC, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of failure of the Council to meet or render a decision as herein above provided, the Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements as this act. If the Council shall fail to provide such notice, the applicant may do so.
- d) Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.
- e) See also Section 506 of this Ordinance.

Article 7 Definitions

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number shall include the singular; the word “shall” is mandatory, the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as any individual; the words “used” or “occupied” include the words intended, designed, or arranged to be used or occupied. Words and phrases not herein defined shall have their normal meaning and usage. The PAMPC, as amended and the Webster’s Dictionary latest version can be used to determine meaning.

Accessory Structure: A Structure clearly and customarily subordinate to and on the same lot as the principal building and used exclusively for purposes constituting an accessory use, including, but not to limit the applicability of the foregoing, private garages, barns, utility sheds, and excluding signs, antennae, communications towers, communications facilities, telecommunications equipment buildings co-location/shared use communications facilities, and power-mounted/shared use communications facilities.

Antenna: An upraised rod or system of rods and wires for transmitting and receiving electromagnetic or radio waves and communication signals, including, but not limited to, panels, microwave dishes, and single pole “whips.”

Area: Area of a lot or site shall be calculated from dimensions derived by horizontal projection of the site.

Agricultural Operation: An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with technological developments within the agricultural industry.

Agricultural Related Business: Business and related services for farming and agricultural, such as feed mill, seed sales, and farm machinery sales and services.

Basement: A portion of a building located partly underground, but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining ground. (For Floodplain properties use Article 8 definition)

Board: The Zoning Hearing Board of the Borough of New Beaver, or the New Beaver Borough Zoning Hearing Board, as appropriate.

Borough: the Borough of New Beaver, Lawrence County, Pennsylvania.

Buffer Area: Unless otherwise defined in this Ordinance buffer area and screening shall mean a fence, screen planting or wall at least six (6) feet high, provided in such a way that it will block a line of sight. Screen plantings shall mean an area, at least ten (10) feet wide, planted with evergreen bushes, hedges, or trees at least four (4) feet high at planting and at least six (6) feet high at maturity. Such screening shall be maintained by the property owner and dead screening plants replaced on an annual basis.

Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animal, or property.

Building, Height: The vertical distance from the average elevation at grade level to the highest point of the deck of a flat roof or a mansard roof or the mean height between the eaves and the ridge for gable, hip and gambrel roofs.

Building or Setback Line: The imaginary line parallel to or concentric with the nearest road right-of-way line. No Portion of a building foundation or wall may extend nearer the lot line than the required front yard depth.

Club: An establishment operated by an operated by an organization for social, recreational, educational and fraternal purposes, but open only to members and their guests and not the general public.

Co-Location/Shared Use Communications Facility: Multiple similar or different antennae, fixed point microwave dishes and cellular communications antennae on a single communication tower or mounted on the roof of an existing building or other existing structure as is technically and/or structurally feasible. Co-location/shared use communications facilities shall not be constructed to be within the definition of "Public Utility" contained in this Section.

Commercial Recreation: A commercial facility, which offers various recreational opportunities for its patrons, including such activities as dance halls, indoor concerts, fitness centers, video and various games.

Communication Antenna: Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitations all directional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

Communication Equipment building: An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than three hundred seventy-five (375) square feet.

Communication Facility: The equipment and structures (including, but not limited to, communications towers, antennae, and telecommunications equipment building) involved in the reception, and/or transmission of electromagnetic or radio waves. Communications facilities shall not be construed to be within the definition of a “Public Utility” contained in this Section.

Communication Tower: A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antennas.

Conditional Use: A use permitted in a particular zoning district pursuant to the provisions in Article VI of the PA MPC.

Convenience Store: A retail business with primary emphasis on quick purchases from a limited variety of consumable goods, typically gasoline, snacks, food and related sundries. These are usually located along high traffic roads and have extended business hours, with most products consumed off the premises.

County: the County of Lawrence, Pennsylvania.

