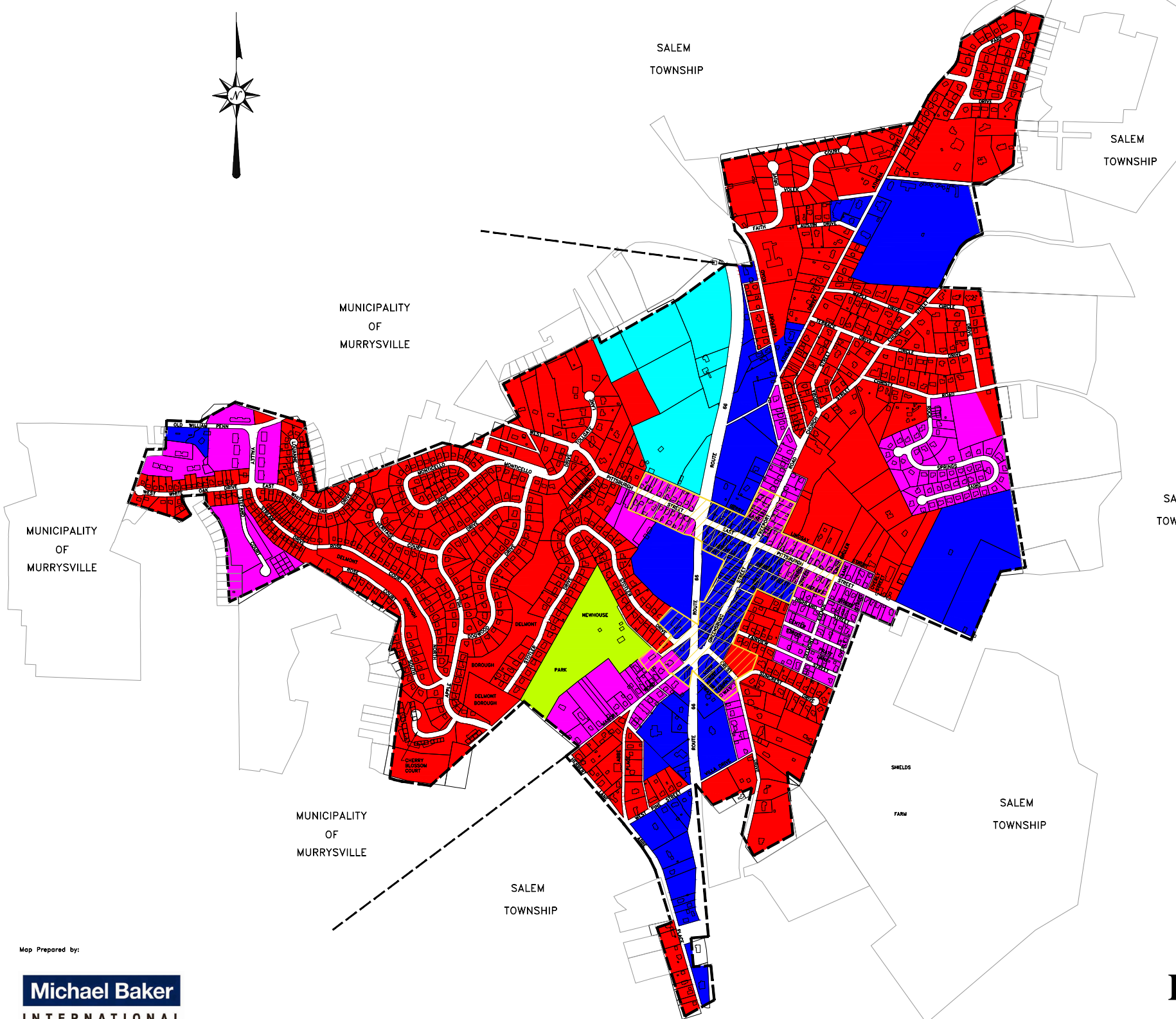

BOROUGH OF DELMONT

Zoning Ordinance

NOVEMBER 2017
MICHAEL BAKER INTERNATIONAL



CRAMER PUMP STATION

Adopted this ____ day of _____, 2017 by the Delmont Borough Council by Ordinance _____.

Delmont Borough Council Members:

- | | |
|------------------|--|
| Mayor | Alyce Urban |
| President | Andrew Shissler |
| Vice President | Rebecca Matesevack |
| Member | Debra Jobe |
| Member | Ann Lantz |
| Member | David Piper |
| Member | David Weber |
| Member | Stanley Cheyne |
| Solicitor | Daniel J. Hewitt McDonald & Snyder, P.C. |
| Borough Engineer | Gary Baird, Kevin Brett Lennon, Smith, Souleret Engineering, Inc. |

LEGEND

- | | | |
|--|------|-----------------------------------|
| | R-1 | SINGLE-FAMILY RESIDENTIAL |
| | R-2 | GENERAL RESIDENTIAL |
| | C | CONSERVATION |
| | C-1 | NEIGHBORHOOD COMMERCIAL |
| | C-2 | GENERAL COMMERCIAL AND INDUSTRIAL |
| | CBDO | CENTRAL BUSINESS DISTRICT OVERLAY |
| | | MUNICIPAL BOUNDARY |

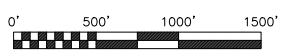
| REVISION NO. | REVISION DATE | REVISION DESCRIPTION |
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Note:
Mapping and property lines based on Delmont Borough Zoning Map completed by Roy Barclay, P.E. dated March 1994.
The official Delmont Borough Zoning Map is on file at the Borough Offices. This reproduction is not the official Zoning Map and all zoning interpretations shall be made from the official Zoning Map on file.

ZONING MAP DELMONT BOROUGH

Westmoreland County, Pennsylvania
77 Greensburg Street
Delmont, PA 15626
724-468-4422

Map Prepared by:
Michael Baker
INTERNATIONAL
100 Airside Drive
Moon, PA 15108
Phone: 412-269-6300



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Article I: General Provisions

§ 130-100. Title

The official title of this Chapter is the "Delmont Zoning Ordinance."

§ 130-101. Statutory Authority

This Chapter is adopted by virtue of the authority granted to the Borough by the State in the Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, P.L.805, No.247 as reenacted and amended.

§ 130-102. Interpretation

In the event of conflicts between the provision of this Chapter and any other ordinance or regulation, the more restrictive provisions shall apply. In the interpretation and application, the provisions of this Chapter shall be considered minimum requirements adopted for the promotion of the health, safety, and general welfare of the public. In interpreting the language of this Chapter to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Borough Council, in favor of the property owner and against any implied extension of the restriction.

§ 130-103. Purpose and Findings

These regulations are adopted in accordance with the MPC and the community development objectives set forth in this Chapter. The purpose of this Chapter is to:

- A. To promote, protect, and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations of airports and national defense facilities; the provision of adequate light and air; access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds; the provision of a safe, reliable, and adequate water supply for domestic, commercial, agricultural, or industrial use, and other public requirements; as well as preservation of the natural, scenic, and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains.
- B. To prevent one or more of the following: overcrowding of land, blight, danger, and congestion in travel and transportation, loss of health, life, or property from fire, flood, panic, or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and 2-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

§ 130-104. Community Development Objectives

Consistent with the goals and objectives of Delmont Borough, it is the intent of this Chapter to achieve the following Community Development Objectives:

- A. To protect and preserve existing neighborhoods while encouraging reinvestment and revitalization.
- B. To encourage the use and expansion of alternative transportation modes, including pedestrian and bicycle modes.
- C. To provide for orderly growth of an economically balanced and socially vital community.
- D. To preserve, protect, and enhance the existing character of the Borough and provide the amenities, both public and private, that are necessary to achieve this objective.
- E. To encourage the conversion, rehabilitation, reuse, and redevelopment of existing vacant and underutilized structures in a manner consistent with community goals and objectives.
- F. To aid in bringing about the most beneficial relationship between land use and circulation throughout the Borough, with particular regard to vehicular traffic and the avoidance of congestion in the streets, and provision of safe and convenient access appropriate to the various uses.
- G. To exclude activities from residential areas that may not be compatible with residential development and/or stability.
- H. To encourage sufficient commercial enterprise to satisfy community needs and afford a broad range of sufficient commercial opportunities to ensure the fiscal health of the community.
- I. To provide for the retention and addition of commercial uses in the Borough, maintaining high standards of design and construction.
- J. To promote the most desirable use of land and development to ensure stability of commercial development that will strengthen the economic base of the Borough, protect the character of the central business district, and enhance the character of the Route 66 corridor.
- K. To develop, maintain, and upgrade commercial areas along Route 66 through emphasis on proper access, adequate parking, and loading facilities; and to promote greater efficiency and improved appearances in commercial uses through careful application of design standards.
- L. To continue to promote adaptive reuse and appropriate development in the central business district including the repurposing of existing structures to preserve historic features.
- M. To provide reasonable standards for the harmonious development of business and professional offices, and other uses and accessory uses.
- N. To provide for a commercial/residential mix in the central part of the community, to avoid commercial uses incompatible with the pedestrian environment, and to minimize traffic congestion on the streets, provide for public conveniences, and fulfill the other broad purposes of this Chapter.
- O. To encourage pedestrian traffic that benefits existing downtown businesses.
- P. To ensure availability of land most suitable for industrial and related activities, and to protect residential neighborhoods from industrial encroachment.
- Q. To ensure that residential properties are reasonably free from offensive noise, vibration, smoke, odor, glare, hazards, or fire, or other objectionable effects of industrial or commercial uses.

In accordance with the purposes and objectives of this Chapter, and to the extent that regulation of certain activities is preempted by other Federal or State laws, this Chapter establishes regulations governing the following:

- A. Uses of land, watercourses, and other bodies of water.

- B. Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal, and use of structures.
- C. Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.
- D. Density of population and intensity of use.
- E. Protection and preservation of natural and historic resources and prime agricultural land and activities.

§ 130-105. General Compliance

- A. No land shall be used or occupied and no structures shall be designed, erected, altered, used, or occupied except in conformity with this Chapter and in compliance with all standards, and upon performance of all conditions attached to any use approval, variance, appeal, rezoning, subdivision and land development approval, planned residential approval, or site plan approved pursuant to all land use regulations of the Borough.
- B. No person, firm, or corporation and no officer or employee (either as owner or as participating principal, agent, servant, or employee of such owner) shall sell, rent, or lease, or offer or attempt to sell, rent, or lease, any land or structure upon the representation, falsely made and known to be false, that such land or structure may be used or occupied in a manner or for a use prohibited by this Chapter.
- C. The requirements of this Chapter shall apply to all zoning districts, lots, structures, land developments, and subdivisions in the Borough.

§ 130-106. Applicability of Regulations

- A. Use of Property. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. Restrictions. No building shall hereafter be erected or altered:
 - 1. To exceed the height;
 - 2. To accommodate a greater number of dwelling units;
 - 3. To occupy a greater percentage of lot area; or
 - 4. To have narrower or smaller rear yards, front yards, or side yards than are specified herein for the district in which such building is located.
- C. Nothing herein contained shall require any change in plans, construction, or designated use of buildings or land for which prior approval has been granted and the construction of which shall have been diligently started within one year of the date of such approval and the entire project shall be completed within 2 years from the effective date of these standards.

Article II: Definitions

§ 130-200. Word Usage

For the purposes of this Chapter, the following rules of usage and interpretation shall apply, unless the context indicates otherwise. In the interpretation of this Chapter, the provisions and rules of this Chapter shall be observed and applied, except when the context clearly requires otherwise.

- A. Words in the present tense include the future.
- B. Words in the singular include the plural and the plural the singular.
- C. The word "shall" is mandatory.
- D. The word "lot" shall include the word "plot" or "parcel."
- E. The word "person" includes a firm, company, corporation, partnership, trust, organization, or association, as well as an individual.
- F. A building or structure includes any part thereof.
- G. The word "and" indicates that all connected items, conditions, provisions, or events shall apply.
- H. The word "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- I. The words "either," "or" indicate that the connected items, conditions, provisions, or events may apply singly but not in any combination.
- J. The word "Borough" means the Borough of Delmont, Pennsylvania.
- K. The word "County" means the County of Westmoreland, Pennsylvania.
- L. Any use of the gender specific words (his, hers, him, her) shall imply both genders.
- M. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, or table, the text shall control.
- N. When a word or phrase is not specifically defined in this Chapter, or referenced in another Chapter, then the common meaning of the word or phrase, or the definition contained in Webster's Dictionary, most current version, shall apply.

§ 130-201. General Definitions

When used in this Chapter, the following words, terms, and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise.

ACCESSORY BUILDING – A building subordinate to the principal building used for purposes customarily incidental to those of the principal building.

ADULT-ORIENTED BUSINESS – Adult-oriented businesses are classified as follows and further defined in § 130-202 Adult-Oriented Business Definitions.

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;

- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

AGRICULTURAL PET – Chicken, turkey, rabbit, duck, goat, potbelly pig, or other animals of similar nature that are typically raised for human consumption in the United States of America.

AGRICULTURAL USES – Any use of land or structure for farming, dairying, pasturage, horticulture, floriculture, arbor culture, or animal or poultry husbandry, or the producing for sale or use, as a principal activity or use of the premises, of domestic livestock, dairy products, poultry, eggs, fruit, vegetables, or other such crops typical of the locality; the work of cultivating the soil, producing crops, fowl, or livestock including the storage of farm equipment. Agricultural uses do not include the raising of fur-bearing animals, agricultural research and development, boarding stables or riding academies, commercial composting or kennels, which are separately defined herein and regulated as a use by special exception under the terms of this Chapter. Accessory structures permitted in conjunction with an agricultural use may include barns, stables, corncribs, silos, and any other use or structure that is clearly related to an agricultural operation.

ALTERATION – As applied to a building or structure, a change or rearrangement in the structural part or in the entrance and exit facilities or in the enlargement, whether by extending, as a side or by increasing in height, or the moving from one location to another.

AMBIENT NOISE LEVEL – The ambient noise level is the all-encompassing noise associated with a given environment, being a composite of sounds from any source, near and far. For this Chapter, ambient noise level is the average decibel level recorded during observations taken in accordance with industry standards for measurement and taken at any time when the alleged offensive noise is audible, including intermittent, but recurring, noise.

ANIMAL HOSPITAL OR VETERINARIAN OFFICE – An establishment where animals are examined and treated by veterinarians and which may include kennels for temporary boarding of animals during treatment.

ARTISAN MANUFACTURING AND SMALL-SCALE PRODUCTION – An establishment, in conjunction with or without a dwelling, designed for the preparation, instruction, display and/or sale of individually crafted work related to artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, literature, or performance of fine arts such as but not limited to drawing, vocal, or instrumental music. This use may not exceed 2,000 square feet; if the use exceeds 2,000 square feet, applicable industrial/manufacturing standards shall apply.

ASSISTED LIVING FACILITY – A residential building or group of buildings designed to provide multifamily dwelling units for elderly or physically or mentally disabled persons who are independently mobile and are not in need of the level of service provided by a personal-care boarding home, but that provides on-site supervision and assistance available to the residents on an occasional, "as-needed" basis, and where at least one meal each day is provided in a common dining area. Because of the common dining facilities, dwelling units may not be designed to include a full kitchen; however, they are designed with certain additional features associated with the needs of the elderly that are not customary in the construction of conventional multifamily dwelling units, such as emergency call systems, common dining facilities, common laundry facilities, minimal housekeeping services, common leisure and recreational facilities, transportation services, and similar supporting services for the convenience of the residents.

AUTOMOBILE-ORIENTED GOODS AND SERVICES – Any use that primarily focuses on retail automobile business. This includes automobile rental, automotive repair, automobile sales and service, gasoline service station, car wash, and fuel/energy recharge station.

Article II: Definitions

AUTOMOBILE RENTAL – The rental of automobiles, motorcycles, and trucks under 26,000 pounds gross vehicle weight (GVW), but not including any heavy equipment or any other vehicle or equipment that is not classified as a "motor vehicle" under the Pennsylvania Motor Vehicle Code.

AUTOMOBILE SALES AND SERVICE – A business establishment used for the display or sale of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, and/or or boats under 26,000 pounds gross vehicle weight (GVW), but not including any heavy equipment or any other vehicle or equipment which is not classified as a "motor vehicle" under the Pennsylvania Motor Vehicle Code. Such use may also include the servicing or repair of vehicles of the brand of vehicles sold at the establishment.

