

An "Adult Live Entertainment Use or Facility" shall be considered an "Adult Business" for the purpose of this Ordinance

Adult Motel A hotel, motel or similar commercial establishment which:

- A Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or,
- B Offers sleeping rooms for rent three (3) or more times in one calendar day

An "Adult Motel" shall be considered an "Adult Business" for the purpose of this Ordinance

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" An "Adult Motion Picture Theater" shall be considered an "Adult Business" for the purpose of this Ordinance

Adult Theater A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities" An "Adult Theater" shall be considered an "Adult Business" for the purpose of this Ordinance

Agricultural Use: The use of any parcel of land for economic gain in the raising of agricultural products, livestock, poultry and/or dairy products. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels; and excluding the disposal or use of sludge, septage or similar waste products

Agriculture Products Processing An industry that involves the processing of raw agricultural products, and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as tanneries, dairies and food canning and freezing operations

Aircraft Any contrivance used for manned ascent into or flight through the air

Aircraft Sales, Repair or Modification An establishment engaged in the sales, service and/or repair, or modification of any aircraft as its principal use

Airport In general, any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon, excluding helicopters and other vertical land/take-off aircraft, land and take-off

Alley A public or private thoroughfare affording only secondary access to abutting properties

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

Amusement Arcade A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained. The use of less than five (5) such devices shall be permitted as an accessory use to any lawful principal commercial use

Amusement Park A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities

is adequately screened.

**Junk Yard:** An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The following shall also be considered junk yards:

- A. The outside storage or deposit on a lot of two (2) or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition; and,

Vehicle sales lots managed by licensed vehicle dealers operated in accord with the Township Zoning Ordinance shall not be considered junk yards.

**Kennel:** Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition shall also include any veterinary clinic with outdoor animal runs.

**Land Development:** Any of the following activities.

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, or
  - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features
- B. A subdivision of land

The definition of land development shall not include

- A. The addition of an accessory building on a lot or lots subordinate to an existing principal building,
- B. The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three (3) residential dwelling units, unless such units are intended to be a condominium

**Landowner:** The legal or beneficial 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 a landowner, or other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Ordinance.

**Living Space:** The sum of the areas of the several floors of a dwelling unit used for human occupancy and including finished basements and attics as measured from the interior faces of the walls. It does not include cellars, crawl spaces, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance.

**Livestock Operation:** The raising or keeping of livestock. (See §803.2)

**Livestock:** Any domesticated animals other than normal household pets including, but not limited to cattle, bison, sheep, goats, llamas, swine, fowl, rabbits, insects and fur bearing animals.

**Lot:** A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

**Lot, Existing of Record:** Any lot or parcel of property which was legally in existence and properly on file with the Lackawanna County Recorder of Deeds prior to the effective date of this Zoning Ordinance, as amended.

- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections "A", "B" and "C" of this definition.

Stable, Commercial A structure or land where horses are kept for remuneration, hire, sale, boarding, riding or show, and which includes the commercial hire of horses to the general public for riding or other purposes (See §805.3)

Stable, Private: An accessory structure or use of land where horses are kept for the sole use of the residents of the principal structure, and which includes no remuneration, hire, boarding or other commercial use (See §805.2)

Storage Yard For Forest Products and Stone: An area, not on the same parcel where the products are initially harvested or gathered, to which trees, forest products, flag stone, landscaping stone, or wall stone are hauled and stored, and which does not involve any of the following: the operation of a sawmill, the operation of any other wood manufacturing business, or the operation of any natural resources processing.