Day Care for Children: The use is into three (3) categories. If there is a question relative to its classification, the State licensing shall determine same. They are as follows:

- a) Family Day Care Home: Any family residence other than the child’s own home, operated for profit, or not for profit, in which child day care is provided at any time to four, five, or six (4,5,or 6) children who are not relatives or the care giver as defined and regulated by the Commonwealth of Pennsylvania.
- b) Family Day Care Center: In a child day car facility in which care is provided for more than six (6) but less than twelve (12) children, at any one time, where the child care areas are used as a family residence.
- c) Day Care Center: An establishment licensed by the Commonwealth of Pennsylvania which provides supervised care for seven (7) or more children, who are not residents of the premises.

DEP: The Pennsylvania Department of Environmental Protection.

Dwelling: Any building or portion thereof which is designed for or used for residential purposes. The word “dwelling” shall not include hotels, motels, or other structures used for transient residence.

Dwelling/One-Family: A building designed for or occupied by one (1) family only.

Dwelling/Two-Family: A building designed for or occupied by two (2) families living independently of each other, also known as a duplex.

Dwelling/Multiple-Family: A building or portion thereof, designed for or occupied by three (3) or more families living independently of each other.

Essential Service: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipers, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, excluding communications towers and communications antennas, as defined herein.

Family: A family is:

1. A single person occupying a dwelling unit and maintaining a household, or
2. Two (2) or more persons related by blood, marriage or adoption, occupying a dwelling unit, living together and maintaining a common household, including not more than two (2) boarders or roomers, or
3. Not more than three (3) unrelated persons occupying a dwelling unit, living together and maintaining a common household, or
4. Permanent group homes for the handicapped or family-like living arrangements for handicapped persons. Please Note: Handicapped persons shall be those who are so designated under the Fair Housing Amendment (1988) to the Federal Civil Rights Act of 1964.

Floor Area: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of exterior walls, or from the center line of common walls separating buildings.

Garage, Private: An accessory building or part of a principal building used only for the storage of private motor vehicles and other personal affects of the occupants of the principal structure.

Garage, Service: A building or part thereof used for the repair of motor vehicles for compensation but not used for the dismantling or scrapping of motor vehicles.

Group Home: A facility to provide for the shelter, food and care of handicapped persons, elderly, which may also provide some combination of personal care, social or counseling services.

Half-way Home: A facility to provide temporary shelter, food and care of handicapped persons, non handicapped persons, or elderly, which may also provide some combination of personal care, social or counseling services, but does not include on site medication dispersment.

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

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

- a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- b) The business shall employ no more than 4 employees other than family members residing in the dwelling.
- c) There shall be no stockpiling or inventory of a substantial nature.
- d) There shall be no outside appearance of a business use, including but not limited to parking, or lights.
- e) The business activity must not use any equipment or process, which creates glare, fumes, odors, or electronic interference, which is detectable in the neighborhood.
- f) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

Hospital: Any establishment where human patients are examined and treated by doctors or dentists and may reside temporarily, and licensed as a hospital by the State of Pennsylvania.

Identification Sign: Signs advertising the occupant's business, industry, or products made or sold on the premises and located on the same lot as the business or industry.

Junk Yard: A place of more than four hundred (400) square feet where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places for yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and establishments for the sale, purchase or storage of salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged material as part of manufacturing operations.

Lot: A tract or parcel of land held in single or separate ownership, that is described by reference to a recorded plat or by metes or bounds, and is intended as a unit for transfer of ownership, use, improvement, dedication or for development.

Lot, Area: The horizontal surface area within the lines of the lot.

Lot, Corner: A lot, abutting two (2) or more streets at their intersection, on which the building line for all streets must be observed.

Lot, Coverage: The ratio of ground area covered by principal and accessory structures to the total ground area of the lot.

Lot, Interior: A lot other than a corner lot.

Lot, Line, Front: The line contiguous with the street right-of-way line.