AUTOMOTIVE REPAIR – A building, or part thereof, used for the servicing and repair of motor vehicles, including engine overhaul, body work, and recapping/retreading of tires.

BEACON LIGHTING – Any lighting, portable or fixed, that directs one or more beams skyward or illuminates one or more sign, structure, or object not on the same lot or site.

BED AND BREAKFAST – An existing residential structure converted for use from a single-family dwelling to a facility for the boarding of overnight guests on a limited basis.

BOARDING HOUSE – A building other than a hotel or motel where lodging is provided for compensation. This shall not include a bed and breakfast.

BREWERY WITH SALES – A building or establishment for brewing beer or other malt liquors where the brewed beverages are also available for sale. The brewing operation may not exceed 10,000 barrels per year of beer, wine, or other spirits.

BUFFER AREA or BUFFER YARD – Any strip or area of land that is planted and maintained with shrubs, bushes, trees, grass, other vegetation, or other landscaping material as required by the Borough of Delmont.

BUFFER FENCE – Any fence as defined in this Chapter, the construction and/or maintenance of which is required by the Borough of Delmont.

BUILDING LINE – An imaginary line located a fixed distance from the front line of the lot and interpreted as being the nearest point that a building may be constructed to the front lot line. The building line shall limit the location of porches, patios, and similar construction, steps excepted, to the face of this line.

BUILDING OR STRUCTURE – Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things these include, but are not limited to, mobile homes, walls, fences, billboards, and carports.

CAMPING AND RECREATIONAL EQUIPMENT – Any licensed or unlicensed trailer or other vehicle designed or used for living or sleeping purposes, regardless of whether the wheels are attached or unattached, the trailer is of a permanent nature, or utilities are attached thereto. Camping and recreational equipment shall include travel trailers, pickup coaches, motorized homes, and boat trailers and shall be defined as follows:

- A. **TRAVEL TRAILER** – A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation purposes, permanently identified as "travel trailer" by the manufacturer of the trailer, and, when factory equipped for the road, having a body width not exceeding 8 feet and being of any length, provided its gross weight does not exceed 4,500 pounds, or being of any weight, provided its body length does not exceed 29 feet.
- B. **PICKUP COACH** – A structure designed primarily to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.
- C. **MOTORIZED HOME** – A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- D. **BOAT** – A vessel not exceeding 20 feet in length and designed to travel on water.
- E. **BOAT TRAILER** – A trailer designed to haul a boat, as defined above.

CANOPY TREE – A deciduous tree planted primarily for its high crown of foliage or overhead canopy. A canopy tree at maturity reaches a height of at least 45 feet.

Article II: Definitions

CARE OF HOUSEHOLD PETS – A facility providing such services as day care for household pets for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

CAR WASH – A structure used for the purposes of cleaning or reconditioning the exterior and/or interior surfaces of automotive vehicles. Not including an incidental one-bay washing facility in an automobile service station, where washing facilities are purely incidental to the operation of said service station. A self-operated facility not requiring attendance or employees, regardless of capacity, is also considered a car wash.

CEMETERY – Land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

COLLEGE OR UNIVERSITY – A place of instruction operated by a public, private, non-profit, or religious organization, having regular sessions, with regularly employed instructors and meeting all the requirements of the Pennsylvania Department of Education for providing post-secondary, undergraduate, and/or graduate collegiate education. This definition shall not include privately operated, for-profit trade, vocation, avocation, or business schools.

COMMERCIAL – Engaging in a business, enterprise, activity, or other undertaking for profit.

COMMISSION, PLANNING – The legally appointed Planning Commission of the Borough or the Planning Committee as designated by Borough Council.

COMMUNICATIONS ANTENNA – Any device used for the transmission or reception of radio, television, wireless telephone, page, commercial mobile radio service, or any other wireless communications signals, including, without limitation, omni-directional or ship antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include facilities used primarily for government, safety, or emergency service uses; private residence mounted satellite dishes or television antennas; or amateur radio equipment, including, without limitation, ham or citizen band radio antennas.

COMMUNICATIONS EQUIPMENT BUILDING – An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 25 square feet.

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

COMMUNITY GARDENING/FARMING – Growing of flowers, plants, or vegetables for consumption by the persons gardening and not for sale, either on or off the premises. This does not include home gardening on private residential lots.

CORRECTIONAL FACILITY – A jail, prison, or other place of incarceration by government officials.

COUNCIL – The legislative body of the Borough of Delmont.

DATA COLLECTION UNIT (DCU) – A cabinet-type facility that can be attached to an existing or proposed utility pole or a similar pole.

DAY CARE – A facility licensed by the Commonwealth of Pennsylvania, located within a building, which building is not used as a dwelling, for the care, during part of a 24-hour day, of adults who are handicapped, elderly, or otherwise require such supervision and care, or of children under the age of 16. This use may be a principal use or accessory use.

DEP – Pennsylvania Department of Environmental Protection or its successor department or organization.

DISTRIBUTED ANTENNA SYSTEM (DAS) – Also referred to as "micro-cell" – A set of antenna nodes networked with each other and connected to a wireless service source comprised of one or more high power antennas that serve a given area and are replaced by a group of low-power antennas to serve the same geographic area

DOMESTIC FOWL – Chickens, ducks, geese, peacocks, guineas, turkey, and other small birds typically kept for agricultural purposes. This definition does not include large exotic birds such as ostrich.

Article II: Definitions

DORMITORY or FRATERNITY HOUSE – A building, as at a college, containing a number of private or semiprivate rooms for residents, usually along with common bathroom facilities.

DRILLING, OIL AND GAS – The well site preparation, construction, drilling, redrilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for and production and transportation of oil and gas. The definition includes natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions.

DRIVE-IN THEATER – A form of cinema structure consisting of a large outdoor movie screen, a projection booth, a concession stand, and a large parking area for automobiles. Within this enclosed area, customers can view movies from private automobiles.

DRIVE THROUGH – Use which involves a window, service lane, bay, or other facility where customers are provided services either inside or outside their vehicles and where cars may or may not wait in line to access these services, including, but not limited to: drive-in or drive-through windows at fast-food restaurants, banks, drug stores, pharmacies or other businesses, exterior automated teller machines (ATMs), quick oil-change facilities, car washes, and similar automotive services and other such facilities.

DWELLING – A house, apartment building, or other structure used primarily for human habitation. The word "dwelling" shall not include hotels, motels, or other structures used for transient residence.

DWELLING, MULTIFAMILY – A dwelling designed for or occupied exclusively as a residence for 2 families or more, with separate housekeeping and cooking facilities for each family. These include 2-family dwellings, and condominiums.

DWELLING, SINGLE-FAMILY – A dwelling designed for or occupied exclusively as a residence for only one family, unconnected to any other dwelling unit(s).

EASEMENT – Legal right to cross or otherwise use a land area for specific purposes.

EFFECTIVE DATE – The date on which this Chapter is duly adopted by the Borough or as specified in the ordinance adopting the same.

EMERGENCY RESPONSE OR PUBLIC SAFETY – Any service to citizens for injury or life-threatening events including, but not limited to, ambulance, paramedic, or fire and rescue services provided by a public or private agency.

ENTERTAINMENT FACILITIES – An enterprise operated for the pursuit of sports and recreational activities, which may be advertised to the general public, but the use of which may or may not be limited to members and their guests including, but not limited to, such establishments as fairs and large outdoor markets, outdoor exhibitions and gatherings, country clubs, golf courses, sportsmen's clubs, golf practice facilities, playing fields, tennis or racquet clubs, swimming pools, and similar facilities. This use also includes any establishment existing primarily for entertainment purposes and offering rides and exhibitions for a fee. This use also includes any establishment existing primarily for the pursuit of sports, amusement, and recreational activities available to the general public for free or for a fee, where the principal use is conducted entirely within a completely enclosed building including, but not limited to, such principal uses as health or racquet and/or swim clubs, fitness centers, roller or ice rinks, karate schools, gymnasiums, arenas, sports courts or playing fields, bowling alleys, amusement arcades, virtual reality and simulation gaming parlors, billiard parlors, shooting ranges, dance halls, live or motion-picture theaters, but not including any adult-oriented business. This use also includes an establishment offering any mechanical, electrical, or electromechanical device, machine, or apparatus whatsoever for the playing of games and amusements – commonly known as "pinball machines," "video games," and "jukeboxes" – or upon which games are played, or any device on which music is played after the insertion therein of a coin or other disc, slug, or token or for which fees are paid to an attendant.