Story (And Half-story): A level of a building routinely accessible to humans having an average vertical clearance six (6) feet or greater shall be considered a full story, except as provided for in the definition of "basement " Any level of a building having an average vertical clearance from floor to ceiling of less than six (6) feet shall be considered a "half-story "

Street A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley "Public rights-of-way" shall be those open to the general use of the public, not necessarily publicly dedicated

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water

Structure, Permanent Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structure, Portable Anything constructed that is not permanently affixed to the ground but is designed to be moved from place to place

Structural Alteration Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

Subdivision The division or redivision of a lot, tract, or parcel of land by any means into two (2) 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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted

Tavern A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur (See also the definition of "restaurant" )

Theater A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or adult movie theater

Therapeutic Massage Facility A service establishment that meets all of the following criteria

- A. Massages are conducted (see definition), and,
- B. The person conducting the massage is licensed by the state as a health care professional or a therapeutic massage

- D. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means
- E. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance.
- F. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 805. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.
- G. Existing Structures - On parcels meeting the minimum parcel size requirement, the use of an existing structure for housing of horses, which structure does not meet the required setbacks on Table 805-1, may be permitted as a conditional use provided the applicant can document that no nuisances will be created due to noise, odor or other factors, and, the Township can establish adequate conditions to assure the same.
- H. Trails - Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width
- I. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for manure management
- J. Uses Permitted - The following types of uses shall be permitted as part of the operation:
1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures
  2. Training of horses, and necessary buildings and structures, including facilities for training only, which are set back a minimum of one hundred and fifty (150) feet from all neighboring and adjoining property lines and any public or private road right-of-way
- K. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation:
1. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests
  2. Boarding of horses
  3. Commercial horse racing
  4. Sale of horses other than the horses raised on the premises
  5. Retail or wholesale sales of any goods or merchandise except as may otherwise be permitted in accord with this Zoning Ordinance

#### 805.3 Stables, Boarding, Commercial and Horses for Hire

Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. Parcel Size - A minimum parcel of twenty-five (25) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other Sections of this Ordinance and other applicable standards are met
- B. Number of Horses - No more than ten (10) horses are kept with the exception that one (1) additional horse may be kept for each additional one (1) acre of land in excess of the minimum acreage required in §805.3.A

- C. Building Size - The building used to house the horses shall not be less than two hundred (200) square feet in size for one (1) horse, with an additional two hundred (200) square feet for each additional horse.
- D. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means
- E. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises
- F. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 805. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback
- G. Trails - Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width.
- H. Nuisances, Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for manure management
- I. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation
- 1 Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
  - 2 Training of horses, and necessary buildings and structures, including facilities for training only, which are set back a minimum of one hundred and fifty (150) feet from all neighboring and adjoining property lines and any public or private road right-of-way
  - 3 Boarding of horses, and necessary buildings and structures
  - 4 The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests
  - 5 Sale of horses other than the horses raised or boarded on the premises
- J. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation
- 1 Commercial horse racing (See definition of "private recreation facilities")
  - 2 Retail or wholesale sales of any goods or merchandise except as may otherwise be permitted in accord with this Zoning Ordinance.

#### **806 - 807 Reserved**

#### **808 Bulk Fuel Storage Facilities**

In addition to all other applicable standards, bulk fuel storage facilities shall be subject to the specific regulations and requirements in this section and shall be permitted only in those districts as specified in the Schedule of Uses. The Township shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

##### **808.1 Parcel Size**

Bulk fuel storage facilities shall be located on a tract of land not less than three (3) acres in area

- D Applications for variances from the terms of the Zoning Ordinance pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.
- E Applications for special exceptions under the Zoning Ordinance pursuant to §912.1 of the Pennsylvania Municipalities Planning Code and the requirements of this Ordinance
- F. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the Pennsylvania Municipalities Planning Code.
- G Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications
- H The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular district.

#### **1106 Zoning Hearing Board -- Hearings and Decisions**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code, as amended, and the provisions of this §1106. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final. (For the purposes of this section *Board* shall mean *Board or Hearing Officer*, if a hearing officer is appointed.)