Lot, Line, Rear: The line generally parallel to the front lot line or a rear lot line.

Lot, Line, Side: Any lot line which is not a front lot line or a rear lot line.

Lot of Record: The last recording of a lot in the Office of Recorder of Deeds of Lawrence County prior to the adoption of this Zoning Ordinance.

Lot Width: The total horizontal distance across the lot, between the side lot lines, measured at the building line.

Manufacturing: The processing and fabrication of any article, substance or commodity. For the purpose of this Ordinance, two types of manufacturing are recognized: light manufacturing and heavy manufacturing.

Manufacturing, Heavy: includes the processing of papery, pulp, or paperboard; the manufacture of chemicals; the processing of petroleum products, leather tanning; stone, clay or glass products; the primary metal industry, the manufacture, repair, or rehabilitation of heavy equipment, the manufacture of motors, railroad equipment and similar activities which would use heavy equipment. Any activity which uses heavy presses, drop forges or is engaged in forging or foundry work.

Manufacturing, Light: Any manufacturing not classified as heavy manufacturing.

Methadone Clinic: as defined by the PA MPC Section 621.

“Section 621. Prohibiting the Location of Methadone Treatment Facilities in Certain Locations.

(a) (1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(2) The provisions of this subsection shall apply whether or not an occupancy permit or certificate of use has been issued to the owner or operator of a methadone treatment facility for a location that is within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(b) Notwithstanding subsection (a), a methadone treatment facility may be established and operated closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility if, by majority vote, the governing body for the municipality in which the proposed methadone treatment facility is to be located votes in favor of the issuance of an occupancy permit or certificate of use for said facility at such a location. At least 14 days prior to the governing body of a municipality voting on whether to approve the issuance of an occupancy permit or certificate of use for a methadone treatment facility at a location that is closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality following public notice. All owners of real property located within 500 feet of the proposed location shall be provided written notice of said public hearings at least 30 days prior to said public hearings occurring.

(c) This section shall not apply to a methadone treatment facility that is licensed by the Department of Health prior to May 15, 1999.

(d) As used in this section, the term "methadone treatment facility" shall mean a facility licensed by the Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons."

Mud Free: The term mud free in this Ordinance refers to both physical facilities, such as parking lots or drives, as well as the maintenance of the Borough and State roads. When it refers to a physical facility, it shall require, at a minimum, the facility to be covered by at least four (4) inches of rolled and compacted, crushed aggregate. If it refers to roads, it shall mean the obligation of trucking, logging, mining, or similar operations to keep the public roads they use in a clean, mud-free condition. This will require daily cleaning of all affected roads on an as-needed basis.

Municipality: New Beaver Borough, Lawrence County, Pennsylvania

No-Impact Home-Based Business: A business or commercial activity and administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- g) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- h) The business shall employ no employees other than family members residing in the dwelling.
- i) There shall be no stockpiling or inventory of a substantial nature.
- j) There shall be no outside appearance of a business use, including but not limited to parking, or lights.
- k) The business activity must not use any equipment or process, which creates glare, fumes, odors, or electronic interference, which is detectable in the neighborhood.

- l) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

Nonconforming: There are three (3) separate types of nonconformity recognized by the Pennsylvania Municipalities Planning Code, and these are listed below. The nonconforming status is granted only to the use, lot, or structure legally existing at the date of the adopting of this Ordinance. Nonconformity shall not be extended to additional property subsequently acquired.

- a) Nonconforming Lot: a lot the area of dimension of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.
- b) Nonconforming Structure: a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provision in this Zoning Ordinance or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.
- c) Nonconforming Use: a use, whether land or structure, which does not comply with the applicable use provisions in this Zoning Ordinance or amendment to its location by reason of annexation.

Off-Street Parking: Any area arranged, designed, used or intended for use for the parking of five (5) or more motor vehicles.

One Hundred Year Flood: See Article 8

Outdoor Advertising: Any sign that is not an identification sign.