ERECTED – Includes built, constructed, reconstructed, moved upon; or any physical operations on the land required for the building, erection, excavation, fill, drainage, and the like shall be considered part of the erected structure or earthen work.

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ESSENTIAL SERVICES – The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their essential buildings, excluding communications towers and communications antennas, as defined herein.

EXTENSION – An increase in the area or use of a building, other structure, and/or land.

FAMILY – All persons living in the same household who are related by birth, marriage, or adoption.

FENCE – Any barrier, screen, or other structure constructed of materials other than shrubbery, trees, or other vegetation and erected for protection, confinement, enclosure, separation, or privacy.

FLEX/LIGHT INDUSTRIAL – Industrial uses that include fabrication, manufacturing, assembly, or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, noise, vibration of earth, soot, or light to a degree that is offensive when measured at the property line of subject property. Uses include commercial bakeries, cabinetmaking and carpenter shops, distributing plants (non-petroleum), electric power transformer substations, food processing (except fish, dairy, poultry, meat, sauerkraut, vinegar, yeast, and rendering of fats and oils), fruit or vegetable packing plants, laboratories for research and development, light manufacturing and assembly, nonhazardous material bulk storage, and sheet metal shops.

FORESTRY – The management of forests and timber lands 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.

FRONT FAÇADE – The front face of a structure that includes its primary entrance.

FRONT YARD – The required open space extending across the entire width of the lot between the front line of the building and the street right-of-way.

FUEL/ENERGY RECHARGE STATION – A business establishment that offers the sale of fuel/energy recharge for vehicles with or without convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, periodicals, and other household goods. All uses with fuel/energy recharge such as gasoline pumps shall be considered fuel/energy recharge stations and shall not be classified as retail sales, restaurants, or any other use based on the presence of a convenience store, food services, or other offerings on site.

FUNERAL PARLOR AND MORTUARY – A building licensed by the Commonwealth of Pennsylvania that contains a suitable storage room for the deceased and may include embalming facilities and rooms for the display of burial ceremonies of the deceased, but excludes crematories.

GARAGE, PRIVATE – An accessory building or a portion of the principal building, not accessible to the public and designed or used for shelter or storage of private vehicles and personal property of the occupants of the principal building and that may include the shelter or storage of no more than one private vehicle owned and used by others.

GARAGE, PUBLIC – A building or structure available to the public in which motor vehicles are temporarily stored but which is not used for the repair or maintenance thereof.

GASOLINE SERVICE STATION – A business establishment supplying gasoline and oil, tires, accessories, and services for vehicles directly to the populace, including minor repairs and the sale of groceries, but not including such major repairs as spray painting, body, fender, axle, frame, major engine overhaul, or recapping/retreading of tires.

GROUP CARE FACILITIES AND TRANSITIONAL DWELLINGS – A facility housing persons assigned by a court of law or public or semipublic agency on a short-term basis for supervision, care, and counseling for a specified period, including alcoholic recovery, shelters for battered persons and their children, community re-entry services following incarceration, and other such transitional and/or supervised short-term assignments.

GROUP HOME – A dwelling unit where room and board is provided to not more than 8 permanent residents who are mentally or physically handicapped persons of any age, who are in need of supervision and specialized services, and no more than 2 caretakers

on any shift, who may or may not reside in the dwelling and who provide health, social, and/or rehabilitative services to the residents. The service shall be provided only by a governmental agency, its licensed or certified agents, or any other responsible nonprofit social services corporation, and the facility shall meet all minimum requirements of the sponsoring agency. Facilities that would otherwise meet the criteria of a group home that have more than 8 permanent residents shall be considered institutional living facilities.

HEALTH CARE, MEDICAL OR TREATMENT – Any establishment in excess of 5,000 square feet where human patients are examined and are treated by or under the care and supervision of doctors, dentists, or other medical practitioners, including patients who are hospitalized overnight.

HEALTH CLUB – A commercial facility or private club which has as a principal use a gymnasium, swimming pool, or other sports facilities and which may offer massages, whirlpool baths, steam rooms, saunas, or medical facilities as accessory uses to the principal use. A health club may not include any aspects of adult entertainment or an adult-oriented business, as either are elsewhere defined and regulated in this Chapter.

HEAVY INDUSTRIAL, HEAVY GOODS STORAGE OR HANDLING, CREMATION – Industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in unrefined form and that, in their transformation, create smoke, gas, odor, dust, noise, vibration of earth, soot or light to a degree that may be offensive when measured at the property line of subject property. Uses include batching and mixing plants for asphalt, cement, and concrete, brewing or distilling of liquor, beer, or wine, foundries, manufacture of paper products, natural gas storage, storage of oil, gasoline, or petroleum products in a quantity exceeding 25,000 barrels, electric power generating plants, heavy salvage, and slaughterhouses. This use will also include sales, rental, repair, and service of vehicles, heavy equipment, or other vehicle equipment over 26,000 pounds gross vehicle weight or any other vehicle or equipment that is not classified as a "motor vehicle" under the Pennsylvania Motor Vehicle Code. This use shall also include disposal of human or animal remains by burning to ashes. This use shall also include alternative energy systems such as solar energy or wind energy systems that are intended to produce power for multiple off-site locations. This does not include small solar or wind energy systems that are intended primarily for on-site use but are connected to the electric grid and may provide power to the grid from time to time.

HEIGHT – Measurement of height shall be the vertical distance from the mean level of the ground at the front of the building or structure to the point on the roof measured as follows:

- A. In case of flat roof structures: highest point of coping.
- B. In case of mansard roof structures: deckline of roof.
- C. In case of gable or hipped roof structures: the average height of the roof.

HEIGHT OF A COMMUNICATIONS TOWER – The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

HOME DAY CARE – A facility licensed by the Commonwealth of Pennsylvania, located within a dwelling or home, for the care, during part of a 24-hour day, of adults who are handicapped, elderly or otherwise require such supervision and care, or of children under the age of 16. The facility shall be operated by a resident of the dwelling unit and shall not supervise more than 6 people who are not also residents of the dwelling unit including adults and children.

HOME OCCUPATION – An accessory use of a service character conducted on a regular basis, made available to the general public and intended to generate a profit, customarily conducted entirely within a dwelling by the residents thereof plus not more than one paid employee not resident in the dwelling, and may involve the storage of materials or stock-in-trade related to the home occupation. The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling. The following business activities may be permitted:

- A. Professional services (including incidental retail sales) limited to barber shop, beauty shop, dressmaking and alterations, tailor, insurance sales, real estate sales, photo or artist's studio, notaries public, sale and/or service of individual musical instruments, music and voice instruction and tutoring, or similar uses.

Article II: Definitions

- B. Professional services, limited to those practicing individually as doctors, chiropractors, osteopaths, attorneys, engineers, surveyors, architects, ministers of religion, public accountants, or similar uses.
- C. Door-to-door sales representatives or manufacturer's representatives who conduct their business by phone or from their cars, but not including large stocks of merchandise for sale stored on the premises.
- D. Business of individuals confined to their homes by permanent disability.
- E. Home day care.
- F. If the home occupation is proposed for a rented dwelling, the renter shall obtain written permission from the dwelling owner to open the home occupation before an occupancy permit may be issued by the Zoning Officer.

HOTEL/MOTEL – A building made up of 2 or more living or sleeping quarters used independently of each other and used principally and commercially for overnight accommodations.

HOUSEHOLD PET – Any animal kept as a pet and normally housed at night within the owner's dwelling or an accessory building on the same lot; but not including any animal normally raised as livestock or poultry, nor any animal raised for commercial gain. Household pets typically include dogs, cats, birds, rabbits, small reptiles, and small rodents. Household pets do not include agricultural pets.

INSTITUTIONAL LIVING – A facility or group of facilities that includes boarding houses, dormitories, fraternity houses, and group homes with more than 8 permanent residents, group care facilities, transitional dwellings, correctional facilities, retirement communities, independent living facilities, assisted living facilities, nursing homes, and in-patient rehabilitation facilities. The facility provides housing and assistance to people residing at the facility and shall not provide outpatient services for medical, rehabilitation, or other treatment except as an accessory use. Group homes with 8 or fewer permanent residents shall not be considered institutional living facilities.

