

ARTICLE 2

DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

The definition of words included herein are provided to facilitate the interpretation of this Ordinance for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of the Ordinance, the following shall apply:

1. Words used in the present tense shall include the future tense.
2. The word "person" shall include a profit or nonprofit corporation, company, partnership, individual or single proprietorship.
3. The words "used" or "occupied" as applied to any land or building shall include the words "intended", "arranged", or "designed" to be used or occupied.
4. The word "building" shall include "part thereof" and "structure".
5. The word "lot" shall include "plot" or "parcel".
6. The word "shall" is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word "street" shall include "road", "highway", and "lane".

SECTION 202 DEFINITION OF TERMS

For the purpose of this Ordinance, the following words, terms, and phrases have the meaning indicated herein:

ABANDONMENT:

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a building permit.

ABUTTING:

Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESS:

A way or means of approach to provide physical ingress and/or egress to a property.

ACCESSORY STRUCTURE:

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE:

A use incidental to, and on the same lot as, a principal use.

ADULT USES:

Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Entertainment: A nightclub, bar, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use".

ALLEY:

A public right-of-way intended and/or used as a secondary means of access to abutting property.

ALTERATION:

Any change, addition, or modification in construction or occupancy of an existing structure.

ALTERATION, STRUCTURAL:

Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

AMENDMENT:

A change in the regulations and provisions of the Wilkes-Barre Township Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

ANTENNA, COMMERCIAL :

A device used for to collect and/or transmit telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise, which may or may not be regulated by the FCC (Federal Communications Commission).

ANTENNA SUPPORT STRUCTURE, COMMERCIAL :

A tower, pole, mast or similar structure which supports equipment used to transmit and/or receive telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise.

AUTOMOBILE WRECKING YARD: (SEE ALSO JUNKYARDS)

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

AUTOMOTIVE SALES

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this business must have a valid state license for the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

BASEMENT:

That portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is five (5) feet or greater.

BOARDING HOUSE OR ROOMING HOUSE:

A residential structure or portion thereof which contains rooming or boarding units which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. The term "Boarding House or Rooming House," shall specifically exclude the following: a hotel, motel, group residence or dormitory. A structure or portion thereof which contains rooming units which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. The term "Boarding House or Rooming House," shall specifically exclude the following:

Dwelling

Motel and/or Hotel

Dwelling Unit

Group Residence

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance when a buffer area is required it shall be deemed represent a fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting.

BUILDING:

Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Height: The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

CARPORT:

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may be constructed as a separate accessory structure or part of the principal structure.

CAR WASH:

An area of land and/or a structure with machine- or hand-operated facilities used principally for the interior and/or exterior cleaning, washing, polishing, or waxing of motor vehicles.

CELLAR:

The portion of any building which is located partly underground, but having one-half or more of its height, measured from finished floor grade to finished ceiling, below the average grade of the adjoining land. A cellar shall not be counted as a story for the purposes of administering height regulations of this Ordinance.

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CERTIFICATE OF ZONING COMPLIANCE:

The certificate (sometimes called "occupancy permit") issued by the Zoning Officer after he has inspected any structure, building, sign and/or land or portion thereof for which a zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance before the structure, building, sign, and or land or portion thereof can be lawfully used and/or occupied.

CHANGE OF USE:

Any use which differs from the previous use of a building, structure or land.

CHURCH: (SEE PLACE OF WORSHIP)

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the "corner" so as not to interfere with traffic visibility across the corner.

CLINIC (MEDICAL):

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service. A methadone clinic, as so defined in this Ordinance, shall be excluded within the scope of this definition

CLUB: (PRIVATE)

A privately operated facility, with or without membership fees, which provides food, beverages, entertainment and/or social activities to its members, guests or other persons who are enter said facility. Said facility if operating within the context of a "bottle club" as defined under §7329(3) (c) the Pennsylvania Crimes Code shall be operated in full compliance with §7327 and §7329 of the Pennsylvania Crimes Code.

COMMON OPEN SPACE:

A parcel or parcels of land, which may include an area of water, within a development site and designated and intended for the use or enjoyment of residents of a planned residential development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

COMMERCIAL USE:

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMUNITY CENTER:

A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDITIONAL USE:

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Wilkes-Barre Township Council and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

CONDOMINIUM:

A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR'S STORAGE:

A lot, building, or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.

CONVENIENCE STORE:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

CONVENIENCE STORE WITH GAS SALES:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

CRITICAL AREAS

An area with one or more of the following characteristics: stream corridors, streams, flood plain areas, wetlands, slopes which equal or exceed fifteen (15%) percent, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge area.

DAY CARE SERVICES:

The provision of out-of-home care for children or adults for part of a 24-hour day, excluding the care provided by relatives.