Parking Space: For purposes of this Ordinance, off-street parking and loading areas shall be defined as follows:

- a) An off-street parking space shall be a minimum dimension of ten feet wide by eighteen feet long (10' x 18')
- b) A required off-street loading space shall be a minimum dimension of fourteen feet wide by sixty feet long (14' x 60')

Patio: a level surface area directly adjacent to a principal building, at finished grade, and not covered by a permanent roof.

Permitted Use: any use of land and/or building(s) in a district so identified, which is in conformity with the provisions of this Zoning Ordinance.

Personal Care Boarding Home: A premise in which food, shelter, and personal assistance or supervision are provided for a period exceeding twenty-four (24) hours for

up to six (6) adults who are not relatives of the operator, who do not require the services in or of a licensed long term care facility, but who do require assistance or supervision in matters such as dressing, bathing, diet, financial management, and evacuation of residence in the event of an emergency.

Pennsylvania Municipalities Planning Code (PAMPC): The Pennsylvania Municipalities Planning Code, Act 1968, P.L. 805, No.247, as reenacted and amended.

Planning Committee: The Borough currently does not have a planning committee therefore, the Borough Council, acts on the behalf of that committee until such time as a planning committee is created.

Porch: a permanently covered entrance to a building.

Principal Use: That use or purpose for which a building, structure, and/or land or major portion thereof, is designed, arranged, or intended, or for which it may be occupied or maintained under the Zoning Ordinance. The use or any minor portion of the building or structure or other building, structure and/or land on the same lot and incident, subordinate, or supplementary thereto and permitted under the Zoning Ordinance shall be considered and accessory.

Professional Services: Any office or establishment providing specialized services to the community in the commonly recognized professions (education, engineering, law, medicine, philosophy, science, theology), the arts (architecture, drama, music, painting, photography, writing), and similar activities (insurance, real estate, etc).

Public Notice: Noticed published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second shall not be less than seven (7) days from the date of the hearing.

Reconstruction: Any or all work needed to remake or rebuild all or a part of any identified historic resource to a sound condition, but not necessarily of original materials.

Recreation, Private: Developed or undeveloped open spaces and/or structures and facilities which are provided by individuals or private organizations for the use of specified individuals or groups of individuals sharing common relationships or associations for the purposes of play, amusement or relaxation. Such uses may include sports facilities, parks, assembly buildings, passive areas, gardens and related amenities.

Recreational Vehicle: A vehicle which is (1) built on a single chassis; (2) contains not more than four hundred (400) square feet, measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light-duty truck; (4) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Room/Boarding Homes: A dwelling unit or part thereof, in which lodging* and meals* are provided, for compensation. *A rooming house provides for lodging only

Retail Use: Any commercial establishment offering goods, merchandise or other items for sale at retail to the consumer or general public and including bake shops and candy shops where foods are prepared for sale on the premises.

Screening: Unless otherwise defined in this Ordinance, screening shall mean a fence, screen planting or wall at least six (6) feet high, provided in such a way that it will block a line of sight. Screen planting shall mean an area, at least ten (10) feet wide, planted with evergreen bushes, hedges, or trees at least four (4) feet high at planting and at least six (6) feet high at maturity. Such screening shall be maintained by the property owner and dead screening plants replaced on an annual basis.

Sewage Enforcement Officer (SEO): For the purpose of this Ordinance, the term Sewage Enforcement Officer, or SEO, shall mean the New Beaver Borough appointed person, or a successor individual or agency appointed by New Beaver Borough.

Sign: Any structure, building, wall, or other outdoor surface, or any device or part thereof, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device, or other representations used for announcement, direction, advertisement or identification. The actual area of any sign shall be measure in square feet and determined by the sum of the geometrically computed area(s) encompassing separate individual letters, words, or graphic elements on the background.

Sign Area: The entire face of a sign, including writing and graphic symbols and any framing trim or molding but not including the supporting structure.