INTEGRATED BUSINESS CENTER – A combination of 2 or more units for commercial uses designed, structured, and located to result in a shopping plaza, mall or other acceptable structural configuration or architectural modification thereof.

JUNK – Any worn, castoff, or discarded article or material which is ready for destruction or which has been collected or stored for sale, resale, salvage, or conversion to some other use. Any such article or material stored on a farm for exclusive use of the owner or occupant of the farm or any article or material which, unaltered, is not needed to be disassembled or unfastened from or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk. "Junk" also includes any unlicensed, unregistered, or uninspected vehicles as registered with the Pennsylvania Department of Transportation.

JUNKYARD – The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that ½ of any lot that joins the street for storage, keeping, or abandonment of junk, including scrap metals, or for the dismantling, demolition, or abandonment of automobiles or other vehicles, machinery, or parts thereof.

KENNEL – A structure and/or premises where 4 or more dogs or cats or any combination of dogs and cats totaling 4 animals which are 6 months or older are kept, bred, trained, or boarded at any one time, whether for profit or not.

LOADING SPACE – The area required to accommodate one truck in a space 12 feet wide, 15 feet high, and 65 feet long, exclusive of access and turning area.

LOT – The parcel of land on which a main building and any accessory buildings are placed, together with the required open spaces.

LOT AREA – The horizontal surface area within the lot lines of a lot.

LOT, CORNER – A lot abutting 2 or more streets at their intersection and on which the building line for both streets must be observed.

LOT COVERAGE – The percentage of the total area of a lot or lots occupied by primary and accessory structures but not including any permanently uncovered paved areas, porches, patios, or steps.

LOT DEPTH – The mean horizontal distance between the front and rear lot lines.

LOT WIDTH – The mean horizontal distance across the lot between the side lot lines measured at right angles to the depth.

MASSAGE ESTABLISHMENT – Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms of physiotherapy, unless operated by a medical practitioner, chiropractor, or professional physical therapist licensed by the State of Pennsylvania. This definition does not include an athletic club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an identical or accessory service. A massage establishment may not include any aspects of adult entertainment or an adult-oriented establishment, as either are elsewhere defined and regulated in this Chapter.

MEDICAL MARIJUANA DISPENSARY – A facility operated under a permit issued under the PA Medical Marijuana Act to dispense medical marijuana as defined under that act.

MEDICAL MARIJUANA GROWER/PROCESSOR – A facility operated under a permit issued under the PA Medical Marijuana Act to grow and process medical marijuana as defined under that act.

MICRO CELL TOWER – A facility with a central pole less than 30 feet in height with a service radius of 0.5 mile or less.

MINERAL EXTRACTION – Any use consisting of the mining and extraction of coal or other minerals.

MINIATURE ANIMAL – Animals, when fully grown, that do not exceed 18 inches in height at shoulder level and weigh no more than 90 pounds are considered to be miniature.

MINI-WAREHOUSE – A storage enterprise dealing with the reception of goods of residential or commercial orientation that lie dormant over extended periods. Separate storage units are rented to individual customers who are entitled to exclusive and independent access to their respective units. These units are typically rented individually to members of the public.

MIXED USE – The conduct of 2 or more principal uses within one principal building, or one lot or site.

MOBILE HOME – A single-family home, transportable in one or more sections, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air-conditioning, and electrical systems contained therein. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of manufacture is required. For the purpose of these provisions, a manufactured home shall also be considered a mobile home. Trailer houses/homes, prefabricated modular homes, as defined in this paragraph, and any other trailer used as a dwelling for periods longer than 60 days shall assume the status of a mobile home as per this Chapter.

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 that has been so designated and improved that it contains 2 or more mobile home lots for the placement thereon of mobile homes.

MPC – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, 53 P.S., 10101 et seq., as amended.

NATURAL GAS COMPRESSOR STATION – A compressor engine facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells for continued delivery of oil and gas to a transmission pipeline, distribution pipeline, processing facility, or storage facility or field.

NATURAL GAS PROCESSING PLANT – A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that are designed and constructed primarily to remove water, water vapor, oil, or naturally occurring liquids from the natural gas.

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, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- A. The business activity shall be compatible with the residential use of the property and surrounding uses;
- B. The business shall employ no employees other than family members residing in the dwelling;
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature;
- D. There shall be no outside appearance of a business use including, but not limited to, parking, signs, or lights;
- E. The business activity may not use any equipment or processes which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception which is detectable in the neighborhood;
- F. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood;
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area; and
- H. The business may not involve any illegal activity.

NONCONFORMING USE – A building, structure, or premises lawfully occupied at the time of the enactment of this Chapter by a use that does not conform with the provisions of this Chapter for the district in which it is located; also, such use resulting from changes in zoning districts or in textual provisions made hereafter enacted pursuant to this Chapter or any amendments thereto.

NOTICE/PUBLIC NOTICE –

- A. Public hearings require public notice at least twice prior to the hearing date; at a minimum, the notice will be published not fewer than 7 days prior and not more than 30 days prior to the hearing date.
- B. Publications of proposed amendments to the Zoning and Subdivision and Land Development Ordinances shall be made no fewer than 7 days and not more than 60 days.
- C. All map amendments must be posted on the perimeter of the affected property at least one week before a public hearing.

NURSERY SCHOOL OR PRESCHOOL – A facility licensed by the Commonwealth of Pennsylvania designed to provide daytime care and educational instruction for compensation of children not related to the operator.

NURSING HOME – Any dwelling with sleeping rooms where persons are housed or lodged, furnished with meals and nursing care for hire on a long-term basis. In addition, any dwelling with sleeping rooms operated as an institution for the care/development of elderly persons.

OCCUPANCY PERMIT – A statement signed by the Zoning Officer setting forth either that a building or structure complies with this Chapter or that a building, structure, or parcel of land may lawfully be employed for specified uses, or both.

OFFICE WITH ON SITE SERVICES, LARGE SCALE – A business establishment that generally operates on a first-come, first-serve basis and has relatively high pedestrian or customer traffic throughout the year including utility payment centers, advertising agencies, manufacturing representatives, personnel agencies, travel and ticket agencies, post offices, retail banks, and the like. This use includes an office of a governmental agency, social service organization, notary, public or private utility, political organization, or the like if customers, clients, residents, or others are served on a walk-in basis. This use does not include health care facilities such as doctors, dentists, and chiropractors – those uses must follow the regulations for Medical or Treatment Health Care. This use may exceed 5,000 square feet of gross floor area.

OFFICE WITH ON SITE SERVICES, SMALL SCALE – A business establishment that generally operates on a first-come, first-serve basis and has relatively high pedestrian or customer traffic throughout the year including utility payment centers, advertising agencies, manufacturing representatives, personnel agencies, travel and ticket agencies and the like. This use includes an office of a governmental agency, social service organization, notary, public or private utility, political organization, or the like if customers, clients, residents, or others are served on a walk-in basis. This use also includes retail banks, check cashing offices, and post offices. This use also includes health care facilities not exceeding 5,000 square feet such as doctors, dentists, and chiropractors. This use may not exceed 5,000 square feet of gross floor area.

OFFICE WITHOUT ON SITE SERVICES, LARGE SCALE – A business establishment that serves clients and operates on an appointment basis, with relatively low pedestrian or vehicular traffic, including offices of professionals such as lawyers, architects, engineers, real estate brokers, insurance agents, and others who, through training, are qualified to perform services of a

professional nature; and other offices used primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other retail financial institutions. This use includes an office of a governmental agency, social service organization, notary, public or private utility, political organization, or the like if customers, clients, residents, or others are not served on a walk-in basis. This use may exceed 5,000 square feet of gross floor area.

OFFICE WITHOUT ON SITE SERVICES, SMALL SCALE – A business establishment that serves clients and operates on an appointment basis, with relatively low pedestrian or vehicular traffic, including offices of professionals such as lawyers, architects, engineers, real estate brokers, insurance agents, and others who, through training, are qualified to perform services of a professional nature; and other offices used primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other retail financial institutions. This use includes an office of a governmental agency, social service organization, public or private utility, political organization or the like if customers, clients, residents, or others are not served on a walk-in basis. This use may not exceed 5,000 square feet of gross floor area.

