

# Ellwood City Borough ZONING ORDINANCE



Ellwood City, Pennsylvania

**TITLE SIX - Zoning**

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**CHAPTER 1260**

**General Provisions and Definitions**

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1260.03	Purpose and authority.	1260.07	Repeal.
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**CROSS REFERENCES**

General provisions and definitions - see Penna. Mun. Plan Code, Art. I

Zoning - see Penna. Mun. Plan. Code, Art. VI

Exemptions - see Penna. Mun. Plan Code, §619

**1260.01 TITLE.**

The official title of this ordinance is the "Ellwood City Borough Zoning Ordinance". It shall be referred to throughout this Title Six of Part Twelve of these Codified Ordinances as the "Zoning Code".

(Ord. 2210. Passed 4-21-97.)

**1260.02 EFFECTIVE DATE.**

This Zoning Code shall take effect on April 21, 1997.  
(Ord. 2210. Passed 4-21-97.)

**1260.03 PURPOSE AND AUTHORITY.**

Pursuant to the authority contained in the Pennsylvania Municipalities Planning Code (Act 170 of 1988), as amended, and for the purpose of promoting health, safety, morals and the general welfare, the Council of the Borough of Ellwood City, Pennsylvania, is empowered to regulate and restrict the height, number of stories and size of buildings and structures, their construction, alteration, extension, repair and maintenance, all facilities and services in or about such buildings and structures, the percentage of a lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, and may also establish and maintain building lines and setback building lines upon any or all public roads or highways.

(Ord. 2210. Passed 4-21-97.)

**1260.04 COMMUNITY DEVELOPMENT OBJECTIVES.**

(a) This Zoning Code and the Zoning Map are intended to promote, protect and facilitate the public health, safety, morals and general welfare, coordinated and practical community development, proper density of population, civil defense, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements as well as to prevent the overcrowding of land, blight, danger and congestion in travel and transportation, and loss of health, life or property from fire, flood, panic and other dangers. More specifically, these broad purposes are designed to clearly achieve the objectives of the Ellwood City Comprehensive Plan.

(b) The specific objectives upon which the Comprehensive Plan and this Zoning Code have been based include the following:

- (1) To support and encourage order and beauty in the development of the Borough environment for the convenience and pleasure of present citizens and future residents through sound land development practices and the provision of adequate public utilities and facilities.
- (2) To protect the integrity of existing residential areas.
- (3) To preserve existing and proposed industrial areas to insure the economic stability of the Ellwood area.
- (4) To preserve and protect the existing commercial areas, insuring their viability for years to come.

(Ord. 2210. Passed 4-21-97.)

**1260.05 COMPLIANCE.**

No structure shall be located, erected, constructed, moved, altered, externally converted 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 Zoning Code and after the lawful issuance of all permits and certificates required by this Zoning Code.  
(Ord. 2210. Passed 4-21-97.)

**1260.06 SEPARABILITY.**

If any provision of this Zoning Code, or the application of any such provision to particular circumstances, is held invalid, the remainder of this Zoning Code, or the application of such provision to other circumstances, shall not be affected.  
(Ord. 2210. Passed 4-21-97.)

**1260.07 REPEAL.**

Any resolution or ordinance or any part of any resolution or ordinance conflicting with the provisions of this Zoning Code is hereby repealed to the extent of such conflict. (Ord. 2210. Passed 4-21-97.)

**1260.08 DEFINITIONS.**

Except where specifically defined herein, all words used in this Zoning Code shall carry their customary meanings. Words used in the present tense shall include the future. The singular number shall include the plural, and the plural the singular. The word "shall" is always mandatory and not permissive. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied".

- (1) Adult oriented businesses: Refer to Chapter 806.
- (2) Antique shop: Any premises used for the sale or trading at a negotiated price or fee of articles which are over 50 years old or have collected value at the time of the sale.
- (3) Appliance store: An establishment that specializes in the retail sale of portable devices or instruments used for domestic functions, including but not limited to vacuum cleaners, televisions, toasters, hairdryers, mixers, fans, radios, food processors, washers, dryers, refrigerators and the like.
- (4) Auto essential services: A business establishment devoted to the repair and service of automobiles, including maintenance and reconstruction of motor vehicles, conducted within a completely-enclosed building.
- (5) Automobile dealership: A business establishment devoted to the retail sales or leasing of motor vehicles. As a secondary function, the dealership may provide on-site facilities for the repair and service of vehicles sold or leased by the dealership.
- (6) Automobile dominant use: a business, establishment and/or activity that is commonly frequented by customers or visitors arriving by motor vehicles and needs limited dedicated off-street parking areas and specialized

loading/dock areas and typically does not generate additional visits to nearby pedestrian dominant uses. Said use may be any size GFA and can be located on any floor of a building or structure.

- (7) **Bakery:** A facility where baked goods are prepared and baked which may utilize an open flame and/or commercial grade kitchen.
- (8) **Banks and financial establishments:** Businesses including, but not limited to, savings and loans, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, lessors, lessees, buyers, sellers, agents and developers of real estate.
- (9) **Bar/tavern/public house/pub:** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.
- (10) **Bed and breakfast:** A single-family, owner-occupied dwelling, where between one and six sleeping accommodations are rented to overnight guests on a daily basis for periods not exceeding two weeks. Breakfast may be offered only to registered overnight guests.
- (11) **Bookstore:** A retail establishment specializing in the sale of books and magazines, and potentially the buying or trading of second-hand books, as well as accessory merchandise such as stationary, journals, and the like.
- (12) **Building facade:** The relationship of a building's various exterior parts to each other. Facade composition helps to establish the visual interest of a building and determine how it blends with its surroundings.
- (13) **Check cashing facility:** An establishment that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose.
- (14) **Civic-oriented use:** An area developed or to be developed that may contain one of the following public buildings or uses, including offices, libraries, playgrounds, parks, assembly halls, or first responder stations.
- (15) **Coffee shop/café:** A restaurant that primarily serves coffee, tea and other drinks as well as well as foods as a secondary focus.
- (16) **Commercial recreation:** Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or are free. Commercial recreation does not include movie theatres.
- (17) **Compatible uses not otherwise listed:** A use which is not specifically listed in a particular zoning district, but which is determined by the Borough, in accordance with the express standards and criteria set forth in this chapter, to be similar in characteristics and impacts to another use which is specifically listed in the same zoning district as a permitted use, conditional use or use by special exception.

- (18) Consignment/second-hand store: An enclosed facility in which used personal items such as clothes, jewelry, or artifacts, or small furniture is resold through a broker for the owner at an agreed-upon price.
- (19) Convenience store: A retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.
- (20) Copy shop: A retail establishment that provides duplicating services using photocopying, blueprint, and printing equipment and may include the collating and binding of booklets and reports.
- (21) Cultural and recreation services: Establishments including, but not limited to, libraries, museums and similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interests in one or more of the arts or sciences.
- (22) Department store: A business establishment which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and exhibited and sold directly to the customer for whom the goods and services are furnished.
- (23) Drive-through: A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.
- (24) Fast food restaurant: A business establishment that offers quick food service for consumption on or off the premises which is accomplished through a limited menu of items already prepared and held for service or prepared, fired or grilled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.
- (25) Financial service: An establishment that serves as a financial consultant to its customers that specializes in services such as accounting, tax consulting, and similar financial intervention or alleviation, for a fee.
- (26) Fitness/health club: A facility where members or nonmembers use equipment or space for the purpose of physical exercise.
- (27) Flex space: Structures which can be periodically converted from one use to another, typically for the purpose of office space, light industrial, or research.
- (28) Funeral home: Establishments engaged in undertaking services such as preparing the dead for burial and arranging and managing funerals.
- (29) Gallery: An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.
- (30) Green grocer: An establishment that sells primarily fresh fruits and vegetables for an advertised price.
- (31) Grocery store: A business establishment that sells produce, dry goods, meats, baked goods, dairy items, frozen foods and the like. This includes supermarkets, food stores, dairies, delicatessens, but does not include convenience stores.

- (32) Gross floor area: The sum of the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.
- (33) Group care facility (youth/adult): A facility licensed and/or approved by the Pennsylvania Department of Public Welfare that provides shelter, counseling, and other rehabilitative services in a family-like environment for more than nine but fewer than fifteen residents, plus such minimum supervisory personnel as may be required to meet standards of the licensing agency. Residents may not be legally related to the facility operators or supervisors and, by reason of mental or physical disability, chemical or alcohol dependency, family or school adjustment problems, or past correctional offenses require a minimal level of supervision but do not require medical or nursing care or general supervision. A group care facility must be licensed and/or approved by the Pennsylvania Department of Public Welfare.
- (34) Group Home: A facility licensed by the Pennsylvania Department of Public Welfare which houses six to nine residents and provides twenty-four hour supervision and rehabilitation services for developmentally disabled individuals (mental disability, autism, cerebral palsy, epilepsy or other similar conditions).
- (35) Hardware store: A business establishment where items such as plumbing, heating, electrical supplies, and paints are sold.
- (36) Health services: Medical care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services.
- (37) Hospital: A public, private, and/or philanthropic institution providing health services primarily for human inpatient or medical or surgical care for the sick or injured, and including the related facilities such as attached laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facility.
- (38) Hotel/motel: A business establishment inclusive of a building or portion thereof designed or used for transient rental for sleeping purposes. All room access is through interior hallways or courtyards. Individual rooms may contain kitchen and dining rooms. Accessory shops and services catering to the general public can be provided. The structure may include a restaurant as an accessory use. Kitchens not located in rental rooms shall not be accessible to occupants. Supervision is provided in shifts by on-site management.
- (39) Material personal services: A business establishment providing non-medically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats; shoes repair stores, etc. The uses may also include accessory retail sales of products related to the services provided.

- (40) **Materials:** The substance(s) of which an or product is made, composed, or constructed of.
- (41) **Medical practice/clinic, large-scale:** An enterprise where one or more licensed medical professionals provide diagnostic services, medical, dental, and/or psychiatric services and/or treatment diagnosis and treatment to the general public without overnight accommodation and may include the administration of prescription and/or surgical treatments.
- (42) **Medical practice, small-scale:** An enterprise less than 2,500 square feet where one or more licensed medical professionals provide consultation in relation to diagnostic services, medical, dental, and/or psychiatric services and/or treatment diagnosis and may prescribe but not administer any prescription and/or surgical treatments.
- (43) **Micro-brewery:** A business establishment where beer, ale, etc. are brewed, typically in conjunction with a bar, tavern, or restaurant use. The maximum brewing capacity shall not exceed 20,000 gallons per year.
- (44) **Mixed use:** Any building that combines the following: any use classified as a pedestrian dominant use on the ground floor of a building or structure; and for the remaining floors of the building or structure, any other use(s) classified as a pedestrian dominant use or a pedestrian supportive use.
- (45) **Multi-family dwelling:** A building and lot are occupied by more than one family.
- (46) **Multi-family dwelling - apartment:** A building containing three or more dwelling units, at least one of which must be located above or below the remaining units.
- (47) **Multi-family dwelling - townhouse:** A building containing between three and eight dwelling units, arranged in a side-by-side configuration with two or more common party walls.
- (48) **Multi-purpose workshop/studio:** An establishment either operated as a for-profit, non-for-profit, or public enterprise, that provides building space, tools, equipment and materials for a nominal fee and which can be used to fabricate artwork, goods, etc., for sale or personal use.
- (49) **Off-street parking:** An outdoor area that is used solely for the purpose of patron vehicle parking.
- (50) **Pedestrian dominant use:** A business, establishment and/or activity that is commonly supported by customers or visitors arriving by foot or by using available on-street parking spaces and has no need for dedicated off-street parking areas or specialized loading/dock facilities.
- (51) **Pedestrian supportive use:** A business, establishment and/or activity that is often frequented by customers or visitors arriving by motor vehicles and needs limited dedicated off-street parking areas but typically generates street walking and additional visits to nearby pedestrian dominant uses.
- (52) **Pharmacy:** A business establishment which primarily sells prescription drugs, patent medicines and legal surgical, medicinal and sickroom supplies. A pharmacy may be within a retail establishment.