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children or adults for part of a 24-hour day, excluding the care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

Means a structure where day care services are provided, with no portion of the structure being used jointly as a portion of a family residence.

DAY CARE HOME:

Means a residential structure in which day care services are provided for more than six (6) persons at any one time, where the care areas are also used as a portion of a family residence.

DENSITY:

The number of dwelling units permitted per net unit of land.

DECISION:

Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be subject to appeal to the Court of Common Pleas of Luzerne County.

DEVELOPMENT:

Any man-made improvements to improved or unimproved real estate. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

DETERMINATION:

Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body;
2. the zoning hearing board; or
3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

DISTRICT:(See Zoning District)

DWELLING:

One or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family.
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

DWELLING UNIT:

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein.

EASEMENT:

A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

ENTERTAINMENT FACILITIES:

Commercial establishments engaged in providing entertainment for a fee or an admission charge, such as a arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

ENVIRONMENTAL IMPACT STATEMENT

A report and/or series of reports on the effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

EXCAVATION AND EXTRACTION OF MINERALS:

Removal or recovery by any means whatsoever of , minerals, as so defined in this Ordinance, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

FENCE:

A structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry. Hedges, shrubbery, and/or similar vegetation shall not be deemed to constitute a fence.

FORESTRY:

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

FLOOD:

The temporary inundation of normally dry land.

FLOOD, ONE-HUNDRED YEAR:

A flood that on the average is likely to occur once every one hundred (100) years, i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year.

FLOODPLAIN:

A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface water from any source.

FLOODPROOFING:

Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to property, structures, and contents of buildings.

FLOODWAY:

The channel of a river, stream, or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood within cumulatively increasing the water surface elevation more than one foot at any point.

FLOOR AREA, GROSS:

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FLOOR AREA RATIO:

Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

FRONTAGE:

The length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

GARAGE, PRIVATE:

A noncommercial building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, REPAIR: (SEE ALSO SERVICE STATION)

A commercial building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

GARDEN APARTMENTS:

Two (2) or more multi-family residential structures, each containing more than two (2) but not more than eight (8) dwelling units, having a common hallway for entrance into such dwelling units.

GASOLINE SERVICE STATION:

A building or premises, or portion thereof, used for the retail sale of gasoline, oil or other fuel, automotive parts, supplies, or accessories for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, but not including liquefied petroleum gas distribution facilities.

GENERAL NUISANCE:

Any use considered to be substantially inconsistent with the public comfort, convenience, health, safety, and general welfare, exhibiting characteristics that include, but may not be limited to the following:

- properties in a continuing state of disrepair that are not fit for human habitation and/or occupancy.
- properties that contain and accumulate trash and/or junk that lack zoning approval as a junkyard and/or as an automobile wrecking yard.
- fire and explosion hazards
- electrical and radioactive disturbances
- noise and vibration
- dust, dirt, and fly ash
- glare;
- smoke and odors
- other forms of air pollution

GOVERNING BODY:

The Township Council of Wilkes-Barre Township, Luzerne County, Pennsylvania.

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four unrelated (4) adult individuals, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting. Individuals providing staff support for the required supervision and/or specialized services, but not maintaining their legal residence at the subject dwelling unit shall not be counted as residents of the dwelling.

The following shall not be deemed to constitute a Group Residence:

- a. A boarding home and/or a personal care boarding home.

- b. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.
- c. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES:

Any material that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics may:

- 1. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness.
- 2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

This definition shall be deemed to include explosives, radioactive material and medical waste and any incendiary device and/or explosive device or material.

HEALTH/RECREATION FACILITY:

An indoor facility including uses such as game courts, exercise equipment, locker rooms, and related facilities.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or Wilkes-Barre Township which authorizes access from a parcel of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

HEIGHT:

The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

HEIGHT OF ANTENNA SUPPORT STRUCTURE, COMMERCIAL:

The vertical distance measured from the base of the antenna support structure to the highest point of the structure. If the support structure is located on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

HOME OCCUPATION:

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOSPITAL:

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

HOTEL: (ALSO SEE MOTEL)

A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

IMPACT ANALYSIS:

A study and/or report, which may be required at the discretion of the Governing Body prior to approval of a conditional use or by the Zoning Hearing Board prior to approval a special exception use, to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the public health, safety and welfare and other factors directly, indirectly or potentially affected. The applicant shall be responsible for all costs related to the any and all reports and/or studies required by the Governing Body or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS." The landowner and/or applicant shall also be responsible to fully reimburse Wilkes-Barre Township for any and all engineering and or other consulting fees which are incurred for the review of any required impact studies or reports for a conditional use.

IMPERVIOUS MATERIAL:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian right-of-ways.