OIL AND GAS – Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane, and/or any other constituents or similar substances that are produced by drilling an oil or gas well.

OIL OR GAS WELL – A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting, or injecting gas, oil, petroleum, or another liquid related to oil or gas production or storage, including brine disposal.

OIL OR GAS WELL SITE – The location where facilities, structures, materials, and equipment whether temporary or permanent, reside that are necessary for, or incidental to the preparation, construction, drilling, production, or operation of an oil or gas well.

OIL, GAS, OR WATER INTAKE WELLS – The drilling site authorized by a permit from the Pennsylvania Department of Environmental Protection (DEP) for the extraction of oil or gas resources or the drilling site for the production of potable water supply.

OUTDOOR DINING – Restaurant-style seating facilities in an outdoor area, usually on the sidewalk or an open space adjacent to the structure.

OUTDOOR STORAGE, BUILDING MATERIALS SALES OR CONTRACTOR YARD – A business establishment specializing in the sale and/or short- or long-term storage of wholesale and/or retail construction supplies and materials for home improvement. This use shall also include a business that demolishes structures, including houses and other buildings, in order to salvage building materials, and that stores those materials before disposing of them.

PARKING SPACE – An off-street area, whether outside or inside a structure, used exclusively as a parking, turning, and access stall for one vehicle.

PARKS AND OUTDOOR RECREATION SPACE – A parcel or parcels of land or an area of water, or a combination of land and water intended for outdoor use or enjoyment of the public. The space may or may not have facilities for playing sports or conducting active recreation but the sports/active recreation facilities must be secondary to the overall area and may not be used on a regular basis for organized sports leagues, club sports, or organized competitions through membership-based organizations

PERSON – Any person or entity including, but not limited to, joint venture, joint-stock company, partnership, association, club, company, corporation, business trust, or organization or the manager, lessee, agent, servant, officer, or employee of any of them.

PERSONAL CARE BOARDING HOME – A dwelling or institution licensed by the commonwealth where room and board is provided to more than 3 permanent residents who are not relatives of the operator, and who are mobile or semi-mobile and require specialized services for a period exceeding 24 consecutive hours in such matters as bathing, dressing, diet, and medication prescribed for self-administration, but who are not in need of hospitalization or skilled nursing or intermediate nursing care.

PERSONAL SERVICES – Any enterprise providing services pertaining to the person, their apparel, or personal effects commonly carried on or about the person including, but not limited to, shoe repair, tailoring, clothes cleaning, watch repairing, barbershops, beauty parlors, health clubs, massage establishments, and related activities.

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PLACE OF WORSHIP – A building use and/or lot where people regularly observe, practice, or participate in religious or spiritual services, meetings, and/or activities. A semipublic use used for religious worship including, but not limited to, any of the following: church, manse, rectory, convent, synagogue, parish, school, or similar building incidental to the particular use; but this term does not include business offices, except administrative offices incidental to the operation of the particular use, rescue missions, or the occasional use for religious purposes of properties not regularly so used.

PLANNED COMMERCIAL UNIT DEVELOPMENT – Area(s) of land to be developed for a number of commercial units.

PRINCIPAL USE – The major or dominant use of the lot on which it is situated.

PRIVATE STABLE – The keeping of horses for personal use on a lot that does not meet the minimum acreage requirements for a farm; the use does not involve any profit-making activity such as boarding, riding instruction, or training of horses owned by persons other than residents of the lot.

PUBLIC UTILITY TRANSMISSION TOWER – A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

REAR YARD – The required open space extending from the rear of the main building to the rear lot line (not necessarily a street line) throughout the entire width of the lot.

RESTAURANT OR BAR WITH DRIVE THROUGH – A business establishment that delivers prepared food and/or beverages to customers in motor vehicles regardless of whether it also serves prepared food and/or beverages to customers who are not in motor vehicles for consumption either on or off the premises.

RESTAURANT OR BAR WITHOUT DRIVE THROUGH – A business establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state and whose principal method of operation includes one or both of the following characteristics: customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or a cafeteria-type operation where food and beverages generally are consumed within the restaurant building. This use includes a business establishment that provides on-site alcoholic beverage sales for drinking on the premises, where food is served only as accessory use, where live entertainment (not including adult entertainment) may also be provided, and where minors are not admitted unless accompanied by a parent or guardian.

RETAIL GOODS AND SERVICES, LARGE SCALE – Retail sales, personal services, and services for the care of household pets. This use shall not include a kennel or any automobile-oriented goods and services. Accessory drive through facilities may be permitted based on the zoning district but the presence of a drive through facility shall not change the use classification for retail goods and services. The gross floor area may exceed 8,000 square feet.

RETAIL GOODS AND SERVICES, MEDIUM SCALE – Retail sales, personal services, and services for the care of household pets. This use shall not include a kennel or any automobile-oriented goods and services. Accessory drive through facilities may be permitted based on the zoning district but the presence of a drive through facility shall not change the use classification for retail goods and services. The gross floor area may not exceed 8,000 square feet.

RETAIL GOODS AND SERVICES, SMALL SCALE – Retail sales, personal services, and services for the care of household pets. This use shall not include a kennel. Accessory drive through facilities may be permitted based on the zoning district but the presence of a drive through facility shall not change the use classification for retail goods and services. The gross floor area may not exceed 2,000 square feet.

RETAIL SALES – Any business establishment not otherwise specifically defined in this Article that sells or rents commodities and/or services on the premises directly to the public, available for immediate purchase and removal, but not including the manufacturing or processing of any products.

RETIREMENT COMMUNITY – A residential living environment and care facilities that create provisions for sustenance, housing, physical, spiritual, cultural, social and medical needs; allow for care of residents as well as for operation and maintenance of residential dwelling units; allow for medical services for residents in the form of an infirmary for the temporary care of residents

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and the treatment of their medical problems and; allow for independent living and assisted living, as well as skilled nursing facilities for both long-term and short-term care. This use may include accessory uses primarily for the benefit of the residents such as gift shop; personal services such as a barbershop or beauty salon; common dining facilities; library; and administrative offices. This use may also include age-restricted communities that include single-family and multifamily dwelling units.

RIGHT-OF-WAY – Any public highway, street, or alley accepted by different levels of government, usually Borough Council, for public use or any private highway, street, alley, utility, or stormwater management created by private persons or entities.

SCHOOL, BUSINESS, TRADE, OR TECHNICAL – A specialized instructional establishment that provides on-site training of business, commercial, medical, and/or trade skills such as accounting, data processing, computer repair, vocational trades, and/or equipment usage.

SCHOOL, HIGH – A place of instruction operated by a public, private, non-profit, or religious organization, having regular sessions, with regularly employed instructors and meeting all the requirements of the Pennsylvania Department of Education for providing secondary education. This definition shall not include privately operated, for-profit trade, vocation, avocation, or business schools.

SCHOOL, KINDERGARTEN, ELEMENTARY, AND JUNIOR HIGH – A place of instruction operated by a public, private, non-profit or religious organization, having regular sessions, with regularly employed instructors and meeting all the requirements of the Pennsylvania Department of Education for providing primary education. This definition shall not include privately operated, for-profit trade, vocation, avocation, or business schools.

SIDE YARD – The required open space extending from the side of any building along the side lot line throughout the entire depth of the lot.

SIGHT TRIANGLE – An area of unobstructed vision at roadway intersections defined by lines of sight between points at a given distance from the intersection of centerlines.

SIGN – A structure that is arranged, intended, designed, or used as an advertisement, announcement, or direction or a sign posted, painted, or placed in some fashion on a building, structure, or any surface for such a purpose.

SKILLED GAMING - Any business, establishment, or location operated for profit that employs the use of one or more games of skill in any one location. Games of skill refer to any electronic, electromechanical or other contrivance that affords the player an opportunity to obtain anything of value, for a consideration, where the award of the value is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid.

This includes but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker or similar games that operate by chance or partially so, that award credits or free games as a result of playing and that record the number of free games or credits awarded as well as the cancellation or removal of the free games or credits.