- (53) Place of worship/place of assembly: An institution and/or lot that is designed for the assembly or collection of persons, for civic, political, educational, social or religious purposes, and where recreation, amusement, dining, or religious worship may occur as accessory activities. A place of assembly does not include a private club.
- (54) "Pop-up" retail store: A temporarily operated business establishment, either reoccurring or non-reoccurring, that specializes in the retail sale of specialty products, seasonal and/or holiday related merchandise.
- (55) Print shop: A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, oversized plotting, screen printing, and including offset printing.
- (56) Professional office: The workplace or studio of a lawyer, architect, artist, engineer, certified public accountant, real estate broker or salesman, insurance broker or agent, musician, teacher, or similar occupation.
- (57) Retail business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumptions and rendering services incidental the sale of such goods.
- (58) Sandwich shop: A restaurant where lunches are primarily served, specializing in sandwiches or take-out style meals.
- (59) School: A place of instruction operated by a public, private, non-profit or religious organization, having regular sessions, with regularly employed instructors and meeting all of the requirements of the Pennsylvania Department of Education for providing primary, secondary, post-secondary, undergraduate and/or graduate collegiate education.
- (60) Single-family dwellings: A dwelling unit and lot designed and intended to be occupied by one family that is not attached to another dwelling unit.
- (61) Sit down restaurant: An establishment maintained, operated, and /or advertised or held out to the public as a place where food and beverage are served to the public on demand from a menu during stated business hours, served in and on reusable containers and dinnerware, to be consumed on the premises primarily inside the building at tables, booths, or counters, with chairs, benches, or stools.
- (62) Social services: Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities and physical disabilities, and residential care such as child day care and nurseries.
- (63) Studio: a business establishment used by an artist, photographer, or artisan or used for radio or television broadcasting.
- (64) Transportation services: A business establishment furnishing services incidental to transportation, such as forwarding and packing services and the arranging of passenger or freight transportation.
- (65) Theater: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

- (66) Transparency: The degree to which a surface is transparent, as in, how clearly the surface is able to be seen through. A non-colored glass window would be highly transparent, while a stone wall would not be transparent.
- (67) Veterinary clinic: An enterprise for the medical care and treatment of small animals, including household pets.
- (68) Wine and spirit shop: A state-owned and operated establishment specializing in the retail sale of beer, wine, or other alcoholic beverages for on- or off-premise consumption.
- (69) Wine bar/ winetasting room: A business enterprise focusing on the sale of wine, and possibly beer as a secondary product, for on-site consumption, but additionally the retail sale of wine intended to be consumed off-site.  
(Ord. 2210. Passed 4-21-97; Ord. 2523. Passed 8-15-16.)



**CHAPTER 1262**  
**Administration, Enforcement and Penalty**

1262.01	Appointment of Zoning Officer; general responsibility.	1262.03	Zoning certificates.
		1262.04	Building permits.
		1262.99	Penalty.
1262.02	Duties and powers of Zoning Officer.		

**CROSS REFERENCES**

Zoning - see Penna. Mun. Plan. Code, Art. VI

Enforcement, penalties and remedies - see Penna. Mun. Plan. Code, §§616, 617

Zoning Hearing Board - see Penna. Mun. Plan. Code, Art. IX; P. & Z. Ch. 1254

Appeals - see Penna. Mun. Plan. Code, Art. X

General provisions and definitions - see P. & Z. Ch. 1260

**1262.01 APPOINTMENT OF ZONING OFFICER; GENERAL RESPONSIBILITY.**

The Borough Council shall appoint a Zoning Officer, who shall administer and enforce the provisions of this Zoning Code.  
(Ord. 2210. Passed 4-21-97.)

**1262.02 DUTIES AND POWERS OF ZONING OFFICER.**

The Zoning Officer shall interpret and enforce all of the provisions of this Zoning Code and shall have such duties and powers as are conferred upon him or her by this Zoning Code and as are reasonably implied for that purpose.

- (a) Applications; Zoning Certificates and Building Permits; Inspections. The Zoning Officer shall receive all applications for conditional uses, special exceptions, requests for variances, zoning amendments and appeals of zoning interpretations, as well as for zoning certificates and building permits, and shall make inspections of all such matters.
- (b) Examinations. The Zoning Officer shall examine or cause to be examined all structures, land and proposed improvement sites for which an application is involved and for which zoning certificates are to be issued.
- (c) Nonconforming uses. The Zoning Officer shall keep an up-to-date list of all nonconforming uses. (Ord. 2210. Passed 4-21-97.)

**1262.03 ZONING CERTIFICATES.**

(a) Requirements. Until the Zoning Officer has issued a zoning certificate applicable thereto, no person shall:

- (1) Occupy or use any vacant land; or
- (2) Occupy or use any structure hereafter constructed, reconstructed, moved, altered or enlarged; or
- (3) Change the use of a structure or land to a different use; or
- (4) Change a nonconforming use.

(b) Expiration. The zoning certificate shall expire six months from the date of its issuance, if the purpose and intent for which it was issued have not occurred.

(c) Applications and Fees. Each applicant for a zoning certificate shall present with the application a plat of the property showing clearly and completely the location, dimensions and nature of any structure involved and such other information as the Zoning Officer may require as to compliance with this Zoning Code, together with a filing fee in accordance with the schedule of the same as fixed by the Borough Council, by resolution.

(d) Records. The Zoning Officer shall maintain a permanent file of all zoning certificates and applications therefor as public records.  
(Ord. 2210. Passed 4-21-97.)

**1262.04 BUILDING PERMITS.**

(a) A building permit application must be filed and a building permit obtained for construction or repair of, additions to, or alterations of, buildings and accessory structures.

(b) The applicant for a building permit shall also apply for a zoning certificate as required by this Zoning Code. (Ord. 2210. Passed 4-21-97.)

**1262.99 PENALTY.**

Whoever violates any of the provisions of this Zoning Code shall, upon conviction thereof in a summary proceeding, pay a judgment of not more than five hundred dollars (\$500.00), plus all court costs, including reasonable attorney's fees incurred by the Borough as result thereof. A separate violation shall be deemed committed each day that a violation continues, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person violating the provision to have believed there was no violation, subject to all other provisions of the Pennsylvania Municipalities Planning Code (Act 170 of 1988).  
(Ord. 2210. Passed 4-21-97.)

**CHAPTER 1264**  
**Zoning Hearing Board**

1264.01	Appointment and organization; rules.	1264.03	Applications for variances and special exceptions.
1264.02	Jurisdiction; procedure and time limitations for appeals.	1264.04	Grant or denial of special exceptions.
		1264.05	Conditional uses.

**CROSS REFERENCES**

Zoning Hearing Board - see Penna. Mun. Plan. Code, Art. IX  
 Appeals - see Penna. Mun. Plan. Code, Art. X  
 Zoning Officer - see ADM. Ch. 246; P. & Z. 1262.01 et seq.  
 Nonconforming uses - see P. & Z. Ch. 1268  
 Zoning amendments - see P. & Z. Ch. 1274

**1264.01 APPOINTMENT AND ORGANIZATION; RULES.**

In accordance with Article IX of the Pennsylvania Municipalities Planning Code (Act 170 of 1988), as the same may be amended, a Zoning Hearing Board shall be appointed and organized. The Zoning Hearing Board shall adopt rules to govern its procedures in accordance with the provisions of Article IX of the Planning Code, in addition to the provisions of this Zoning Code.

(Ord. 2210. Passed 4-21-97.)

**1264.02 JURISDICTION; PROCEDURE AND TIME LIMITATIONS FOR APPEALS.**

(a) The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- (1) Appeals from decisions of the Zoning Officer.
- (2) Appeals from determinations by the Borough Engineer or Zoning Officer with reference to administration of flood plain or flood hazard ordinances.
- (3) Applications for variances from the provisions of this Zoning Code, and of flood plain or flood hazard ordinances.
- (4) Applications for special exceptions under this Zoning Code.

(b) The procedure and time limitations for appeals from any decision, determination or order of the Borough Council, the Zoning Officer, the Zoning Hearing Board or other applicable agency or officer of the Borough in the administration or enforcement of this Zoning Code shall be in conformance with the provisions of the Pennsylvania Municipalities Planning Code (Act 170 of 1988).  
(Ord. 2210. Passed 4-21-97.)

### **1264.03 APPLICATIONS FOR VARIANCES AND SPECIAL EXCEPTIONS.**

(a) Applications for variances and special exceptions shall be submitted on forms provided by the Borough, together with ten copies of a plot plan of the property which is drawn to scale on a paper that is eight and one-half by fourteen inches in size, containing the following:

- (1) Dimensions of all property lines.
- (2) Utility rights of way and their widths.
- (3) Street rights of way and their widths.
- (4) Width of street paving (cartway).
- (5) Location of sidewalks and driveways.
- (6) Location and dimensions of all buildings and structures.
- (7) Location and size of all waterways, streams, drainage facilities and other storm water controls.
- (8) Existing contours and any changes to be made in elevations.
- (9) All other information that may be determined to be necessary by the Zoning Hearing Board.

(b) At the time an application is made the applicant shall pay a fee in an amount set by resolution of Council.

(c) The official date of receipt of an application shall be the date approved by the Zoning Officer as being the date he or she has received all information required by this Zoning Code.

(d) Within no less than ten days from the date an application for a variance or special exception is officially received by the Zoning Officer, and following his or her review, the Zoning Officer shall forward copies of the application to the Zoning Hearing Board and the Planning Commission.

(e) The Zoning Hearing Board shall hold a public hearing within sixty days from the official date of the application.

(f) Written notice of the hearing shall be given to the applicant prior to or at least on the same day such notice is published for the first time. Notice of the hearing shall be conspicuously posted on the affected tract of land at least one week (seven days) prior to the hearing.

(g) For a variance, the Zoning Hearing Board shall render a written decision, or, when no decision is called for, make written findings on the application within forty-five days after the last hearing. The same shall be followed for applications for special exceptions.

(h) In accordance with the provisions of Section 910.2 of the Pennsylvania Municipalities Planning Code, the Zoning Hearing Board may grant a variance, provided that all of the following findings are made:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances of the Zoning Code in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Code, and the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the applicant.
- (4) That the variance, if authorized, will 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.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible.

(i) In granting any variance the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Zoning Code.

(j) A copy of the final decision or finding shall be delivered to the applicant personally or mailed not later than the day following its date.  
(Ord. 2210. Passed 4-21-97.)



**1264.04 GRANT OR DENIAL OF SPECIAL EXCEPTIONS.**

(a) The Zoning Hearing Board is hereby authorized to grant or deny special exceptions pursuant to the provisions of this Zoning Code. The Zoning Hearing Board shall hear and decide a request for a special exception in keeping with the purpose and intent of this Zoning Code. The Zoning Hearing Board may approve a special exception only if it meets the following standards and criteria:

- (1) The use is compatible with adjacent uses and buildings or structures; and
- (2) The use will not affect the uses of properties adjacent to and in the general area of the requested use; and
- (3) The use will not be detrimental to public welfare; and
- (4) The use is suited to the topography and other characteristics of the site.

(b) In addition to the above criteria, the Zoning Hearing Board may attach such reasonable conditions and safeguards to implement the purposes of this Zoning Code as it sees fit.

(Ord. 2210. Passed 4-21-97.)

**1264.05 CONDITIONAL USES.**

(a) Conditional uses may be allowed or denied by the Council of the Borough of Ellwood City following review by the Planning Commission, public hearings and other procedures provided for in the Pennsylvania Municipalities Planning Code (Act 170 of 1988) and this Zoning Code.

(b) Applications for conditional uses shall be submitted on forms provided by the Borough, together with ten copies of a site plan, on paper that is eight and one-half by fourteen inches in size, and shall contain the following information:

- (1) Dimensions of all property lines.
- (2) Utility rights of way and their widths.
- (3) Street rights of way and their widths.
- (4) Width of street paving (cartway).
- (5) Location and dimensions of all buildings and structures.
- (6) Location and size of all waterways, streams, drainage facilities and other storm water controls.
- (7) Existing contours and any changes to be made thereto.
- (8) A map of the general area of the property.
- (9) All other information that may be determined to be necessary by the Zoning Officer, the Borough Engineer and/or a member of Council or the Planning Commission.

(c) The application shall be accompanied by a fee in an amount set by resolution of Council.

(d) The official date of receipt of the application shall be the date that all application requirements are found to be complete and sufficient by the Zoning Officer. He or she shall then forward copies, including all attachments, to the Planning Commission, members of Council, the Solicitor and, if necessary, the Borough Engineer, within ten days from such official receipt of a full and complete application.

(e) The Planning Commission shall review the application and support information and forward its recommendation within sixty days from the date of the application.

(f) The Council shall conduct a public hearing following public notice pursuant to the provisions of the Pennsylvania Municipalities Planning Code (Act 170 of 1988). The public hearing shall be held within ninety days from the official date of the application.

(g) The Council may approve the application if, and only if, the following criteria are met:

- (1) The proposed use conforms to the district and conditional use provisions and all general regulations of this Zoning Code.
- (2) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons and shall comply with Section 1272.06.
- (3) The proposed use shall be sited, oriented and landscaped to produce harmonious relationship of buildings and grounds to adjacent buildings and properties and shall produce a total visual impression and environment which is consistent with the neighborhood.
- (4) A nonresidential use adjacent to or bordering on a residential use and/or district shall be adequately screened as deemed appropriate by the Council.
- (5) Adequate off-street parking shall be provided in accordance with this Zoning Code. No off-street parking area for a nonresidential use shall be closer than twenty feet to any adjacent lot in a Residential District.
- (6) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood. Access to off-street parking areas shall be limited to several well defined locations, and in no case shall there be unrestricted access along the length of a street or alley, nor shall there be parking in a manner whereby exiting is accomplished by backing onto a street or alley.

(Ord. 2210. Passed 4-21-97.)