IMPROVEMENTS:

Man-made physical additions, alterations and/or changes which become part of, placed upon, or affixed to real estate.

INDUSTRY, HEAVY:

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT:

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

INSTITUTIONAL USE:

A structure or facility, or portion thereof, that provides medical, health, social and/or rehabilitative services and/or shelter to more than six (6) individuals on a continual and/or

regular basis, excluding any use of the subject property for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution or agency or a "Methadone Clinic," as so defined in Article 2 of this Ordinance.

JUNK:

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof

JUNKYARD (See also Automobile Wrecking Yard):

An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

LAND DEVELOPMENT: The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- (A) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, a single nonresidential building on a lot or lots with two (2) or more occupants regardless of their tenure, or a single nonresidential building, designed or intended for a single occupant, with a minimum gross floor area of not less than twenty thousand (20,000) square feet.
- (B) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.
- (C) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (D) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.
- (E) the development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.
- (F) a single residential structure containing five (5) or more residential units.

LAND DEVELOPMENT: MAJOR: A land development which does not qualify or classify as a minor land development.

LAND DEVELOPMENT: MINOR: A development of a parcel of land which contains not more than three (3) detached single family residential structures, whether developed initially or cumulatively.

LANDOWNER:

The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a propriety interest in land.

LOT:

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit, for principal and accessory buildings or structures.

LOT AREA:

The total horizontal area within the lot lines of a lot.

LOT, CORNER:

A lot abutting on and at the intersection of two (2) or more streets.

LOT COVERAGE:

Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures, by the gross area of that lot.

LOT DEPTH:

The average horizontal distance between the front and rear lot lines.

LOT LINE:

A line dividing one lot from another lot or from a street or alley.

LOT LINE, REAR:

The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on the effective date of the adoption of this Ordinance.

LOT, THROUGH:

A lot having its front and rear yards each abutting on a street.

LOT WIDTH:

The horizontal distance between side lot lines, measured at the required front setback line.

MANUFACTURED HOME:

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational and other similar vehicles placed upon a site for more than 180 consecutive days.

MANUFACTURED HOME PARK:

A parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes.

MEDIATION:

A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

METHADONE CLINIC:

A facility licensed by the Pennsylvania Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

MOBILE HOME:

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

MOBILE HOME LOT:

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK:

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

MOTEL (See also Hotel):

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

MUNICIPALITY:

The Township of Wilkes-Barre, Luzerne County, Pennsylvania.

NO IMPACT HOME BASED BUSINESS:

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer,

client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use. The business or commercial activity must also comply with supplemental requirements contained within Article 8 of this Ordinance.

NONCONFORMING LOT:

A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE:

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE:

A use, whether of land or of structure, which does not comply with the applicable use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

OFFICES:

PROFESSIONAL OFFICE:

An office (other than a service office) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, veterinarians, engineers, artists, musicians, teachers, and others who, through training, are qualified to perform services of a professional nature.

SERVICE OFFICE:

An office in which are offered services by real estate agents, travel agents, insurance agents, accountants, public stenographers, brokers, or others who, through training, are duly qualified to perform services of an executive nature as distinguished from a professional office.

OPEN SPACE:

An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR STORAGE:

The keeping, in an unroofed area, of any goods, material, merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste,

hazardous substances, refuse, junk, junked vehicles discarded and/or any inoperative durable items,

PARCEL:

A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PARKING LOT

An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

PARKING, SHARED:

The development and use of parking areas on two (2) or more separate properties for joint use by the business on those properties.

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PERMITTED USE:

Any use which is specifically authorized in a particular zoning district.

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, barber shops, beauty parlors, and related activities.

PLACE OF WORSHIP:

A building used for religious services, including churches, synagogues, mosques and similar edifices.

PLANNING COMMISSION:

The Planning Commission of Wilkes-Barre Township.

PLANNED RESIDENTIAL DEVELOPMENT:

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or type of dwelling density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this Ordinance.

PRINCIPAL USE:

The main use of land or structures, as distinguished from a secondary or accessory use.

PRIVATE:

Something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

PUBLIC:

Something owned, operated and supported by the municipality or the residents for the use and benefit of the general public.

PUBLIC HEARING:

A formal meeting held pursuant to public notice by the Governing Body, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.

PUBLIC MEETING:

A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

PUBLIC NOTICE:

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

PUBLIC USES:

Public parks and administrative, cultural and service buildings excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

PUBLIC UTILITIES FACILITIES (ESSENTIAL):

Telephone, electric and cable television lines, equipment structures; water or gas pipes, mains, valves, or other structures, pumping stations; telephone exchanges and all other facilities, equipment and structures, excluding storage yards, necessary for conducting a service by public utility, under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended

RECREATIONAL FACILITIES, COMMERCIAL:

Recreational facilities operated as a business and open to the public for a fee.