This shall not include devices made solely for amusement purposes that reward players with noncash merchandise prizes, gift cards, toys or novelties where the item won is not worth more than \$5. This shall not include any location or establishment operated by any charitable organization, provided that all proceeds from such games of skill are applied to the charitable purposes of the organization.

SOCIAL HALL, CLUB AND LODGE – A business establishment operated for social, recreational, educational, or fraternal purposes, some serving alcoholic beverages where permitted, but open only to members and their guests.

SOCIAL, CULTURAL, OR RELIGIOUS ASSEMBLY, LARGE SCALE – A building and/or lot that is designed for the assembly or collection of persons for civic, political, educational, or social purposes, and where recreation, amusement, or dining may occur as accessory activities. This use includes libraries, museums, galleries, places of worship, funeral homes, social halls, and municipal buildings. This use may exceed 5,000 square feet.

SOCIAL, CULTURAL, OR RELIGIOUS ASSEMBLY, SMALL SCALE – A building and/or lot that is designed for the assembly or collection of persons, for civic, political, educational, or social purposes, and where recreation, amusement, or dining may occur as

accessory activities. This use includes libraries, museums, galleries, places of worship, funeral homes, social halls, and municipal buildings. This use may not exceed 5,000 square feet.

SOLAR ENERGY SYSTEM, SMALL – A solar collection system consisting of one or more roof and/or ground mounted solar collector devices and solar-related equipment intended to reduce on-site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company. Solar energy systems that produce power for off-site use shall be considered heavy industrial uses.

SOLAR-RELATED EQUIPMENT – Items including a solar photovoltaic cell, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, and possibly foundations used for or intended for collection of solar energy.

SPECIAL EXCEPTION – The permission or approval granted by the Zoning Hearing Board as outlined by this Chapter.

STREET FRONTAGE – The side(s) of a lot that abuts a public right-of-way.

STREET LINE – The line defining the edge of the legal width of a dedicated street right-of-way.

TOWNHOUSE – A structure consisting of a series of 2 or more attached dwelling units with common party walls, with each dwelling unit having access to the outdoors not shared with the access of other dwelling units.

TRAILER – Any licensed or unlicensed piece of mobile equipment designed or constructed to be towed or pulled by a motor vehicle.

UNDERSTORY TREE – Trees planted primarily for their ornamental value or for screening purposes. Deciduous understory trees generally do not exceed 30 feet in height at maturity. Evergreen trees planted to meet understory tree requirements may reach a height that exceeds 30 feet at maturity.

USE – The specific purpose for which land or a building is designed, arranged, or intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

UTILITY – Within the framework of this Chapter, utilities shall include community and public water or sanitary sewer facilities only.

VARIANCE – A modification of the regulations of this Chapter by the Zoning Hearing Board when a literal enforcement of this Chapter would result in unnecessary hardship and said modification would not jeopardize long-range zoning plans or goals.

WAREHOUSING, NON-RETAIL STORAGE – A building or structure used for the storage and handling of goods, materials, freight, or merchandise awaiting sale on another lot or location, but not including the maintenance or fueling of commercial vehicles. Warehousing that is incidental to retail sales and does not comprise 30 percent or more of the total floor area of the retail establishment shall be excluded from this definition. Incidental sales may occur on the lot.

WIND ENERGY SYSTEM, SMALL – A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics that is intended to reduce on-site consumption of utility power. A system is considered a small wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company. Wind energy systems that are intended to provide power for off-site uses shall be considered heavy industrial uses.

WELL PAD – The area used for development and production of oil and gas including buildings and structures and all activities associated with an oil and gas well after drilling activities are complete.

YARD – A required open space unoccupied and unobstructed by any structure or building or portion of a structure or building from 30 inches above the general ground level of the graded lot upward; provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

ZONING – A legal, administrative process whereby the Borough divides its territory into districts and applies to each district a number of regulations to control the use of land, the height and bulk of buildings, and the area of ground to be built upon.

ZONING HEARING BOARD – The Board assigned the duties of judging various appeals of persons aggrieved by the interpretation of the terms of this Chapter (also known as “Board of Adjustment”).

ZONING OFFICER – That individual authorized by the Borough Council to be the administrator of the day-to-day application of the provisions contained in this Chapter.

ZONING PERMIT – A statement signed by the Zoning Officer indicating that the application for permission to construct, alter, modify, operate, or add is approved and in accordance with the requirements of the terms of this Chapter.

§ 130-202. Adult-Oriented Business Definitions

ADULT ARCADE – Any place to which the public is permitted or invited wherein coin operated, slug-operated, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE –

- A. A commercial establishment that, as one of its principal business purposes, offers for sale or rental 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, videocassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or
 - 2. Instruments, devices, or paraphernalia that are designed for or used in connection with specified sexual activities.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as “adult bookstore or adult video store.” Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas.

ADULT-ORIENTED BUSINESS – Adult-oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

ADULT CABARET – A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

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- A. Persons who appear in the state of nudity; or
- B. Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides, digital imaging, photographic reproductions, or any and all visual media using the most recent technology characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT –

- A. An exhibition of any adult-oriented motion pictures which are distinguished and characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or sexual anatomical areas; or
- B. A live performance, display, or dance of any type that has a significant or substantial portion of the performance or any actual or simulated performance of specified sexual activities or exhibition in viewing of specified anatomical areas or persons in a state of nudity or semi-nudity; or
- C. Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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, videocassettes, slides, digital imaging, photographic reproductions, or any visual media using current technology which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of visual media; or
- B. Offers sleeping rooms for rent 4 or more times in 1 calendar day during 5 or more calendar days in any continuous 30-day period.

ADULT MOTION PICTURE THEATER – A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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 characterized by the exposure of specified anatomical areas or specified sexual activities.

CHILD-ORIENTED BUSINESS – A commercial establishment which, as one of its principal business purposes, serves and/or sells children and their families food, apparel, goods, services, play, and/or entertainment.

EMPLOYEE – A person who performs any service on the premises of an adult-oriented business on a full-time, part-time, or contract basis, whether the person is denominated an employee, independent contractor, agent, lessee, lessee of a dance floor or space, or otherwise and whether or not said person is paid a salary, wage, or compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment located thereon or for the delivery of goods to the premises.

ESCORT – A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY – A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT or ESTABLISH – Includes any of the following:

- A. The opening or commencement of any adult-oriented business as a new business;

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- B. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business;
- C. The addition of any adult-oriented business or adult use to any other existing adult-oriented business or use; or
- D. The relocation of any adult-oriented business.

KNOWINGLY – Having a general knowledge of or reason to know or a belief or ground for belief that warrants further inspection or inquiry of both:

- A. The character and content of any material or performance described herein which is reasonably susceptible of examination by a permittee or persons;
- B. The age of a minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the permittee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

MUNICIPALITY – The Borough of Delmont, Westmoreland County, Pennsylvania.

NUDE MODEL STUDIO – Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the Commonwealth of Pennsylvania as a college, junior college, or university supported entirely or in part by public taxation; or a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; provided the following conditions are met:

- A. That there is no sign visible from the exterior of the structure and no other such advertising which indicates that a nude or seminude person is available for viewing; and
- B. Where, in order to participate in a class, a student must enroll at least 3 days in advance thereof; and
- C. Where no more than one nude or seminude model is on the premises at any one time.

NUDITY or A STATE OF NUDITY – The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

PERMITTEE – A person in whose name a permit to operate an adult-oriented business has been issued, as well as the individual or individuals listed as the Applicants on any permit application.

SEMINUDE – A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER – A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

SPECIFIED ANATOMICAL AREAS – The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES – Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C above.

SUBSTANTIAL ENLARGEMENT OF AN ADULT-ORIENTED BUSINESS – The increase in floor areas occupied by the business by more than 25%, as the floor area exists on date of enactment of this Chapter.

TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT-ORIENTED BUSINESS – Includes any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING BOOTHS – Booths, stalls, partitioned portions of a room, rooms, or other enclosures that are available for viewing:

- A. Films, movies, videos, or visual reproductions of any kind depicting or describing specified sexual activities or specified anatomical areas; or
- B. Persons who appear in a state of nudity or semi-nudity or who offer performances or presentations characterized by the exposure of specified anatomical areas or by specified sexual activities.

§ 130-203. Sign Related Definitions

ABANDONED SIGN – A sign which has not been in use for a period of 180 days or more; the content of which no longer identifies or advertises an existing business, owner, service, product, activity, or event; the content of which pertains to a location, event, time, or purpose which no longer exists or applies, or occurred in the past.