Sign, Changeable: A sign or portion thereof which has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects, not consisting of an illumination device and may be changed or re-arranged manually or mechanically with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

Sign, Electric: A sign or portion thereof that displays color electronic information in which each alphanumeric character, graphic or symbol is defined by illumination device, including video.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, swimming pools, and other building features but not including sidewalks, walls, drives, fences, and porches without a roof or enclosed sides.

Structure Height: The vertical height measured from the elevation of the curb to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of a gabled roof.

Swimming Pool: Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground swimming pools, hot tubs, and spas, but excludes farm ponds and similar impoundments.

Townhouse(s): A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from another unit by a common wall.

Uniform Construction Code (UCC): The Uniform Construction Code of Pennsylvania.

Yard, front: An open, unoccupied space across the full width of the lot, extending from the front line of the building to the front property line of the lot.

Yard, Rear: An open, unoccupied space across the full width of the lot, extending from the rear line of the building to the rear property line of the lot.

Yard, Side: An open, unoccupied space extending from the front yard to the rear yard line between and the nearest side of the lot.

Zoning Officer: The Zoning Officer or his/her authorized representative, appointed by the Borough Council.

Zoning Map: The Official Zoning Map of New Beaver Borough which are part of this Ordinance, together with all amendments subsequently adopted.

Zoning Permit: A statement signed by the Zoning Officer, indicating that the application for permission to construct or alter is approved, and in accordance with the requirements and terms of this Ordinance.

Article 8
Floodplain Regulations

801 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act 166 of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, New Beaver Borough Council, does hereby order as follows.

802 GENERAL PROVISIONS

Section F1.01 Intent

The intent of this Section is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

Section F1.02 Applicability

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the New Beaver Borough unless a Permit has been obtained from the Floodplain Administrator.
- B. A Permit shall not be required for minor repairs to existing buildings or structures.

Section F1.03 Abrogation and Greater Restrictions

This Article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

Section F1.04 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Article, which shall remain in full force and effect, and for this purpose the provisions of this Article are hereby declared to be severable.

Section F1.05 Warning and Disclaimer of Liability

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

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

803 ADMINISTRATION

Section F1.06 Designation of the Floodplain Administrator

The MAYOR ^{Met 4-2011} within New Beaver Borough is hereby appointed to administer and enforce this Article and is referred to herein as the Floodplain Administrator. New Beaver Borough will identify said Floodplain Administrator by resolution annually.

Section F1.07 Permits Required

A Permit shall be required before any construction or development is undertaken within any area of New Beaver Borough.

Section F1.08 Duties and Responsibilities of the Floodplain Administrator

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Borough Council for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

Section F1.09 Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by New Beaver Borough. Such application shall contain the following:
 - 1. Name and address of applicant.
 - 2. Name and address of owner of land on which proposed construction is to occur.
 - 3. Name and address of contractor.
 - 4. Site location including address.
 - 5. Listing of other permits required.
 - 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before

the flood damage occurred where appropriate.

7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 3. adequate drainage is provided so as to reduce exposure to flood hazards.
 4. structures will be anchored to prevent floatation, collapse, or lateral movement.
 5. building materials are flood-resistant.
 6. appropriate practices that minimize flood damage have been used.
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and

- e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
4. The following data and documentation:
 - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area, (See Section F1.18 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.
 - d. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
 - e. detailed information needed to determine compliance with Section F1.23 F, Storage, and Section F1.24, Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections F1.23 F and F1.24

which are intended to be used, produced, stored or otherwise maintained on site.

- ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section F1.24 during a base flood.
 - f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
5. Applications for Permits shall be accompanied by a fee, payable to the county based upon the estimated cost of the proposed construction as determined by the Floodplain Administration.

Section F1.10 Review by County Conservation District and County Planning Department

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Planning Department and County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Planning Department shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

Section F1.11 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. Planning Department, municipal engineer, etc.) for review and comment.