**CHAPTER 1266**  
**District Regulations and Zoning Map**

- |                           |                               |
|---------------------------|-------------------------------|
| 1266.01 Zoning Map.       | 1266.03 District boundaries.  |
| 1266.02 Zoning districts. | 1266.04 District regulations. |

**CROSS REFERENCES**

- Official Map - see Penna. Mun. Plan. Code, Art. IV  
 Zoning - see Penna. Mun. Plan. Code, Art. VI  
 Planned Residential Development - see Penna. Mun. Plan. Code, Art. VII  
 Sound level limits by zoning district - see GEN. OFF. 650.06  
 Special exceptions - see P. & Z. 1264.03, 1264.04  
 Changes in zoning district boundaries - see P. & Z. 1268.07  
 Yard requirements - see P. & Z. 1272.02  
 Exemptions from height limitations - see P. & Z. 1272.05

**1266.01 ZONING MAP.**

A map entitled "The Ellwood City Borough Zoning Map" is hereby adopted as part of this Zoning Code. The Zoning Map shall be kept on file and available for examination in the office of the Borough Manager.

(Ord. 2210. Passed 4-21-97; Ord. 2523. Passed 8-15-16.)

**1266.02 ZONING DISTRICTS.**

The Borough is hereby divided into the following districts, as shown by the district boundaries on the Zoning Map:

- A - Residential District
- B - Residential District
- C-1 Local Business District
- C-2 General Business District
- C-3 Downtown Commercial District
- Overlays:
  - C-3: CC Core Commercial District
  - C-3: GW Gateway West District
  - C-3: GN Gateway North District
  - C-3: IP Institutional and Professional District

I Industrial District

(Ord. 2210. Passed 4-21-97; Ord. 2523. Passed 8-15-16.)

**1266.03 DISTRICT BOUNDARIES.**

The boundaries between districts are centerlines of streets, alleys, railroad rights of way and streams, or such lines extended or lines parallel thereto or concentric therewith, or property lines when approximate thereto, or may be lines otherwise indicated on the Zoning Map. Any person aggrieved by the interpretation of the Zoning Map by the Zoning Officer concerning the location of a district boundary may appeal to the Zoning Hearing Board and the Zoning Hearing Board shall determine the location of the district boundary. (Ord. 2210. Passed 4-21-97.)

**1266.04 DISTRICT REGULATIONS.**

Lot and yard dimensions, permitted uses, conditional uses, special exceptions, maximum height of structures and maximum lot coverage are specified for each district in Tables 1266.04(A) and 1266.04(B). Any use not expressly listed for a district is prohibited in that district. Conditional uses require approval of the Ellwood City Borough Council, after recommendation by the Planning Commission, whereas permitted uses require only normal application procedure. Special exceptions require the approval of the Zoning Hearing Board, which may provide for such additional reasonable conditions as it deems necessary. Uses which are normally accessory to the declared permitted uses are also permitted.

TABLE 1266.04(A)PERMITTED USES AND SPECIAL EXCEPTIONSR-1 Low-Density Residential District (A - Residential District)Permitted Uses

1. Single-family detached dwellings
2. Public parks/playgrounds
3. Libraries
4. Essential services
5. Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings

Special Exceptions

1. Public and parochial schools
2. Radio and television sending or boosting stations
3. Fire stations
4. Churches and other places of
5. Two-family dwellings
6. Home occupations

Conditional Uses

1. Hospitals
2. Clinics for humans
3. Nursing homes
4. Accessory uses.

R-2 High-Density Residential District (B - Residential District)Permitted Uses

1. Single-family detached dwellings
2. Two-family dwellings
3. Public parks/playgrounds
4. Libraries
5. Essential services
6. Public/parochial schools
7. Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings

Special Exceptions

1. Hospitals, clinics for humans and nursing homes
2. Funeral homes
3. Off-street parking lots
4. Tourist homes
5. Home occupations
6. Individual mobile homes
7. Multi-family dwellings
8. Group care facility (youth/adult)
9. Group home

Conditional Uses

1. Accessory uses
2. Churches and other places of worship
3. Communications towers and communications equipment buildings

(Cont.)

2016 Replacement

C-1 Local Business DistrictPermitted Uses

1. Banks and business offices
2. Eating and drinking places
3. Personal services
4. Professional services
5. Public/semi-public uses
6. Retail businesses
7. Theaters
8. Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings

Conditional Uses

1. Corporate Offices
2. Drive-in businesses
3. Gasoline service stations
4. Multifamily dwellings
5. Off-street parking lots
6. Research/testing labs
7. Animal clinics
8. Hospitals and clinics for humans
9. Accessory uses

C-2 General Business DistrictPermitted Uses

1. Automobile sales, new and used, service and repair
2. Banks and business offices
3. Business services
4. Commercial recreation
5. Corporate offices
6. Eating and drinking places
7. Hotels and motels
8. Personal services
9. Printing and engraving
10. Private clubs
11. Professional services
12. Public/semi-public uses
13. Theaters
14. Retail businesses
15. Accessory uses
16. Essential services
17. Public utility buildings
18. Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings

Conditional Uses

1. Drive-in businesses
2. Gasoline service stations
3. Light manufacturing
4. Multifamily dwellings
5. Off-street parking lots
6. Research/testing labs
7. Animal clinics
8. Accessory uses
9. Communications towers and communications equipment buildings.

(Cont.)

C-3 Downtown Commercial District

- (1) Purpose Statement: C-3 Downtown Commercial District. In context of the provisions permissible by Article VII-A Traditional Neighborhood Development of the PA Municipalities Planning Code, the following land uses and development scales are specified to continue the established character of the Borough's Downtown neighborhoods.
- (2) Pedestrian Dominant Uses. Said uses shall be 2,500 sq. ft. or less total gross floor area (GFA) situated on the ground floor of a building or structure and, whereas, sixty percent of the GFA shall be used for the public display of merchandise or goods or used for public dining or the delivery of services. Said uses shall include the following:
  - A. Sandwich Shop
  - B. Coffee Shop/Café
  - C. Sit Down Restaurant
  - D. Bar/Tavern/Public House/Pub
  - E. Micro-Brewery
  - F. Multi-purpose Workshop/Studio
  - G. Gallery
  - H. Studio
  - I. Copy Shop
  - J. Antique Shop
  - K. Retail Business (such as an antique shop, card/gift shop, shoe/clothing/hat store, phone/electronics store, jeweler, florist, etc.)
  - L. Consignment/Secondhand Store
  - M. Material Personal Service (such as salon, barber/hairdresser, tattoo, nails, travel, etc.)
  - N. Civic-Oriented Use
  - O. Green Grocer (Conditional)
  - P. Hardware/Variety/Department Store (Conditional)
  - Q. Commercial Recreation
  - R. Bookstore
  - S. Bakery
  - T. Compatible Uses Not Otherwise Listed which meet the above dimensional criteria (Conditional)
  - U. Wine Bar/ Winetasting Room
  - V. "Pop-Up" Retail Store
- (3) Pedestrian Supportive Uses. Said use may be any size GFA and can be located on any floor of the building or structure except the ground floor. Said uses shall include the following:
  - A. Fitness/Health Club
  - B. Medical Practice, Small-Scale
  - C. Professional Office
  - D. Financial Services (accounting, tax, bail bonds, etc.)
  - E. Multi-Family Dwelling
  - F. Compatible uses not otherwise listed which meet the general character or function of the above uses.



- (4) Automobile Dominant Land Uses. Said uses can be any size GFA and can be located on any floor of a building or structure. Said uses shall include the following:
- A. Auto Essential Services
  - B. Automobile Dealership
  - C. Convenience Store
  - D. Fast Food Restaurant (with/without Drive-Through)
  - E. Pharmacy (with/without Drive-Through)
  - F. Bank (with/without Drive-Through)
  - G. Financial Establishments (with/without Drive-Through)
  - H. Check Cashing Facility
  - I. Appliance Store
  - J. Grocery Store
  - K. Retail Business
  - L. Medical Practice, Small-Scale
  - M. Medical Practice/Clinic, Large-Scale
  - N. Professional Office
  - O. Financial Service
  - P. Hardware/Variety/Department Store
  - Q. Funeral Home
  - R. Social Services
  - S. Flex Space
  - T. Print Shop
  - U. Wine and Spirits Shop
  - V. Compatible uses not otherwise listed which meet the general character or function of the above uses
- (5) Downtown District Design and Performance Standards. The following design and performance standards apply to all districts:
- A. Building Access Orientation.
    - 1. The front of every building intended or used for human occupancy (including, but not limited to, commercial, personal service, professional service and any and all governmental uses) shall face Lawrence Ave.
    - 2. To avoid an inharmonious or undesirable orientation of building fronts, the front of each main building shall face Lawrence Ave. On a corner lot, the front facade of the main building shall be oriented so as to be most compatible with adjacent buildings and uses.
    - 3. For the purpose of this part, the front facade of the building shall be considered that wall which faces the greatest street right-of-way width and which carries the highest volume of traffic in a 24-hour period.
  - B. Exterior Amenities. The following criteria shall apply to all commercial uses in the C-3: CC, C-3: GW, C-3: GN, and C-3: IP districts.
    - 1. Exterior merchandise display. An occupant of a building may display merchandise on the exterior of its business location subject to the following conditions:
      - a. An application for such display has been submitted and approved as required herein.

- b. Merchandise may not be displayed on the exterior of a business location for more than 14 days during any calendar year.
    2. Authorization for exterior merchandising shall be subject to any and all regulations and restrictions as may be imposed from time-to-time by Borough Council.
    3. Exterior merchandising is only permitted during the hours of operation of the subject business.
    4. A minimum of twenty percent of the square footage of the front face of the building shall be two-way glass to permit a view of goods and services offered.
  - C. Building Infill/Redevelopment Standards.
    1. Recommended Materials. The following materials are encouraged, though not exclusively restricted, to be used on any building facade visible from a public right-of-way:
      - a. Natural Stone
      - b. Brick
      - c. Milled Natural Wood Siding
      - d. Non-Reflective Glass (as a secondary material)
    2. Prohibited Materials. The following materials are prohibited from use on any building facade visible from a public right-of-way:
      - a. Particle board, plywood, and plastic sheathing
      - b. Asphalt and fiberglass shingles as siding
      - c. Mirrored glass; that is glass coated in such a way that it prevents view to the building's interior
      - d. Industrial metal panels
      - e. Exterior finish insulation systems (EFIS)
      - f. Simulated brick
    3. Additional Materials. The following materials may be used on the non-ground floor of the building facade to the extent of their corresponding percentages (the percentages reflect total percentage of non-ground floor building facade' square footage or surface area):
      - a. Vinyl and aluminum siding: 20%
      - b. Concrete masonry units, including prefinished surfaces: 15%
      - c. Exposed aggregate pre-cast concrete block: 10%
    4. Building Materials as Public Hazards. No reflective materials shall be used as roofing that causes distractions and/or visual interferences to drivers.
    5. Transparency.
      - a. All ground floor facades shall have a minimum transparency of forty percent of the gross square footage of the ground floor facade.
      - b. On each facade above the ground floor, each story shall have a transparency of at least twenty-five percent of the gross square footage of the facade of that story.
      - c. If the degree of transparency is not appropriate or applicable to the nature of the proposed land uses, then the Borough Council may grant a modification to the required transparency.

- (6) C-3: CC - Core Commercial Overlay.
- A. Purpose Statement. To preserve the historic character, building scale and building patterns of a traditional downtown by principally accommodating retail uses, services and ancillary activities that are pedestrian dominant and support the pedestrian-orientation of Lawrence Avenue as well as the vitality and attractiveness of a walkable public realm.
- B. Permitted Uses.
1. Pedestrian dominant uses equal to or less than the defined requirements enumerated in subsection (5)A. above of this section.
  2. Residential uses on the second floor or above (not the ground floor).
- C. Conditional Uses.
1. Pedestrian dominant uses exceeding the defined maximum requirements enumerated in subsection (5)A. above.
  2. Banks and Financial Services
  3. Cultural and Recreational Services
  4. Theaters
  5. Commercial Recreation
  6. Off-street Parking
  7. Hotel/Motel
- D. Accessory Uses. Those uses customarily incidental to principal permitted uses.
- E. Dimensional Standards.
1. Minimum Lot Area: Nonresidential - 3,000 square feet.
  2. Minimum Lot Width:
    - a. Nonresidential - 25 feet
    - b. Residential - 30 feet
  3. Minimum Yard Widths (Setbacks):
    - a. Front yard - 0 feet
    - b. Side yard - 0 feet
    - c. Rear yard - 0 feet
  4. Maximum Yard Widths (Setbacks): Front yard - 10 feet
  5. Maximum Lot Coverage - 100%.
  6. Maximum Building Height - 50 feet
- (7) C-3: GW - Gateway West Commercial Overlay.
- A. Purpose Statement. To provide for a mix of retail uses and services that are largely automobile dominant and require larger scale lots and buildings than found in the Core Commercial District.
- B. Permitted Uses.
1. Automobile Dominant Land Uses
  2. Hotel/Motel
- C. Conditional Uses.
1. Flex-Space
  2. Medical Practice/Clinic, Large Scale
  3. Multi-Family Dwellings
  4. Off-street Parking
  5. Social Services
  6. Transportation Services
  7. Veterinary Clinics