##### 1106.1 Notice of Hearings

Notice of all hearings of the Board shall be given as follows

- A Advertisement - Public notice shall be published, as defined by §107 of the PA. Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature and property address of the matter to be considered
- B. Posting - Notice of such hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Such notice shall state the time and place of the hearing and a general description of the request
- C Persons Given Notices - All notice under this sub-section should be intended to be received or posted at least five (5) days prior to the hearing date
  - 1 Written notice shall be mailed or personally delivered to the Applicant or his/her representative listed on an official application form.
  2. Notice may be delivered or mailed to the Chairperson of the Planning Commission or Township Secretary, and the last known address of owners of record of property abutting or directly across the street from the boundaries of the subject property. The applicant shall provide the Township with a list of such property-owners. Failure of the Township to notify all such persons shall not invalidate any action by the Board.
  - 3 Also, such notice shall be mailed or delivered to the address of any other person or group (including civic or community organizations) who has made a written timely request (including an address) for such notice.

**RA - RURAL AGRICULTURAL DISTRICT -- SCHEDULE OF USES**

INTENT: To permit, protect and encourage the continued use of land for agriculture and forestry enterprises. The district is composed of those areas of the Township where agriculture and forestry enterprises are the predominant land uses. The regulations applicable in the district are designed to protect and stabilize the essential elements of the district's existing character, to minimize conflicting land uses detrimental to agriculture and forestry enterprises, to limit development which requires community facilities in excess of those required for agriculture and forestry enterprises, and to maintain land in parcels of adequate size to support economically viable agricultural and forestry operations. Concurrently, a number of other limited non-agricultural uses are permitted to enable the owners of large parcels of land to realize reasonable income from their land, thereby forestalling its sale for development

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> <li>- Bed and breakfast establishments</li> <li>- Commercial greenhouses and nurseries</li> <li>- Crop production</li> <li>- Forestry enterprises</li> <li>- Livestock operations</li> <li>- Retail sales of agricultural / forestry products produced and/or processed on the premises</li> <li>- Retail sales limited to 1,000 sq ft of agricultural / forestry related products and produce in association with an active agriculture / forestry use</li> <li>- Single-family detached dwellings</li> <li>- Stables, private in association with a single-family detached dwelling</li> </ul>	<ul style="list-style-type: none"> <li>- Agricultural products processing only for products raised on the premises</li> <li>- Aircraft sales, repair or modification</li> <li>- Airports, private and public</li> <li>- Commercial communication device sites</li> <li>- Detention facilities</li> <li>- Junkyards</li> <li>- Natural resource uses</li> <li>- Race tracks</li> <li>- Sawmills</li> <li>- Shooting ranges, outdoor</li> <li>- Treatment centers/clinics</li> </ul>	<ul style="list-style-type: none"> <li>- Archery ranges, outdoor</li> <li>- Cemeteries</li> <li>- Contractor's yards</li> <li>- Day care, adult</li> <li>- Day care, child</li> <li>- Group homes</li> <li>- Home based businesses</li> <li>- Kennels</li> <li>- Places of worship</li> <li>- Public and semi-public buildings and uses</li> <li>- Public parks and playgrounds</li> <li>- Recreational facilities, public</li> <li>- Schools, public or private primary or secondary</li> <li>- Shooting ranges, outdoor</li> <li>- Stables, boarding, commercial, and horses for hire</li> <li>- Storage yards for forest products and stone</li> <li>- Veterinary clinics</li> <li>- Wind farms</li> </ul>	<ul style="list-style-type: none"> <li>- Accessory uses customary to approved uses</li> <li>- Essential services</li> <li>- Home gardens, home greenhouses and home nurseries</li> <li>- Home occupations*</li> <li>- Pets, keeping of</li> <li>- Private garages, carports, sheds</li> <li>- Private swimming pools</li> <li>- Required parking areas</li> <li>- Signs accessory to approved uses</li> <li>- Satellite dish antennae</li> <li>- Yard sales</li> </ul> <p>*NOTE see §503 which classifies certain home occupations as conditional uses</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RA District