Section F1.12 Changes

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

Section F1.13 Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard

shall show the number of the Permit the date of its issuance and be signed by the Floodplain Administrator.

Section F1.14 Start of Construction

Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is received 45 calendar days before the expiration of the existing permit is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

Section F1.15 Enforcement

A. Notices

Whenever the Floodplain Administrator or other authorized representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) calendar days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the Borough shall be guilty of an misdemeanor and upon conviction shall pay a fine to New Beaver Borough, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time not to exceed thirty 30 calendar days unless agreed upon in writing by both parties. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Article may be declared by New Beaver Borough to be a public nuisance and abatable as such.

Section F1.16 Appeals

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Borough Council. Such appeal must be filed, in writing, within thirty (30) calendar days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Borough Council shall set a time and place, within not less than ten (10) or not more than thirty (30) calendar days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Borough Council may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

804 IDENTIFICATION OF FLOODPLAIN AREAS

Section F1.17 Identification

The identified floodplain area shall be any areas of New Beaver Borough, Lawrence County classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated February 1, 1987, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by New Beaver Borough and declared to be a part of this Article.

Section F1.18 Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area may consist of the following specific areas:

A. Floodway Area

1. Description - the area identified as Floodway in the FIS that represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.

This term shall also include floodway areas that have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Special Requirements:
 - a. Any encroachment that would cause any increase in flood heights shall be prohibited.
 - b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Special Floodplain Area

1. Description - the areas identified as Zones AE and A1-30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.

2. Special Requirements:
 - a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

C. Approximate Floodplain Area

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using

approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

2. Special Requirements:

- a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- b. When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question.
- c. In lieu of the above, the county may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the New Beaver Borough.

D. Shallow Flooding Area

1. Description - the areas identified as Zones AO and AH in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet.
2. Special Requirements - Establish drainage paths to guide floodwaters around and away from structures on slopes.

Section F1.19 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

Section F1.20 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough Planning Committee and any party aggrieved by this decision or determination may appeal to the Borough Council. The burden of proof shall be on the appellant.

805 TECHNICAL PROVISIONS

Section F1.21 General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.

Section F1.22 Elevation and Floodproofing Requirements

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section F1.18 C 2 of this Article.
3. In AO Zones, any new construction or substantial improvement shall have

the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section F1.18 C 2 of this Article.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

C. Space below the lowest floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a

registered professional engineer or architect, or meet or exceed the following minimum criteria:

- a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
- b. the bottom of all openings shall be no higher than one (1) foot above grade.
- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 100 square feet.
3. The structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot

above grade.

- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

Section F1.23 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular

to the flooring grain without causing structural damage to the building.

2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material..

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more

restrictive and/or supplement the requirements of this Article.

International Building Code (IBC) 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

Section F1.24 Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,
2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
3. will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

- B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.
- C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:
 - 1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,
 - 2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

- D. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

Section F1.25 Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

Section F1.26 Special Requirements for Manufactured Homes

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 - 1. placed on a permanent foundation.
 - 2. elevated so that the lowest floor of the manufactured home is at least one

and one half (1 ½) feet above base flood elevation.

3. anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

Section F1.27 Special Requirements for Recreational Vehicles

1. Recreational vehicles in Zones A, A1-30, AH and AE must either
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use, or
 - c. meet the permit requirements for manufactured homes in Section F1.26.

806 ACTIVITIES REQUIRING SPECIAL PERMITS

Section F1.28 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by New Beaver Borough:

- A. The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 1. Hospitals
 2. nursing homes
 3. jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or

manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

Section F1.29 Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

- A. A written request including a completed Permit Application Form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 1. north arrow, scale and date;
 2. topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
 3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 4. the location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 6. the location of the floodplain boundary line, information and spot elevations concerning the base flood elevation elevations, and information concerning the flow of water including direction and velocities;
 7. the location of all proposed buildings, structures, utilities, and any other improvements; and
 8. any other information which the municipality considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
 1. sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;