- D. Accessory Uses.
    - 1. Drive-throughs
    - 2. Those uses customarily incidental to principal permitted uses
  - E. Dimensional Standards.
    - 1. Minimum Lot Area: Nonresidential - 4,000 square feet
    - 2. Minimum Lot Width:
      - a. Nonresidential - 30 feet
      - b. Residential - 40 feet
    - 3. Minimum Yard Widths (Setbacks):
      - a. Front yard - 0 feet
      - b. Side yard - 10 feet
      - c. Rear yard - 20 feet
    - 4. Maximum Yard Widths (Setbacks): Front yard - 20 feet
    - 5. Maximum Lot Coverage - 90%
    - 6. Maximum Building Height - 50 feet.
- (8) C-3: GN - Gateway North Commercial Overlay.
- A. Purpose Statement. To accommodate a mix of pedestrian and automobile dominant uses and activities as well as lot and building scales that complement the uses and activities found in the other downtown commercial districts.
  - B. Permitted Uses.
    - 1. Pedestrian Supportive Use
    - 2. Multi-Family Dwelling - Apartments
    - 3. Multi-Family Dwelling - Townhouse
    - 4. Hotel/Motel
  - C. Conditional Uses.
    - 1. Multi-Family Dwelling - Duplexes
    - 2. Single Family Dwellings
    - 3. Off-street Parking Lots
    - 4. Automobile Dominant Land Uses
  - D. Accessory Uses.
    - 1. Drive-Throughs
    - 2. Those uses customarily incidental to principal permitted uses.
  - E. Dimensional Standards.
    - 1. Minimum Lot Area:
      - a. Nonresidential - 3,000 square feet.
      - b. Residential or service - 5,000 square feet.
    - 2. Minimum Lot Width:
      - a. Nonresidential - 30 feet.
      - b. Residential - 40 feet.
    - 3. Minimum Yard Widths (Setbacks):
      - a. Front yard - 10 feet.
      - b. Side yard - 10 feet.
      - c. Rear yard - 20 feet.
    - 4. Maximum Yard Widths (Setbacks):
      - a. Front yard - On 5th Street: 20 ft.
      - b. Front yard everywhere else: 5 ft.
    - 5. Maximum Lot Coverage - 80%.
    - 6. Maximum Building Height - 50 feet.

- (9) C-3: IP - Institutional and Professional Overlay.
- A. Purpose Statement. To provide for residential, institutional, office and medical uses while respecting the area's existing building scale and character.
- B. Permitted Uses.
1. School
  2. Bed and Breakfast
  3. Place of Worship/Place of Assembly
  4. Professional Office
  5. Medical Practice, Small-Scale
  6. Single-Family Dwellings
- C. Conditional Uses.
1. Multi-Family Dwellings
  2. Off-street Parking
  3. Hospital
- D. Accessory Uses. Those uses customarily incidental to principal permitted uses.
- E. Dimensional Standards.
1. Minimum Lot Area:
    - a. Nonresidential - 3,000 square feet
    - b. Residential or service - 5,000 square feet
  2. Minimum Lot Width:
    - a. Non-residential - 30 feet
    - b. Residential - 40 feet
  3. Minimum Yard Widths (Setbacks):
    - a. Front yard - 10 feet
    - b. Side yard - 10 feet
    - c. Rear yard - 20 feet
  4. Maximum Yard Widths (Setbacks): Front yard - 20 feet.
  5. Maximum Lot Coverage - 85%.
  6. Maximum Building Height - 40 feet.

I - Industrial DistrictPermitted Uses

1. Contractors yards
2. Corporate offices
3. Light manufacturing
4. Service garage
5. Supply yards
6. Truck terminals
7. Warehousing
8. Wholesaling
9. Essential services
10. Communications antennas mounted on existing public utility transmission towers, buildings or other structures, and communications equipment buildings

Conditional Uses

1. Off-street parking lots
2. Heavy manufacturing
3. Uses similar to permitted uses, but not specified, which uses are not objectionable to immediate neighbors because of noise, vibration or emission of noxious gases, fumes or dust
4. Accessory uses
5. Gasoline service stations
6. Scrap yards
7. Uses permitted in the C-2 District

Special Exceptions

1. Communications towers, subject to the requirements set forth in Section 1272.13, and communications equipment buildings
2. For all provisions and regulations related to Adult Businesses, please refer to Chapter 806.

R - 1 Low Density Residential District (A - Residential District)

Minimum lot area	5,000 sq. ft.
Maximum lot coverage	40%
Minimum side yards	

Lots having a width of 50 ft. or more:  
A total of 15 ft. with a minimum of 5 ft. on one side

Lots having a width of less than 50 ft.:  
A total of 12 ft. with a minimum of 5 ft. on one side

Lots having a width of less than 45 ft.:  
A total of 10 ft. with a minimum of 5 ft. on one side

(Cont.)

R - 2 High Density Residential District (B - Residential District)

Minimum lot area	4,000 sq. ft.
Maximum lot coverage	45%
Minimum side yards	

Lots having a width of 50 ft. or more:  
A total of 15 ft. with a minimum of 5 ft. on one side

Lots having a width of 45 ft. but more than 40 ft.:  
A total of 12 ft. with a minimum of 5 ft. on one side

Lots having a width of 40 ft. but more than 35 ft.:  
A total of 10 ft. with a minimum of 5 ft. on one side

Lots having a width of 35 ft. but more than 30 ft.:  
A total of 7 ft. with a minimum of 4 ft. on one side

TABLE 1266.04(B)

Requirements	R-1	R-2	I
Minimum Lot Area Per Family (sq. ft.)	5,000	4,000	N.A.
Minimum Lot Size for Non-Residential (sq. ft.)	5,000	6,000	7,000(a, b)
Maximum Lot Coverage	40%	45%	65%
Minimum Lot Width (H)	50	60	50
Minimum Depth of Front Yard (ft.)	20(c)	20(c)	30
Minimum Depth of Rear Yard (ft.)	30	30	N.A.
Minimum Total Width of Side Yards (ft.)			24
Minimum Width of Side Yard (ft.)			10(e)
Maximum Height of Structure (ft.) (d), (f)	35	45	100
Minimum Number of Stories	2-1/2	4	3

- (a) Use of lot of record. See Section 1272.01.
- (b) For multifamily dwelling in B-Residential Districts, the minimum requirements shall be 6,000 square feet for three families, and an additional 1,000 square feet per family for four to eight families, inclusive, and an additional 500 square feet per family for nine to twenty-five families, inclusive, and an additional 350 square feet per family in excess of twenty-five.
- (c) Front yards adjacent to existing building. See Section 1272.02(e).
- (d) See also Section 1272.05.
- (e) Side and rear yards adjacent to Residential Districts. See Section 1272.02(d).
- (f) These height limitations shall not apply to any communications antennas or communications towers.

Downtown Commercial District Overlay Dimensional Table

	C-3: CC	C-3: GWC	C3: GNC	C3: IP
Minimum Lot Area Per Family (sq. ft.)	5,000	5,000	5,000	5,000
Minimum Lot Size Per Non-Residential (sq. ft.)	3,000	3,000	3,000	3,000
Maximum Lot Coverage	100%	90%	80%	85%
Minimum Lot Width (ft.)	30	Non-residential: 30 Residential: 40	Non-residential: 30 Residential: 40	Non-residential: 30 Residential: 40
Minimum Depth of Front Yard (ft.)	0	0	10	10
Maximum Depth of Front Yard (ft.)	10	20	On 5th Street: 20 Everywhere else: 10	20
Minimum Depth of Rear Yard (ft.)	0	20	20	20
Minimum Total Width of Side Yards (ft.)	N/A	N/A	N/A	N/A
Minimum Width of Side Yard (ft.)	0	10	10	10
Maximum Height of Structure (ft.)	50	50	50	40
Minimum Number of Stories	N/A	N/A	N/A	N/A



TABLE 1266.04 (C)Regulations Governing Communications Antennas  
and Communications Equipment Buildings

- (1) Building-mounted communications antennas shall not be located on any single family, two-family, three-family or four-family dwelling.
- (2) Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by not more than twenty feet.
- (3) Omnidirectional or whip communications antennas shall not exceed twenty feet in height and seven inches in diameter.
- (4) Directional or panel communications antennas shall not exceed five feet in height and three feet in width.
- (5) Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a state-registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- (6) Any applicant proposing communications antennas to be mounted on a building or other structures shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Enforcement Officer for compliance with the Borough's Building Code and other applicable law, with a fee sufficient to cover such review.
- (7) Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or other structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- (8) Communications antennas shall comply with all applicable standards established by the Federal Communications Commission (FCC) governing human exposure to electromagnetic radiation.
- (9) Communications antennas shall not cause radio frequency interference with other communications facilities located in the Borough.
- (10) A communications equipment building shall be subject to the height and setback requirements of the applicable zoning district for any accessory structure.
- (11) The owner or operator of communications antennas shall be licensed by the Federal Communications Commission (FCC) to operate such antennas.  
(Ord. 2210. Passed 4-21-97; Ord. 2234. Passed 7-13-98; Ord. 2260. Passed 3-21-00; Ord. 2344. Passed 2-16-04; Ord. 2354. Passed 7-19-04; Ord. 2523. Passed 8-15-16.)

**CHAPTER 1268  
Nonconforming Uses**

- |   |   |
|---|---|
| 1268.01 Application of chapter; continuation, extension or expansion of uses. | 1268.07 Changes in district boundaries.   |
| 1268.02 Permitted uses.   | 1268.08 Extensions as special exceptions. |
| 1268.03 Abandonment of uses.  | 1268.09 Recording.                        |
| 1268.04 Alteration of uses.   | 1268.10 Restoration.                      |
| 1268.05 Conversions; special exceptions.                                      | 1268.11 Illegal uses.                     |
| 1268.06 Construction approved prior to enactment of Zoning Code.              | 1268.12 Unsafe structures.                |

**CROSS REFERENCES**

- General provisions and definitions - see Penna. Mun. Plan. Code, Art. I
- Zoning - see Penna. Mun. Plan. Code, Art. VI
- Exemptions - see Penna. Mun. Plan. Code § 619
- Variances and special exceptions - see P. & Z. 1264.03, 1264.04, 1266.04
- Conditional uses - see P. & Z. 1264.05

**1268.01 APPLICATION OF CHAPTER; CONTINUATION, EXTENSION OR EXPANSION OF USES.**

(a) The following provisions shall apply to all nonconforming uses and structures.

(b) Any nonconforming use may be continued, but may not be extended, expanded or changed unless to a conforming use, in accordance with the provisions of this Zoning Code.

(Ord. 2210. Passed 4-21-97.)



**1268.02 PERMITTED USES.**

Subject to the provisions of this chapter, a use of a building or land existing at the time of the adoption of this Zoning Code may be continued even though such use does not conform to the provisions of this Zoning Code for the district in which it is located. (Ord. 2210. Passed 4-21-97.)

**1268.03 ABANDONMENT OF USES.**

A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when one or more of the following conditions exist:

- (a) When the intent of the owner to discontinue the use is apparent.
- (b) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment or furnishings within ninety days, unless other facts show the intention to resume the nonconforming use.
- (c) When a nonconforming use has been discontinued for a period of six months.

(Ord. 2210. Passed 4-21-97.)

**1268.04 ALTERATION OF USES.**

A nonconforming building or structure may be repaired and improved or reconstructed, provided such work does not exceed the fair replacement value of the building or structure, or provided the building or structure is changed to a conforming use.

(Ord. 2210. Passed 4-21-97.)

**1268.05 CONVERSIONS; SPECIAL EXCEPTIONS.**

No nonconforming building, structure or use shall be changed to another nonconforming building, structure or use. Conversion of nonconforming buildings or structures into residential uses shall be permitted as a special exception under the following requirements:

- (a) The minimum yard and area requirements are in accordance with the district in which said conversion is located.
- (b) Each living unit contains a minimum of 900 square feet of habitable living area.
- (c) Each living unit contains not less than one bathroom and three habitable rooms and complies with the Borough's Building and Housing Code.
- (d) Fire and safety provisions are certified to be adequate by the Fire Chief of the Ellwood City Fire Department.

(Ord. 2210. Passed 4-21-97.)

**1268.06 CONSTRUCTION APPROVED PRIOR TO ENACTMENT OF ZONING CODE.**

Nothing contained in this chapter shall require any change in plans, construction or designated use of a building or structure for which a zoning permit has been issued or the construction of which shall have been diligently prosecuted within two months of the date of such permit, and the ground story framework of which shall have been completed within four months of the date of the permit, or if the entire building is completed according to such plans as filed within one year from the date of legal enactment of this Zoning Code.

(Ord. 2210. Passed 4-21-97.)

**1268.07 CHANGES IN DISTRICT BOUNDARIES.**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisos shall apply to any nonconforming uses existing therein.

(Ord. 2210. Passed 4-21-97.)

**1268.08 EXTENSIONS AS SPECIAL EXCEPTIONS.**

(a) A nonconforming use may be extended as a special exception upon approval of the Zoning Hearing Board, subject to the following conditions:

- (1) The extension becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.
- (2) The extension does not encroach upon the yard and height requirements of the district in which the nonconforming use is presently located.
- (3) The extension is for the purpose of expanding only that nonconforming use in existence at the time of the legal acceptance of this Zoning Code.
- (4) The expense of such an extension shall not exceed eighty percent of the fair market value of the building or structure existing at the time of the enactment of this Zoning Code.
- (5) The existing nonconforming use or the proposed extension thereof shall not have any measurable obnoxious or hazardous effect on adjacent land uses.