RECREATIONAL FACILITIES, PRIVATE:

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

REPORT:

Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed to be a recommendation and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and

all other parties to any proceedings upon request, with copies thereof provided at the cost of reproduction.

RESTAURANT (EATING AND DRINKING ESTABLISHMENT):

A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in indispensable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, FAST-FOOD:

An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared or prepared, fried, or grilled quickly, 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.

RIGHT-OF-WAY:

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or other special use.

SATELLITE DISH ANTENNA (NONCOMMERCIAL):

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations. TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SCHOOL:

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools that are licensed by the State as such.

SEATING CAPACITY:

The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the most recent BOCA Code.

SELF-SERVICE STORAGE FACILITY:

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to individuals for the storage of the individual's property, possessions or wares.

SERVICE STATION:

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted.

SETBACK:

The required minimum horizontal distance between the building line and the related front, side or rear property line.

SEWAGE DISPOSAL, CENTRALIZED

A sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Protection, in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal facility.

SEWAGE DISPOSAL, ON-LOT:

Any facility designed to biochemically treat sewage within the boundaries of an individual lot in accordance with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.

SHOPPING CENTER:

A grouping of retail business and service uses on a single site with common parking facilities.

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form.

SITE PLAN:

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and features proposed for a specific parcel of land.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment designed to effectively minimize soil erosion and sedimentation measures requiring approval by the Luzerne County Conservation District.

SPECIAL EXCEPTION:

A use which may only be permitted in a particular zoning district, by special approval, granted by the Zoning Hearing Board in accordance with the applicable provisions of this Ordinance.

SOCIAL HALL:

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

SOLID WASTE OR WASTE:

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, excluding "Hazardous Substances" as so defined by this Ordinance and "Hazardous Waste", as so defined by the Pennsylvania Department of Environmental Protection, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste or waste, as so defined by this Ordinance.

STORY:

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story if its ceiling equals or exceeds five (5) feet of the finished ground surface adjoining the exterior walls of such story.

STREET:

A public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

STRUCTURE:

Any man-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

SUBDIVISION:

The division or redividing of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- A. **Subdivision; Major:** Any subdivision which does not qualify or classify as a minor subdivision.
- B. **Subdivision; Minor:** A subdivision of a parcel of land into not more than six (6) lots, which has frontage along an existing street, which does not adversely affecting the remainder of the parcel or adjoining property, and not involving or requiring any of the following:

The extension or improvement of any street.

The extension of any municipal facilities or public utilities.

The construction of any improvements required in the subdivision of land or to service or otherwise provide access to lots within a proposed subdivision.

TEMPORARY STRUCTURE

A structure without a foundation or footings that is capable being removed from a property when the designated time period for the activity or use for which the structure was erected has ceased.

A temporary structure shall include, but may not be limited to trailers, tents, storage containers and/or devices similar structure used to enclose goods and material.

TEMPORARY USE

A use established for a limited duration with the provision to discontinue the use upon the expiration of the designated approved time period.

TOWER: (SEE ANTENNA SUPPORT STRUCTURE, COMMERCIAL)

A tower, pole, mast or similar structure which supports equipment used to transmit and/or receive telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise.

TOWNSHIP:

Township of Wilkes-Barre, Luzerne County, Pennsylvania.

TOWNHOUSE:

A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than seven (7) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.

TRANSFER STATION:

A facility which receives and temporarily stores solid waste at a location other than the generation site, which facilitates the bulk transfer of accumulated solid waste to a another facility or site for further processing and/or disposal of said solid waste. Said use shall be classified and regulated as a " Solid Waste Facility".

TRUCKING FACILITY:

A structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1509 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of material that are inflammable, explosive, hazardous or commonly recognized as offensive.

WATERCOURSE:

A permanent or intermittent stream, river, brook, creek, or channel or ditch for collection and conveyance of water, whether natural or man-made.

WETLANDS:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in The State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

WIRELESS COMMERCIAL COMMUNICATION SITE:

A tract or parcel of land containing a commercial antenna, its support structure, accessory building(s), and parking.

YARD:

An open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance.

YARD, FRONT:

A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR:

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SIDE:

A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT:

A portion of Wilkes-Barre Township illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

ZONING HEARING BOARD:

The Zoning Hearing Board of Wilkes-Barre Township, Luzerne County, Pennsylvania.

ZONING MAP:

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Wilkes-Barre Township, Luzerne County, Pennsylvania.

ZONING OFFICER:

The administrative officer appointed by the Governing Body to administer and enforce the Zoning Ordinance of Wilkes-Barre Township, Luzerne County, Pennsylvania.