3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood elevation;
4. detailed information concerning any proposed floodproofing measures;
5. cross section drawings for all proposed streets, drives, other access ways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular access ways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood elevation;
3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood elevation, including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation elevations and flows;
5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation elevations and flows;
6. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
7. where any excavation or grading is proposed, a plan meeting the

requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;

8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

Section F1.30 Application Review Procedures

Upon receipt of an application for a Special Permit by Floodplain Administrator the following procedures shall apply in addition to those of 803 (Administration):

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Department by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Council for review and comment.
- B. If an application is received that is incomplete, the Floodplain Administrator shall notify the applicant in writing, stating in what respect the application is deficient.
- C. If the Floodplain Administrator decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Floodplain Administrator approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Floodplain Administrator shall allow the Department of Community and Economic Development thirty (30) calendar days, after receipt of the notification by the Department, to review the application and decision made by the Floodplain Administrator.
- F. If the Floodplain Administrator does not receive any communication from the Department of Community and Economic Development during the thirty (30) calendar day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Floodplain Administrator and the applicant, in writing, of the reasons for the disapproval, and the Floodplain Administrator shall not issue the Special Permit.

Section F1.31 Special Technical Requirements

- A. In addition to the requirements of 805 (Technical Provisions) of this Article, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in 805 (Technical Provisions) of this Article or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - a. the structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - b. the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
 - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood elevation.
 2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
 3. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator and the Department of Community and Economic Development.

807 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section F1.32 Existing Structures

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section F1.33 shall apply.

Section F1.33 Improvements

- A. The following provisions shall apply whenever any improvement is made to an

existing structure located within any identified floodplain area:

- B. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- C. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- D. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- E. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC and any amendments.
- F. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- G. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article.

808 VARIANCES

Section F1.34 General

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Floodplain Administrator may, upon request, grant relief from the strict application of the requirements.

Section F1.35 Variance Procedures and Conditions

Requests for variances shall be considered by New Beaver Borough Council in accordance with the procedures contained in Section F1.16 (Appeals) and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.
- B. No variance shall be granted for any construction, development, use, or activity within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (806) or to Development Which May Endanger Human Life (Section 1.24).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, New Beaver Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- F. Whenever a variance is granted, the Floodplain Administrator shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Borough shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.
 - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. That the granting of the variance will
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- H. A complete record of all variance requests and related actions shall be maintained by the Floodplain Administrator. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1% annual chance flood.

809 DEFINITIONS

Section F1.36 General

Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

Section F1.37 Specific Definitions

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").
3. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
4. Basement - any area of the building having its floor below ground level on all sides.
5. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
6. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
7. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
8. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
9. Flood - a temporary inundation of normally dry land areas.

10. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
11. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
12. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
13. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
14. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
15. Highest Adjacent Grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
16. Historic structures – any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved

programs.

17. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
18. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
19. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
20. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
21. New construction - structures for which the start of construction commenced on or after February 1, 1987, and includes any subsequent improvements thereto.
22. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
23. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
24. Recreational vehicle - a vehicle which is
 - a. built on a single chassis;
 - b. not more than 400 square feet, measured at the largest horizontal

projections;

- c. designed to be self-propelled or permanently towable by a light-duty truck,
 - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
25. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
26. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
27. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
28. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
29. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
30. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
31. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of

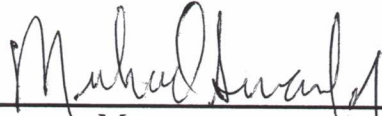
lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

32. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
33. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" regardless of the actual repair work performed. The term does not, however include either:
 - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
 - b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
34. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
35. Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

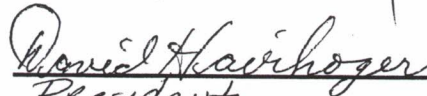
Enactment

Enacted and ordained this 13th day of June, 2011.

New Beaver Borough Council




Mayor



President

ATTEST:



Secretary