(b) If one or more of the conditions set forth in paragraphs (a)(1) to (a)(5) hereof is not met, then the extension shall not be permissible.

(c) Extension of a lawful use to any portion of a nonconforming building or structure which existed prior to the enactment of this Zoning Code shall not be deemed to be an extension of such nonconforming use.

(Ord. 2210. Passed 4-21-97.)

**1268.09 RECORDING.**

All nonconforming uses existing at the time of the legal enactment of this Zoning Code may be recorded and maintained for public use in the office of the Zoning Officer. (See Special Report by the Zoning Officer.)  
(Ord. 2210. Passed 4-21-97.)

**1268.10 RESTORATION.**

Nothing in this Zoning Code shall prevent the construction, repair, rebuilding or continued use of any nonconforming building or structure that is destroyed or damaged by fire, collapse, explosion or act of God subsequent to the date of legal acceptance of this Zoning Code, provided that wherein the expense of such work does not exceed sixty percent of the total fire damage occurred and that reconstruction of the destroyed or damaged building is initiated within six months of the date of damage.  
(Ord. 2210. Passed 4-21-97.)

**1268.11 ILLEGAL USES.**

Nothing in this Zoning Code shall be interpreted as authorizing or approving the continuance of an illegal use of a structure or premises in violation of Borough law in existence at the time of the effective date of legal enactment of this Zoning Code.  
(Ord. 2210. Passed 4-21-97.)

**1268.12 UNSAFE STRUCTURES.**

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared by a proper authority to be in need of the same.  
(Ord. 2210. Passed 4-21-97.)

**CHAPTER 1270**  
**Off-Street Loading and Parking**

- 1270.01 Compliance required.                      1270.03 Off-street parking.  
1270.02 Off-street loading.

**CROSS REFERENCES**

- General provisions and definitions - see Penna. Mun. Plan.  
Code, Art. I  
Zoning - see Penna. Mun. Plan. Code, Art. VI  
Exemptions - see Penna. Mun. Plan. Code, §619  
Parking generally - see TRAF. Ch. 480  
Off-street metered parking - see TRAF. Ch. 484  
Off-street unmetered parking - see TRAF. Ch. 486

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**1270.01 COMPLIANCE REQUIRED.**

Off-street loading and parking spaces shall be provided in accordance with the provisions of this chapter in all districts whenever any new use is established or an existing one is enlarged.

(Ord. 2210. Passed 4-21-97.)

**1270.02 OFF-STREET LOADING.**

Every use which requires the receipt or distribution by vehicle of material or merchandise shall provide off-street loading berths in accordance with the table which follows:

(Cont.)

### OFF-STREET LOADING SPACE REQUIREMENTS

<u>Uses</u>	<u>Floor Area (sq. ft.)</u>	<u>Required Off-Street Loading Berths</u>
1. Schools	15,000 or more	1
2. Hospitals (in addition to space for ambulance)	10,000- 300,000 For each additional 300,000 or major fraction thereof	1 1 additional
3. Undertaker and funeral parlors	5,000 For each additional 5,000 or major fraction thereof	1 1 additional
4. Hotels and offices	10,000 or more	1
5. Commercial wholesale manufacturing and storage	Up to 25,000 25,001 - 40,000 40,001 - 60,000 60,001 - 100,000 For each additional 50,000 or major fraction thereof	1 2 3 4 1 additional

A loading space shall not be less than twelve feet in width, forty feet in length, and fourteen feet in height, and shall be so designed as not to encroach upon the public right of way. (Ord. 2210. Passed 4-21-97.)

#### **1270.03 OFF-STREET PARKING.**

(a) Size and Access of Spaces. Each off-street parking space shall have an area of not less than 180 square feet, exclusive of access drives or aisles, and be in usable shape and condition. Except in the case of dwellings, no parking area shall contain less than three spaces. Parking area shall be designed to provide sufficient turn-around area so that vehicles are not required to back into major roads or collector or arterial roads. The parking and turn-around area of a parking lot shall contain 300 square feet for each vehicle and/or parking space. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking or storage area or loading spaces. Such access drive shall not be less than ten feet wide. Access to off-street parking areas shall be limited to several well defined locations, and in no case shall be the length of a street or alley.



(b) Number of Parking Spaces and Area 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. The parking lot shall contain 300 square feet for each parking space.

OFF-STREET PARKING SPACE REQUIREMENTS

<u>Uses</u>	<u>Required Parking Spaces</u>
1. Automobile laundry	5 for each wash lane
2. Automobile sales and service garages	1 for each 400 sq. ft. of floor space
3. Banks or professional offices	1 for each 100 sq. ft. of floor space
4. Churches and schools	1 for each 3 seats in an auditorium or 1 for each 17 classroom seats, whichever is greater
5. Bowling alleys	8 for each alley
6. Community buildings and social halls	1 for each 50 sq. ft. of floor area
7. Dwellings	2 for each family or dwelling unit, including space in a garage
8. Food supermarkets	1 for each 100 sq. ft. of floor area
9. Funeral homes, mortuaries	10 for first parlor and 5 for each additional parlor
10. Furniture or appliance	1 for each 200 sq. ft. of floor space
11. Hospitals, nursing or convalescing homes	1 for each bed for visitors and 1 for each 1.5 employees (including staff) based upon the peak shift
12. Hotels and motels	1 for each living or sleeping unit*
13. Manufacturing plants, research or testing laboratories, bottling plants	1 for each 500 sq. ft. of floor area

(Cont.)

## OFF-STREET PARKING SPACE REQUIREMENTS (Cont.)

Uses	Required Parking Spaces
14. Medical offices	7 for each doctor
15. Dental offices	4 for each dentist
16. Restaurants, taverns and night clubs	1 for each 2 seats
17. Retail stores and shops	1 for each 100 sq. ft. of floor area
18. Rooming houses and dormitories	1 for each 2 bedrooms
19. Service stations	3 for each pump
20. Sports arenas, assembly halls, auditoriums and theaters	1 for each 3 seats
21. Trailer or monument sales	1 for each 2,500 sq. ft. of lot area
22. Wholesale establishment or warehouses	1 for each 1,500 sq. ft. of floor area

NOTE: Because of public parking facilities, off-street parking requirements will not be required in the C-2 General Business District.

\*If a motel has restaurant facilities included, it must also comply with the off-street parking provisions for the same as set forth in paragraph (b)16. hereof.

(c) Location of Parking Spaces. Required parking spaces shall be located on the same lot with the principal use. The Zoning Hearing Board may permit parking spaces to be located not more than 100 feet from the lot of the principal use if they are located in the same zoning district as the principal use and the Zoning Hearing Board finds that it is impractical to provide parking on the same lot with the principal use.

(d) Screening. Off-street parking areas for more than five vehicles, and off-street loading areas, shall be effectively screened on each side which adjoins or faces any Residential District.

(e) Minimum Distance and Setbacks. No off-street loading or parking area for more than five vehicles shall be closer than ten feet to any adjoining premises that contain a dwelling, school, hospital or similar institution in accordance with Section 1272.02(d).

(f) Surfacing and Drainage. With the exception of one-family and two-family dwellings, all parking areas and access drives shall be paved with concrete or asphaltic surfaces and approved by the Borough Engineer. The surface shall be graded and drained to dispose of water in a manner approved by the Borough Engineer.

(g) Lighting. Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining premises in any Residential District and away from roads or highways.  
(Ord. 2210. Passed 4-21-97.)



Exemptions - see Penna. Mun. Plan. Code §619  
 Mobile home parks - see P. & Z. Ch. 1250  
 Height requirements - see P. & Z. 1266.04  
 Yard requirements - see P. & Z. 1266.04

### 1272.01 EXISTING LOTS OF RECORD.

(a) Any lot of record existing on the effective date of this Zoning Code, and held in separate ownership, may be used in conformity with the use regulations of this Zoning Code even though its dimensions are less than the minimum requirements of this Zoning Code, except as may be otherwise set forth in this Zoning Code.

(b) Where two or more adjacent lots each have dimensions less than the requirements of this Zoning Code, they may be combined to be used as a single lot for development following the requirements of this Zoning Code.  
 (Ord. 2210. Passed 4-21-97.)

### 1272.02 APPLICATION OF YARD REQUIREMENTS.

(a) Lots that abut on more than one street shall provide the required front yard along every street.

(b) No structure, whether attached to a principal structure or not, and whether open or enclosed, including porches, decks, carports, balconies and platforms above normal grade level, shall project into any minimum front, side or rear yard.

(c) Paved terraces without walls, roofs, retaining walls or other enclosures may be constructed within the limits of any yard.

(d) Nonresidential buildings hereafter constructed or uses hereafter established shall not be located or constructed closer to any lot line, in or adjacent to any Residential District, than the distance specified in the following schedule:

Use	Minimum Side or Rear Yard (ft.)
Off-street parking spaces and access drives for nonresidential uses	10
All other nonresidential uses or structures	20

(e) In any district where a structure exists on an adjacent lot having a front yard greater or less than the minimum depth required, the minimum depth of the front yard shall be the average depth of the front yard of the existing structure on the adjacent lot and the minimum depth of the front yard 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 yard of the two existing adjacent structures. For the purpose of this subsection, the front line of an existing building shall be the front line of the structure including front porches.

(f) The location of accessory buildings shall conform to side yard requirements and shall be no less than five feet from any rear lot line.  
(Ord. 2210. Passed 4-21-97.)

**1272.03 TEMPORARY STRUCTURES.**

Temporary structures in conjunction with construction work shall be permitted only during the period that the construction work is in process. Permits for temporary structures shall be issued for a six-month period.  
(Ord. 2210. Passed 4-21-97.)



**1272.04 RESIDING IN BASEMENT OR FOUNDATION STRUCTURES.**

Residing in basement or foundation structures before completion of the total structure shall not be permitted.

(Ord. 2210. Passed 4-21-97.)

**1272.05 EXEMPTIONS FROM HEIGHT LIMITATIONS.**

The following structures are exempt from height regulations, provided they do not constitute a hazard to an established airport: television and radio towers, church spires, chimneys, elevator bulkheads, smokestacks, conveyors, flagpoles, silos, standpipes, elevated water tanks, derricks and similar structures.

(Ord. 2210. Passed 4-21-97.)

**1272.06 PERFORMANCE STANDARDS.**

No use, land or structure in any district shall involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or person in the Borough.

(Ord. 2210. Passed 4-21-97.)

**1272.07 MOBILE HOMES AND MOBILE HOME PARKS.**

(a) Individual mobile homes may be permitted by the Zoning Hearing Board in the B-Residential District as a special exception, provided that they comply with all the requirements of the Ellwood City Borough Mobile Home Specifications, as approved by resolution of Council from time to time.

(b) Due to the limited amount of developable land in the Borough, mobile home parks shall not be permitted in order that the remaining land can be developed to its highest and best use. (Ord. 2210. Passed 4-21-97.)

**1272.08 WATER RECREATION AND STORAGE AREAS.**

Any facility for water recreation, such as private swimming pools, swimming clubs and commercial fishing ponds, or any such water storage facility such as reservoirs, fish hatcheries, sewage lagoons and farm ponds, shall comply with the following provisions:

- (a) The facility must meet the front, side and rear yard requirements for the applicable district.
- (b) Before a permit shall be issued to the operator or owner of the facility, a plan shall be approved by the Planning Commission as to 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, such as fences.
- (c) Regardless of any other provision of this Zoning Code, such uses shall be enclosed by a fence as may be approved by the Building Inspector, which fence shall not be less than five feet in height. (Ord. 2210. Passed 4-21-97.)



**1272.09 MINERAL EXCAVATIONS.**

Excavations of sand, gravel, coal, oil, gas or other material from the ground shall be considered a temporary use and may be permitted in the districts as a Conditional Use if approved by the Borough Council. All mineral excavations shall comply with the following minimum requirements and any other measures that the Borough Council might specify to protect the public interest. A zoning certificate shall be required for each property.

- (a) All operations must be conducted no closer than 200 feet to an adjacent property, unless under common lease or ownership, and no closer than 100 feet to any road right of way.
- (b) All operations must be conducted no closer than 200 feet to an existing dwelling, school, hospital or similar residential use.
- (c) The operator shall file with the Council a plan showing the location of adjacent properties, roads and natural features.
- (d) Except for oil and gas extraction, the operator shall submit to the Borough Council a plan for the restoration of the area to be mined, which Plan shall include anticipated future use of the restored land and shall indicate the proposed final topography by contour lines of intervals that are not greater than five feet, steps which will be taken to conserve the topsoil, and the location of future roads, drainage courses or other improvements contemplated.

(Ord. 2210. Passed 4-21-97.)

**1272.10 JUNKYARDS AND SIMILAR STORAGE AREAS.**

All junkyards shall be completely screened from roads or developed areas with a solid fence or wall eight feet or more in height, maintained in good condition and painted (except for masonry construction), with suitable planting. All existing junkyards shall comply with this requirement within one year of the date of this Zoning Code or shall terminate their operation.

(Ord. 2210. Passed 4-21-97.)

**1272.11 SANITARY LANDFILL AREAS.**

Plans for sanitary landfill areas shall be in harmony with existing surrounding uses, and the opinion of the State Department of Environmental Resources concerning proper drainage, cover and the operation as a whole shall be provided by the applicant to the Zoning Hearing Board in accordance with the Pennsylvania Solid Waste Management Act (Act 241), as amended.

(Ord. 2210. Passed 4-21-97.)

**1272.12 HOME OCCUPATIONS.**

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. As a special exception, a home occupation shall require the authorization of the Zoning Hearing Board and shall comply with the following conditions:

- (a) The home occupation shall be subsidiary and subordinate to the principal use of the residential unit.
- (b) The use shall be located in the principal dwelling and shall not occupy more than thirty percent of the gross floor area.
- (c) The home occupation shall be carried out by members of the family residing in the dwelling; unit, with no other employees.
- (d) There shall be no exterior signs or displays, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential characteristics of the dwelling and premises.
- (e) No offensive odors, vibrations, smoke, dust, heat, glare or noise shall be produced.
- (f) There shall be no commodity sold which is produced elsewhere than on the premises, except those that are clearly incidental to the home occupation.
- (g) Home occupations may include, but not be limited to, studios of artists, teaching with musical instruments (limited to one student at a time) and home offices of an architect, engineer, computer service technician or consultant, medical doctor or attorney (with no employees).
- (h) Home occupations shall not be interpreted to include, for instance, commercial stables and kennels or automotive and body repair services.  
(Ord. 2210. Passed 4-21-97.)

**1272.13 COMMUNICATIONS TOWERS AND ANTENNAS AS SPECIAL EXCEPTIONS.**

The following standards shall apply to communications towers and antennas as special exceptions:

- (a) An applicant shall demonstrate that it is licensed by the Federal Communications Commission (FCC) to operate a communications tower, if applicable, and communications antennas.
- (b) The applicant shall demonstrate that the proposed communications tower and the communications antennas proposed to be mounted thereon comply with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- (c) Communications towers shall comply with all applicable Federal Aviation Administration (FAA), State Bureau of Aviation and applicable airport 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 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:
- (1) 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.
  - (2) 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.
  - (3) 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.
  - (4) The addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
  - (5) 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 feet in width and shall be improved to a width of at least ten feet with a dust-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 meeting the minimum lot size requirements for the zoning district.
- (g) Recording of a plat of subdivision or land development shall be required for a leased 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) Districts, the maximum height of any communications tower shall be 150 feet, provided, however, that such height may be increased to no more than 200 feet, provided the required setbacks from adjoining property lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet. In the I (Industrial) District, the maximum height of any communications tower shall be 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 100 feet and shall be set back from any other property line (not lease line) at least fifty feet.
- (k) The base of any communications tower shall be landscaped so as to screen the foundation and base and the communications equipment building from abutting properties.
- (l) The communications equipment building shall comply with the required yard and height requirements of the applicable zoning district for an accessory structure.
- (m) The applicant shall submit certification from a state-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 Borough's Building Code.
- (n) The applicant shall submit a copy of its current FCC 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 a minimum amount of one million dollars (\$1,000,000) per occurrence and property damage coverage in a minimum amount of one million dollars (\$1,000,000) per occurrence, covering the communications tower and communications antennas.
- (o) 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.
- (p) The site of a communications tower shall be secured by a fence with a maximum height of eight feet to limit accessibility by the general public.
- (q) No signs or lights shall be mounted on a communications tower, except as may be required by the FCC, the FAA or other governmental agency which has jurisdiction.
- (r) Communications towers shall be protected and maintained in accordance with the requirements of the Borough's Building Code.
- (s) If a communications tower remains unused for a period of twelve consecutive months, the owner or operator shall dismantle and remove the communications tower within six months of the expiration of such twelve-month period.
- (t) One off-street parking space shall be provided within the fenced-in area.  
(Ord. 2234. Passed 7-13-98.)

#### **1272.14 GROUP HOMES AS A SPECIAL EXCEPTION.**

The following standards shall apply to group homes as special exceptions.

- (a) The minimum area and bulk regulations for a group home or care facility shall be the same as those required for all uses in the zoning district in which the facility is located.
- (b) No group home or care facility shall be established within 1,000 feet of another group home or care facility.
- (c) A twelve foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.

- (d) Twenty-four hour supervision shall be provided by staff qualified by the sponsoring agency.
- (e) Adequate open space opportunities for recreation shall be provided on the lot for the residents consistent with their needs. All open space areas shall be secured by a fence with a self-latching gate.
- (f) When applicable, certification or licensing by the sponsoring agency shall be prerequisite to obtaining a certificate of occupancy and a copy of an annual report with evidence of continuing certification shall be submitted to the Borough Zoning Office in January of each year.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.15 GROUP CARE FACILITY (YOUTH/ADULT) AS A SPECIAL EXCEPTION.**

The following standards shall apply to group care facility (youth/adult) as special exceptions:

- (a) The minimum area and bulk regulations for a group care facility shall be the same as those required for all uses in the zoning district in which the facility is located.
- (b) A group care facility shall have direct vehicular access to an arterial or collector road as defined by this chapter.
- (c) No group care facility shall be established within 1,000 feet of another group care facility.
- (d) A twelve foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.
- (e) Twenty-four hour supervision shall be provided by staff qualified by the sponsoring agency.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.16 PEDESTRIAN DOMINANT USES AS A CONDITIONAL USE.**

The following standards shall apply to pedestrian dominant uses as a conditional use: Land uses may not exceed one hundred fifty percent of the maximum dimensional standards as put forth by this chapter.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.17 BANKS AND FINANCIAL SERVICES AS A CONDITIONAL USE.**

The following standards shall apply to banks and financial services as a conditional use: No drive-thru facilities shall be permitted at banks and financial service establishments within the Core Commercial District.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.18 CULTURAL AND RECREATIONAL SERVICES AS A CONDITIONAL USE.**

The following standards shall apply to cultural and recreational services as a conditional use: In order to ensure that any proposed development does not create adverse conditions to the public right-of-way, a traffic impact study, in accordance with the

Institute of Transportation Engineers (ITE) standards, shall be required to be submitted as part of any proposed development to determine peak hours.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.19 THEATERS AS A CONDITIONAL USE.**

The following standards shall apply to theaters as a conditional use: In order to ensure that any proposed development does not create adverse conditions to the public right-of-way, a traffic impact study, in accordance with the Institute of Transportation Engineers (ITE) standards, shall be required to be submitted as part of any proposed development to determine peak hours.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.20 COMMERCIAL RECREATION AS A CONDITIONAL USE.**

The following standards shall apply to commercial recreation as a conditional use:

- (a) Within the Core Commercial District, the recreational activity space must be located on the non-ground floor of the building.
- (b) Activities in the space may not obstruct the function or vitality of an adjacent business or residential dwelling.

(Ord. 2523. Passed 8-15-16.)

#### **1272.21 OFF-STREET PARKING LOTS AS A CONDITIONAL USE.**

The following standards shall apply to off-street parking lots as a conditional use:

- (a) Ingress and egress points must be located on side streets, not main thoroughfares.
- (b) Parking spaces must be oriented and angled so that vehicle lights do not shine directly into establishments, residents, or cause driving hazards for other drivers, in compliance with subsection (c).
- (c) All off-street parking lots shall have a bufferyard between the parking spaces and right-of-way. This bufferyard shall be a minimum of three feet tall, be at least eighty percent opaque, and may be comprised of landscaping, fencing, or a structure, or a combination of these. If a structure or fence, the more finished side shall face the right-of-way.

(Ord. 2523. Passed 8-15-16.)

#### **1272.22 FLEX SPACE AS A CONDITIONAL USE.**

The following standards shall apply to flex space as a conditional use:

- (a) Within the Core Commercial District, the flex space must be located on the non-ground floor of the building.
- (b) Activities in the space may not obstruct the function or vitality of an adjacent business or residential dwelling.

(Ord. 2523. Passed 8-15-16.)

#### **1272.23 MULTI-FAMILY DWELLINGS AS A CONDITIONAL USE.**

The following standards shall apply to multi-family dwellings as a conditional use:

- (a) The dwellings must be located on the non-ground floor of the building.
- (b) The access point to the dwellings shall not be through a ground floor establishment.

(Ord. 2523. Passed 8-15-16.)

**1272.24 SOCIAL SERVICES AS A CONDITIONAL USE.**

The following standards shall apply to social services as a conditional use: The facility shall not be located within 300 feet of another social services facility.  
(Ord. 2523. Passed 8-15-16.)

**1272.25 TRANSPORTATION SERVICES AS A CONDITIONAL USE.**

The following standards shall apply to transportation services as a conditional use: Parking spaces must be oriented and angled so that vehicle lights do not shine directly into establishments, residents, or cause driving hazards for other drivers.  
(Ord. 2523. Passed 8-15-16.)

**1272.26 VETERINARY CLINIC AS A CONDITIONAL USE.**

The following standards shall apply to veterinary clinic as a conditional use:

- (a) Animal holding areas shall be within an enclosed building.
  - (b) There shall be no overnight animal housing unless deemed necessary by the licensed veterinarian.
  - (c) The clinic shall not serve as a kennel.
- (Ord. 2523. Passed 8-15-16.)

**1272.27 MULTI-FAMILY DWELLING-DUPLEX AS A CONDITIONAL USE.**

The following standards shall apply to multi-family dwelling - duplex as a conditional use:

- (a) Parking shall be provided on the same lot upon which the dwelling is located.
  - (b) Parking shall not be oriented in the front lawn of the lot.
  - (c) In order to ensure that any proposed development does not create adverse conditions to the public right-of-way, a traffic impact study, in accordance with the Institute of Transportation Engineers (ITE) standards, shall be required to be submitted as part of any proposed development to determine peak hours.
- (Ord. 2523. Passed 8-15-16.)

**1272.28 SINGLE-FAMILY DWELLING AS A CONDITIONAL USE.**

The following standards shall apply to single-family dwelling as a conditional use:

- (a) Parking shall be provided on the same lot upon which the dwelling is located.
  - (b) In order to ensure that any proposed development does not create adverse conditions to the public right-of-way, a traffic impact study, in accordance with the Institute of Transportation Engineers (ITE) standards, shall be required to be submitted as part of any proposed development to determine peak hours.
- (Ord. 2523. Passed 8-15-16.)

**1272.29 AUTOMOBILE DOMINANT LAND USES AS A CONDITIONAL USE.**

The following standards shall apply to automobile dominant land uses as a conditional use:

- (a) Principal structure GFA shall not exceed 20,000 square feet.
  - (b) Off-street parking spaces shall not be located within ten feet of the public right-of-way.
- (Ord. 2523. Passed 8-15-16.)

**1272.30 MEDICAL PRACTICE/CLINIC, LARGE SCALE AS A  
CONDITIONAL USE.**

The following standards shall apply to medical practice/clinic, large scale as a conditional use:

- (a) The medical clinic shall not allow overnight treatment or stay of patients.
- (b) If the medical clinic dispenses dolophine opioid analgesics or similar rehabilitation medications, the treatment must be performed on-site, and the patient shall remain at the facility until the temporary treatment is complete and the patient is deemed able to function in public.  
(Ord. 2523. Passed 8-15-16.)

**1272.31 HOSPITAL AS A CONDITIONAL USE.**

The following standards shall apply to hospital as a conditional use: In order to ensure that any proposed development does not create adverse conditions to the public right-of-way, a traffic impact study, in accordance with the Institute of Transportation Engineers (ITE) standards, shall be required to be submitted as part of any proposed development to determine peak hours.  
(Ord. 2523. Passed 8-15-16.)

**1272.32 GREEN GROCER AS A CONDITIONAL USE.**

The following standards shall apply to green grocer as a conditional use:

- (a) A delivery zone plan acceptable to the Borough Engineer shall be submitted to demonstrate adequate delivery and associated circulation areas do not conflict with existing Borough development and circulation patterns.
- (b) No outdoor storage of products or equipment shall be permitted on the lot.  
(Ord. 2523. Passed 8-15-16.)

**1272.33 HARDWARE/VARIETY/DEPARTMENT STORE AS A  
CONDITIONAL USE.**

The following standards shall apply to hardware/variety/department store as a conditional use:

- (a) A delivery zone plan acceptable to the Borough Engineer shall be submitted to demonstrate adequate delivery and associated circulation areas do not conflict with existing Borough development and circulation patterns.
- (b) No outdoor storage of products or equipment shall be permitted on the lot.  
(Ord. 2523. Passed 8-15-16.)

**1272.34 HOTEL/MOTEL.**

The following standards shall apply to hotel/motel as a conditional use:

- (a) Drop-off/temporary parking areas shall remain free and clear of obstructions for general safety and fire department access.
- (b) A twelve foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.
- (c) Service of meals and/or beverages (alcoholic/non-alcoholic) must be secondary to the principal use of room or suite rental.
- (d) Secondary eating establishments serving alcoholic beverages or secondary bars or nightclubs must be licensed by the Pennsylvania Liquor Control Board.



- (e) The owner(s)/operator(s) of a hotel/motel shall be responsible for the conduct and safety of the renters and guests and shall be available to respond to inquiries and promptly quell any disturbances caused by renters or guests.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.35 COMPATIBLE USES NOT OTHERWISE LISTED.**

The following standards shall apply to compatible uses not otherwise listed as a conditional use. A land use not expressly delineated as a permitted use, conditional use, or special exception maybe permitted as a conditional use upon the applicant's demonstration that the proposed use impacts the neighborhood and adjacent streets, circulation and lots equal to or less than any use specifically listed in the Zoning District. In making such determination, the following characteristics shall be considered:

- (a) The number of employees;
- (b) The floor area of the building or gross area of the lot devoted to the proposed use;
- (c) The type of products, materials, equipment and/or processes involved in the proposed use;
- (d) The magnitude of walk-in trade; and
- (e) The traffic and environmental impacts and the ability of the proposed use to comply with the performance standards of this chapter.  
(Ord. 2523. Passed 8-15-16.)

### **WIRELESS COMMUNICATION FACILITIES**

#### **1272.36 DEFINITIONS.**

- (a) Antenna - any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include tower-based wireless communications facilities as defined below.
- (b) Co-location - the mounting of one or more WCFs, including antennae, on an existing tower-based WCF, or on any structure that already supports at least one non-tower WCF.
- (c) Distributed Antenna Systems (DAS) - network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.
- (d) Emergency - a condition that constitutes a clear and immediate danger to the health, welfare, or safety of the public, or has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.
- (e) FCC - Federal Communications Commission.
- (f) Height of a Tower-Based WCF - the vertical distance measured from the ground level including any base pad, to the highest point on a Tower-Based WCF, including antennae mounted on the tower and any other appurtenances.

(g) Monopole - a WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances.

(h) Non-Tower Wireless Communications Facility (Non-Tower WCF) - all non-tower wireless communications facilities, including but not limited to, antennae and related equipment. Non-Tower WCF shall not include support structures for antennae or any related equipment that is mounted to the ground or at ground-level.

(i) Related Equipment - any piece of equipment related to, incidental to, or necessary for, the operation of a tower-based WCF or non-tower WCF. By way of illustration, not limitation, Related Equipment includes generators and base stations.

(j) Stealth Technology - camouflaging methods applied to wireless communications towers, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

(k) Substantially Change or Substantial Change -

- (1) Any increase in the height of a wireless support structure by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennae; or
- (2) Any further increase in the height of a wireless support structure which has already been extended by more than ten percent of its originally approved height or by the height of one additional antenna array.

(l) Tower-Based Wireless Communications Facility (Tower-Based WCF) - any structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be tower-based WCF.

(m) WBCA - Pennsylvania Wireless Broadband Collocation Act (53 P.S. §11702.1 et. seq.)

(n) Wireless - transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

(o) Wireless Communications Facility (WCF) - the antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

(p) Wireless Communications Facility Applicant (WCF Applicant) - any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Borough owned land or property.

(q) Wireless Support Structure - a freestanding structure, such as a tower-based wireless communications facility or any other support structure that is constructed primarily to support the placement or installation of a wireless communications facility if approved by the Borough.  
(Ord. 2523. Passed 8-15-16.)

#### 1272.37 PURPOSES AND FINDINGS OF FACT.

(a) The purpose of this subchapter (Sections 1272.36 through 1272.41) is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in the Borough of Ellwood City (referred to herein as the "Borough"). While the Borough recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.

(b) By enacting these provisions, the Borough intends to:

- (1) Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services;
- (2) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations;
- (3) Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Borough, including facilities both inside and outside the public rights-of-way;
- (4) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities;
- (5) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services co-locate their commercial communications antennas and related facilities on existing towers;
- (6) Promote the health, safety and welfare of the Borough's residents.  
(Ord. 2523. Passed 8-15-16.)

#### 1272.38 GENERAL AND SPECIFIC REQUIREMENTS FOR NON-TOWER WIRELESS COMMUNICATIONS FACILITIES.

(a) The following regulations shall apply to all non-tower WCF.

- (1) Permitted in all zones as an accessory use subject to regulations. Non-Tower WCF are permitted in all zones as an accessory use subject to the

restrictions and conditions prescribed below and subject to applicable permitting by the Borough.

- (2) Non-conforming Wireless Support Structures. Non-tower WCF shall be permitted to co-locate upon non-conforming tower-based WCF and other non-conforming structures. Co-location of WCF upon existing tower-based WCF is encouraged even if the tower-based WCF is non-conforming as to use within a zoning district.
- (3) Non-commercial usage exemption. Borough residents utilizing satellite dishes and antennae for the purpose of maintaining television, phone, radio and/or internet connections at their respective residences shall be exempt from the regulations enumerated in this section of the zoning ordinance.
- (4) Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
- (5) Wind. All non-tower WCF structures shall be designed to withstand the effects of wind gusts of at least one hundred miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended).
- (6) Aviation safety. Non-tower WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (7) Public safety communications. Non-tower WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (8) Radio frequency emissions. A non-tower WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (9) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
  - A. All abandoned or unused WCFs and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Borough.
  - B. If the WCF or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.

- (10) Insurance. Each person that owns or operates a non-tower WCF shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of one million dollars (\$1,000,000) per occurrence and property damage coverage in the minimum amount of one million dollars (\$1,000,000) per occurrence covering the non-tower WCF. The Borough shall be named as an additional insured and shall be provided of proof of such insurance on an annual basis.
- (11) Indemnification. Each person that owns or operates a non-tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the non-tower WCF. Each person that owns or operates a non-tower WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a non-tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (12) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
- A. The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - B. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - C. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (b) The following regulations shall apply to all collocated non-tower WCF that do not substantially change the physical dimensions of the wireless support structure to which they are attached and/or fall under the Pennsylvania Wireless Broadband Collocation Act:
- (1) Permit required. WCF applicants proposing the modification of an existing tower-based WCF shall obtain a building permit from the Borough. In order to be considered for such permit, the WCF applicant must submit a permit application to the Borough in accordance with applicable permit policies and procedures.
  - (2) Timing of approval for applications that fall under the WBCA. Within thirty calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the WCF applicant in writing of any information that may be required to complete such application. Within sixty calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the WCF applicant in writing of such decision. The timing

requirements in this section shall only apply to proposed facilities that fall under the Pennsylvania Wireless Broadband Collocation Act.

- (3) Related equipment. Ground-mounted related equipment greater than three cubic feet shall not be located within fifty feet of a lot in residential use or zoned residential.
- (4) Permit fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF or one thousand dollars (\$1,000), whichever is less.

(c) The following regulations shall apply to all non-tower WCF that do substantially change the wireless support structure to which they are attached, or that otherwise do not fall under the Pennsylvania Wireless Broadband Collocation Act.

- (1) Prohibited on Certain Structures. No non-tower WCF shall be located on single-family detached residences, single-family attached residences, or any residential accessory structure.
- (2) Special Exception Required. Any WCF applicant proposing the construction of a new non-tower WCF, or the modification of an existing non-tower WCF, shall first obtain a special exception from the Borough Zoning Hearing Board. New constructions, modifications, and replacements that do fall under the WBCA shall not be subject to the special exception process. The special exception application shall demonstrate that the proposed facility complies with all applicable provisions in the Ellwood City Zoning Ordinance and shall be submitted by the applicant to the Ellwood City Borough Zoning Hearing Board.
- (3) Historic Buildings. No non-tower WCF may be located upon any property, or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is listed on the official historic structures and/or historic districts list maintained by the Borough, or has been designated by the Borough to be of historical significance.
- (4) Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these WCF provisions. The WCF applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (5) Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF, as well as related inspection, monitoring and related costs.
- (6) Development Regulations. Non-tower WCF shall be located on Borough-owned poles, structures, and land to the greatest extent possible. If such location is not economically or practically feasible, non-tower WCF shall be co-located on existing wireless support structures, such as existing buildings or tower-based WCF, subject to the following conditions:
  - A. The total height of any wireless support structure and mounted WCF shall not exceed twenty feet above the maximum height permitted in

- the underlying zoning district, unless the WCF applicant applies for, and subsequently obtains, a variance.
- B. In accordance with industry standards, all non-tower WCF applicants must submit documentation to the Borough justifying the total height of the non-tower WCF. Such documentation shall be analyzed in the context of such justification on an individual basis.
  - C. If the WCF applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - D. A security fence having a minimum height of six feet and a maximum height of eight feet shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (7) Design Regulations. Non-tower WCF shall employ stealth technology and be treated to match the wireless support structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
- (8) Removal, Replacement and Modification.
- A. The removal and replacement of non-tower WCF and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not substantially change the overall size of the WCF or the numbers of antennae.
  - B. Any material modification to a WCF shall require notice to be provided to the Borough, and possible supplemental permit approval to the original permit or authorization.
- (9) Inspection. The Borough reserves the right to inspect any WCF to ensure compliance with the provisions of the zoning ordinance and any other provisions found within the Borough Code or state or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

(d) Regulations applicable to all non-tower WCF located in the public rights-of-way. In addition to the non-tower WCF provisions listed in this Section 1272.38, the following regulations shall apply to non-tower WCF located in the public rights-of-way:

- (1) Location. Non-tower WCF in the ROW shall be located on existing poles owned by the Borough. If such location is not technologically feasible, the WCF applicant shall locate its non-tower WCF on existing poles or freestanding structures that are not owned by the Borough.
- (2) Design requirements.
  - A. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and Borough-owned poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
  - B. Antenna and related equipment shall be treated to match the supporting structure and may be required to be painted, or otherwise

coated, to be visually compatible with the support structure upon which they are mounted.

- (3) Time, place and manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the public utility code.
- (4) Related equipment location. Non-tower WCFs and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:
  - A. In no case shall ground-mounted related equipment, walls, or landscaping be located within eighteen inches of the face of the curb or within an easement extending onto a privately-owned lot;
  - B. Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
  - C. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
  - D. Any graffiti on any wireless support structures or any related equipment shall be removed at the sole expense of the owner.
  - E. Any proposed underground vault related to non-tower WCF shall be reviewed and approved by the Borough.
- (5) Relocation or removal of facilities. Within sixty days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
  - A. The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
  - B. The operations of the Borough or other governmental entity in the right-of-way;
  - C. Vacation of a street or road or the release of a utility easement; or
  - D. An emergency as determined by the Borough.  
(Ord. 2523. Passed 8-15-16.)

**1272.39 GENERAL AND SPECIFIC REQUIREMENTS FOR ALL  
TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES.**

- (a) The following regulations shall apply to all tower-based wireless communications facilities.



- (1) Standard of Care. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
- (2) Notice. Upon submission of an application for a tower-based WCF and the scheduling of the public hearing upon the application, the WCF applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The WCF applicant shall provide proof of the notification to the Borough.
- (3) Special Exception Required. Tower-based WCF are permitted by special exception, at a height necessary to satisfy their function in the WCF applicant's wireless communications system. No WCF applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height. The WCF applicant shall demonstrate that the antenna/tower/pole for the tower-based WCF is the minimum height necessary for the service area.
  - A. Prior to the Zoning Hearing Board's approval of a special exception authorizing the construction and installation of tower-based WCF, it shall be incumbent upon the WCF applicant for such special exception approval to prove to the reasonable satisfaction of the Zoning Hearing Board that the WCF applicant cannot adequately extend or infill its communications system by the use of equipment such as redoes, repeaters, antenna(s) and other similar equipment installed on existing structures, such as utility poles or their appurtenances and other available tall structures. The WCF applicant shall further demonstrate that the proposed tower-based WCF must be located where it is proposed in order to serve the WCF applicant's service area and that no other viable alternative location exists.
  - B. The special exception application shall be accompanied by a propagation study evidencing the need for the proposed tower or other communication facilities and equipment, a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF applicant, the power in watts at which the WCF applicant transmits, and any relevant related tests conducted by the WCF applicant in determining the need for the proposed site and installation.
  - C. The special exception application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all state and federal laws and regulations concerning aviation safety.
  - D. Where the tower-based WCF is located on a property with another principal use, the WCF applicant shall present documentation to the

Zoning Hearing Board that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.

- E. The special exception application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all applicable provisions in this section.
  - F. In determining the location of a proposed tower-based WCF, preference shall be given to municipally-owned property on the northern and southern ends of the Borough.
- (4) Engineer Inspection. Prior to the Borough's issuance of a permit authorizing construction and erection of a tower-based WCF, the applicant shall employ a Pennsylvania-registered structural engineer to issue to the Zoning Hearing Board a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association. Such engineer shall also certify the proper construction of the foundation and the erection of the structure. This certification shall be provided during the special exception proceedings, or at a minimum be made as a condition attached to any approval given such that the certification be provided prior to issuance of any building permits.
- (5) Visual Appearance and Land Use Compatibility. Tower-based WCF shall employ stealth technology which may include the tower portion to be painted silver or another color approved by the Borough Zoning Hearing Board, or shall have a galvanized finish. All tower-based WCF and related equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Zoning Hearing Board shall consider whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved; encourage compatibility with the character and type of development existing in the area; benefit neighboring properties by preventing a negative impact on the aesthetic character of the community; preserve woodlands and trees existing at the site to the greatest possible extent; and encourage sound engineering and land development design and construction principles, practices and techniques.
- (6) Co-location and Siting. An application for a new tower-based WCF shall demonstrate that the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building, or sited on land owned by the Borough of Ellwood City. The Borough Zoning Hearing Board may deny an application to construct a new tower-based WCF if the WCF applicant has not made a good faith effort to mount the commercial communications antenna(s) on an existing structure. The WCF applicant shall demonstrate that it contacted the owners of tall structures, buildings, and towers within a one-quarter of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and towers and was denied for one of the following reasons:

- A. The proposed antenna and related equipment would exceed the structural capacity of the existing building, structure or tower, and its reinforcement cannot be accomplished at a reasonable cost.
  - B. The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or tower and the interference cannot be prevented at a reasonable cost.
  - C. Such existing buildings, structures, or towers do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - D. A commercially reasonable agreement could not be reached with the owner of such building, structure, or tower.
- (7) Permit Required for Modifications. To the extent permissible under applicable state and federal law, any WCF applicant proposing the modification of an existing tower-based WCF, which increases the overall height of such WCF, shall first obtain a permit from the Borough. Non-routine modifications and modifications that substantially change the wireless support structure shall be prohibited without a permit.
- (8) Gap in Coverage. A WCF applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage or capacity exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Borough Zoning Hearing Board's decision on an application for approval of tower-based WCF.
- (9) Additional Antennae. As a condition of approval for all tower-based WCF, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate antennae on tower-based WCF where technically and economically feasible. To the extent permissible by law, the owner of a tower-based WCF shall not install any additional antennae without obtaining the prior written approval of the Borough.
- (10) Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind gusts of at least 100 miles per hour in addition to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- (11) Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed more than 200 feet in height. tower-based WCF sited in the public rights-of-way shall not exceed forty feet in height.
- (12) Related equipment. Either one single-story wireless communications equipment building not exceeding 500 square feet in area or up to five metal boxes placed on a concrete pad not exceeding ten feet by twenty feet in area housing the receiving and transmitting equipment may be located on the site for each unrelated company sharing commercial communications antenna(e) space on the tower-based wireless communications facility.

- (13) Public Safety Communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (14) Maintenance. The following maintenance requirements shall apply:
  - A. Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - B. Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the Borough's residents, and utilize the best available technology for preventing failures and accidents.
- (15) Radio Frequency Emissions. A tower-based WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (16) Historic Buildings or Districts. A tower-based WCF shall not be located upon a property, and/or on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Borough.
- (17) Signs. All tower-based WCFs shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- (18) Lighting. No tower-based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Borough Manager.
- (19) Noise. Tower-based WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only, as delineated in the Federal Communications Commission October 2014 Order and Report.
- (20) Aviation Safety. Tower-based WCF shall comply with all federal and state laws and regulations concerning aviation safety.
- (21) Retention of Experts. The Borough Zoning Hearing Board may hire any consultant and/or expert necessary to assist the Borough in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of these provisions. The WCF applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.

- (22) Timing of Approval. Within thirty calendar days of the date that an application for a tower-based WCF is filed with the Borough, the Borough shall notify the WCF applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF and the Borough shall advise the WCF applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the WCF applicant to provide the information shall not be counted toward the 150-day review period.
- (23) Non-Conforming Uses. Non-conforming tower-based WCF which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location to its original condition or better, but must otherwise comply with the terms and conditions of this section.
- (24) Removal. In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCF or portions of WCF shall be removed as follows:
- A. All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Borough. The site shall be restored to its original condition or better, following the removal of the WCF.
  - B. If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
  - C. Any unused portions of tower-based WCF, including antennae, shall be removed within six months of the time of cessation of operations.
- (25) Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring, and related costs.
- (26) FCC License. Each person that owns or operates a tower-based WCF over forty feet in height shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
- (27) Insurance. Each person that owns or operates a tower-based WCF greater than forty feet in height shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of five million dollars (\$5,000,000) per occurrence and property damage coverage in the minimum amount of five million dollars (\$5,000,000) per occurrence covering the tower-based WCF. Each person that owns or operates a tower-based WCF forty feet or less in height shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of one million dollars (\$1,000,000) per occurrence and property damage coverage in the minimum amount of one million dollars (\$ 1,000,000) per occurrence covering each tower-based WCF. The

Borough shall be named as an additional insured and shall be provided of proof of such insurance on an annual basis.

- (28) Indemnification. Each person that owns or operates a tower-based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the tower-based WCF. Each person that owns or operates a tower-based WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of tower-based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- (29) Engineer signature. All plans and drawings for a tower-based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
- (30) Financial security. Prior to receipt of a zoning permit for the construction or placement of a tower-based WCF, the WCF applicant shall provide to the Borough financial security sufficient to guarantee the removal of the tower-based WCF. Said financial security shall remain in place until the tower-based WCF is removed.

(b) The following regulations shall apply to tower-based wireless communications facilities located outside the public rights-of-way:

(1) Development regulations.

- A. Tower-based WCF shall not be located in, or within 100 feet of, an area in which utilities are located underground.
- B. Tower-based WCF are permitted in the following zoning districts by special exception, with preference given to municipally-owned property on the northern and southern ends of the district, subject to the above prohibition:
1. R-1 A-Residential District
  2. R-2 B-Residential District
  3. I Industrial District
- C. Sole use on a lot. A tower-based WCF shall be permitted as a sole use on a lot, provided that the underlying lot is a minimum of 6,000 square feet. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal one hundred percent of the proposed WCF structure height.
- D. Combined with another use. A tower-based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:

1. The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
  2. **Minimum lot area.** The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires (if necessary), the equipment building, security fence, and buffer planting if the proposed WCF is greater than forty feet in height.
  3. **Minimum setbacks.** The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall be equal to the total height of the tower-based WCF plus thirty feet or the minimum setback of the underlying zoning district, whichever is greater. Where the site on which a tower-based WCF is proposed to be located is contiguous to an educational use, child day-care facility, or agriculture or residential use, the minimum distance between the base of a tower-based WCF and any such adjoining uses shall equal 250 feet, regardless of the height of the tower-based WCF, unless it is demonstrated to the reasonable satisfaction of the Zoning Hearing Board that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.
- (2) Design Regulations.
- A. The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
  - B. To the extent permissible by law, any height extensions to an existing tower-based WCF shall require prior approval of the Borough Zoning Hearing Board.
  - C. Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennae and comparable antennae for future users.
  - D. Any tower-based WCF over forty feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (3) Surrounding Environs.
- A. The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
  - B. The WCF applicant shall submit a soil report to the Borough Zoning Hearing Board complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and anchors for guy wires, if used.
- (4) Fence/Screen.
- A. A security fence with a minimum height of six feet and a maximum height of eight feet shall completely surround any tower-based WCF greater than forty feet in height, as well as guy wires, or any building housing WCF equipment.

- B. Landscaping shall be required to screen as much of a newly constructed tower-based WCF as possible. The Borough Zoning Hearing Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Zoning Hearing Board, they achieve the same degree of screening. Existing vegetation shall be preserved to the maximum extent possible. Will replace as necessary any existing trees and shrubs damaged.
- (5) Accessory Equipment.
- A. Ground-mounted related equipment associated to, or connected with, a tower-based WCF shall be placed underground or screened from public view using stealth technologies, as described above.
- B. All related equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- (6) Access Road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to tower-based WCF. Such access road shall be constructed and maintained, in conformance with the standards issued by the Pennsylvania Department of Transportation. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.
- (7) Parking. For each tower-based WCF greater than forty feet in height, there shall be two off-street parking spaces.
- (8) Inspection. The Borough reserves the right to inspect any tower-based WCF to ensure compliance with the zoning ordinance and any other provisions found within the Borough Code or state or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (c) The following regulations shall apply to tower-based wireless communications facilities located in the public rights-of-way.
- (1) Location and development standards.
- A. Tower-based WCF are prohibited in areas in which utilities are located underground.
- B. Tower-based WCF shall not be located in the front facade area of any structure.
- C. Tower-based WCF forty feet or shorter in height shall be permitted along certain collector roads and arterial roads throughout the Borough, regardless of the underlying zoning district. A map of such permitted roads is kept on file at the Borough Secretary's Office.
- (2) Time, place and manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all



tower-based WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the public utility code.

- (3) Equipment Location. Tower-based WCF and related equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:
  - A. In no case shall ground-mounted related equipment, walls, or landscaping be located within twenty-four inches of the face of the curb.
  - B. Ground-mounted related equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough. Maintained and replaced as necessary by the WCF owner.
  - C. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
  - D. Any graffiti on the tower or on any related equipment shall be removed at the sole expense of the owner.
  - E. Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Borough.
- (4) Design Regulations.
  - A. The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
  - B. Tower-based WCF sited in the public ROW shall not exceed forty feet in height.
  - C. To the extent permissible under state and federal law, any height extensions to an existing tower-based WCF in the ROW shall require prior approval of the Borough Zoning Hearing Board, and shall not increase the overall height of the tower-based WCF to more than forty feet.
  - D. Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennae and comparable antennae for future users.
- (5) Relocation or Removal of Facilities. Within sixty days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of tower-based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- A. The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way;
  - B. The operations of the Borough or other governmental entity in the right-of-way;
  - C. Vacation of a street or road or the release of a utility easement; or
  - D. An emergency as determined by the Borough.
- (6) Reimbursement for ROW Use. In addition to permit fees as described in this section, every tower-based WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable fee to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Borough. The owner of each tower-based WCF shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.40 POLICE POWERS.**

The Borough, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the Borough under applicable federal, state and local laws and regulations.  
(Ord. 2523. Passed 8-15-16.)

#### **1272.41 SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this chapter invalid.  
(Ord. 2523. Passed 8-15-16.)



CHAPTER 1274  
Amendments

- 1274.01 Filing of petitions; contents.                      1274.03 Curative amendments.  
1274.02 Review and referral of petitions.

CROSS REFERENCES

- General provisions and definitions - see Penna. Mun. Plan. Code, Art. I  
Zoning - see Penna. Mun. Plan. Code, Art. VI  
Preparation and enactment of proposed zoning ordinance - see Penna. Mun. Plan. Code §§607, 608  
Enactment of zoning ordinance amendments - see Penna. Mun. Plan. Code §609  
Procedure for landowner curative - see Penna. Mun. Plan. Code §609(1)  
Procedure for Municipal curative - see Penna. Mun. Plan. Code §609(2)  
Publication, advertisement and availability of ordinances - see Penna. Mun. Plan. Code §610  
Exemptions - see Penna. Mun. Plan. Code §619

**1274.01 FILING OF PETITIONS; CONTENTS.**

Petitions for amendments to this Zoning Code and/or the Zoning Map shall be filed with the Zoning Officer to be forwarded to the Planning Commission, following review, within one week. A petition shall consist of the following:

- (a) A letter addressed to the Ellwood City Borough Council requesting the amendment.
- (b) The identity of the property and/or properties to be affected by the requested amendment.
- (c) The existing zoning district.
- (d) The requested change to the zoning district, if any, and/or the sections or sections of Zoning Code to be amended.
- (e) A description of the amendment requested.
- (f) The reason(s) for the request for amendment.
- (g) The present uses of properties in the area of the requested amendment.
- (h) Proposed uses of properties owned and/or under the control of the applicant to be affected by the requested amendment.

Any support information shall be provided when determined to be necessary by the Zoning Officer, the Planning Commission, Council and/or the Borough Engineer.  
(Ord. 2210. Passed 4-21-97.)

**1274.02 REVIEW AND REFERRAL OF PETITIONS.**

(a) Following review of a petition by the Zoning Officer and referral thereof to the Planning Commission, the Planning Commission shall hold at least one public meeting pursuant to public notice and may hold more as it may deem advisable.

(b) Within at least ninety days from the date of the receipt of the application by the Planning Commission it shall present to Council the proposed zoning amendment, together with recommendations and explanatory materials.

(c) Copies of the Planning Commission's actions as described in this section shall be forwarded to the applicant by the Secretary of the Planning Commission.

(d) Within at least ninety days from receipt of the report from the Planning Commission, the Council shall hold a public hearing pursuant to public notice.

(e) At least forty-five days prior to such public hearing the Borough Secretary/Treasurer shall submit the proposed amendment(s) to the Lawrence or Beaver County Planning Commission, whichever is applicable.

(f) If the proposed amendment involves changing the Zoning Map, notice of the public hearing of Council shall be conspicuously posted at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. Such posting shall be done one week prior to the hearing. (Ord. 2210. Passed 4-21-97.)

**1274.03 CURATIVE AMENDMENTS.**

A land owner who desires to challenge on substantive grounds the validity of this Zoning Code or the Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which he or she has an interest, may submit a curative amendment to the Ellwood City Borough Council with a written request that his or her challenge and proposed amendment be heard as provided in the Pennsylvania Municipalities Planning Code (Act 170 of 1988). As with other proposed amendments, the curative amendment shall be referred to the Ellwood City Planning Commission and the Beaver County or Lawrence County Planning Commission, whichever is applicable, at least thirty days prior to the date of the hearing conducted by Council. (Ord. 2210. Passed 4-21-97.)