AWNING SIGN OR CANOPY SIGN – Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover (not including a marquee) over a door, entrance, window, or outdoor service area.

BANNER – A sign made from plastic, cloth, or another fabric that is suspended with or without support from a structure, staff, pole, rope, wire, or framing and anchored on 2 or more edges. Banners are temporary in nature and do not include flags.

CHANGEABLE COPY – A sign or portion thereof on which the text or graphics can be changed or rearranged through electronic means or manually, without altering the face or surface of the sign.

CLEARANCE – The distance between the walkway or other specified surface and the bottom edge of a sign, or the horizontal distance between 2 objects.

DIGITAL DISPLAY SIGN – Any sign, video display, projected image, or similar device with graphics generated by solid-state electronic components. Digital display signs include, but are not limited to, light-emitting diodes (LED), plasma displays, fiber optics, or other technology with high-resolution graphics and texts.

DIRECTIONAL SIGN – An informational sign intended to provide direction to pedestrian and/or vehicular traffic into, out of, or within the lot or site. (e.g. "No Parking," "Entrance," "Exit," "One Way," or "Loading Only")

FLAG – Any sign that is printed or painted on cloth, plastic, or another fabric containing distinctive colors, patterns, or symbols, and is attached to a pole or staff or supported or anchored by 2 corners.

FREESTANDING SIGN – A sign sustained by structures or supports that are placed on or anchored in the ground and independent and detached from any building or other structure. The sign may be mounted to a pole or be affixed to the ground at its base or supported by upright structural members anchored into the ground. Freestanding signs may not be affixed to any building.

GOVERNMENT/REGULATORY SIGN – Any sign that is erected by the order of a public officer, employee, or agent thereof, in the discharge of official duty for traffic control or identification.

HOLIDAY DECORATIONS (SEASONAL DECORATION) – Any sign or display, including lighting, which is a non-permanent installation, celebrating national, state, local, religious, or cultural holidays.

ILLEGAL SIGN – Any sign erected, altered, moved, repaired, maintained, or replaced in violation of this Chapter.

ILLUMINATED SIGN – A sign with electrical equipment installed for illumination, either internally or externally.

INFLATABLE DEVICES – Any sign that is equipped with a portable blower motor that provides a constant flow of air, which may vary in shape, made of fabric and set on the ground or a structure.

LUMINANCE – A measurement of perceived brightness, emitted by an illuminated sign, measured in candelas per square meters or nits.

MARQUEE – A type of permanent sign, attached to, supported by, and projecting from a building designed to provide protection from the weather. Marquee signs typically provide an area for manual or electronic changeable copy.

MESSAGE DURATION – The length of time a message is allowed to be displayed on a digital display sign.

NITS – Units of measurement for brightness or luminance. (One nit equals one candela/square meter)

NONCONFORMING SIGN – A lawfully existing sign erected and maintained prior to the effective date of this Chapter or subsequent amendment hereto, which does not currently comply with applicable sign regulations in the district in which it is located. (An illegal sign is not a nonconforming sign.)

OFF-PREMISES SIGN – A sign intended to advertise a business, commodity, service, or entertainment that is not conducted, sold, or offered at the location upon which the sign is located. (Also known as a billboard or outdoor advertising sign.)

ON-PREMISES SIGN – A sign whose message and content identify a business, product, commodity, service, event, point-of-view, or other commercial or non-commercial activity that is conducted, sold, or offered on the site where the sign is located.

PENNANT – Any lightweight plastic, fabric, or other material, typically triangular or irregularly shaped, supported by strings or wire attached to a small pole and intended to move in the wind. May or may not contain a message of any kind.

PERMANENT SIGN – A sign that is attached or affixed to a building, structure, window, or the ground whose intended use appears to be indefinite.

PORTABLE SIGN – Any sign that is not permanently affixed to a building, structure, or the ground, and designed to be transported or moved. Such signs include, but are not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, and sandwich board signs. This shall not include signs attached to or painted on vehicles used in the normal day-to-day operations of the business that are parked and visible from the public right-of-way.

PROJECTING SIGN – A double-sided sign mounted perpendicular to a building façade, not including a canopy, awning, or marquee.

REFLECTIVE SIGNS – A sign containing any material or device that has an intensifying reflective light or mirrored surface.

ROOF SIGN – A sign constructed and erected on and over the roof of a building, supported by the roof structure.

SHIELDED – The description of a laminated light that does not produce a direct glare when visible from normal viewing angles by being properly oriented, located, or fitted with shields, visors, or skirts.

SIGN – Any device, fixture, placard, painting, or structure that uses text, graphics, color, illumination, or symbols to identify, communicate, announce the purpose of a person or entity, or communicate information to the public.

SIGN AREA – The entire area of a sign, enclosing the limits of text and graphics, together with any form or other materials or color forming an integral part of the display. Where a sign has 2 or more faces on the same side, the area of all faces shall be included in the area of the sign, except where signs are back-to-back or V-type signs.

SIGN HEIGHT – The vertical dimension of a sign.

STREAMER – A display made of lightweight, flexible materials consisting of long, narrow stripes suspended individually or in a series, used to draw attention to a business or its signs. Streamers are typically intended to move in the wind.

SUPPORTING STRUCTURE – A frame, wall, pole, brackets, or post that provides structural support to a sign.

TEMPORARY SIGNS – A non-permanent sign, the content of which identifies advertising or non-advertising information, which can be displayed for no more than 30 consecutive days at a time, 2 times per year.

WALL SIGN – A sign that is attached to, painted on, or mounted against the exterior wall of a building parallel to the wall surface.

WINDOW SIGN – A sign that is painted on, applied, or affixed to a window or placed inside a window, to be visible from the exterior of the window.

§ 130-204. PRD Related Definitions

As used in Article XIII, the following words and phrases shall have the meanings indicated below:

ANCILLARY COMMERCIAL USES – Commercial establishments whose only function is to supply service and/or products for use within the developed area.

APPLICANT – A landowner or developer, as hereinafter defined, who has filed an application for development, including his heirs, successors, and assigns.

AVERAGE GROSS RESIDENTIAL DENSITY – The number of dwelling units per acre in a planned residential community, computed by dividing the number of dwellings that the Applicant proposes to construct by the number of acres in the development that are not planned to be devoted to commercial use. If the developer is required to dedicate land for sites for schools or other public facilities, such land shall be included in the total land area used in computing maximum permissible average gross density.

COMMON OPEN SPACE – A parcel or parcel of land or an area of water or a combination of land and water within a planned development designed and intended for the use or enjoyment of residents/occupants of the planned development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures, but may contain such improvements as are in the development plan as finally approved, as are appropriate for recreational use by the residents (in planned residential developments) and as are appropriate for common space usage by commercial occupants.

DEVELOPER – Any landowner, agent of such landowner, or tenant having permission from a landowner who makes or causes to be made an application for approval of a development plan.

DEVELOPMENT PLAN – A proposal for the development of a planned development, prepared in accordance with Article XIII, including a plat subdivision, location of various uses, all covenants relating to use, location and bulk of building and other structures, intensity of use or density of development, streets, ways, and parking facilities in the planned development.

LANDOWNER – The legal or beneficial owner or owners of land; the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition); a lessee having a remaining term of not less than 40 years; or any other person having proprietary interest in the land.

PLANNED DEVELOPMENT – The improvement or alteration of contiguous access of at least 2 parcels or more than one acre or the sequential development of 2 or more parcels within a 3-year period (regardless of residential, commercial, or agricultural).

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PLANNED RESIDENTIAL DEVELOPMENT – A contiguous area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for 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 a Municipal Zoning Ordinance.

PLANNING COMMISSION – The legally appointed Planning Commission of the Borough or the Planning Committee as designated by Borough Council.

PLAT – The map or plan of a land development, whether preliminary or final.

SECTION – A geographical area or tract which is part of a proposed planned development which will be developed according to a timetable for development for a period of years included by the Applicant in the development plan.

STAGE – A section or sections of a planned development which an Applicant proposes to commence development at the same time, as part of a timetable for development of the planned development over a period of years.

SUBDIVISION ORDINANCE – The Delmont Borough Subdivision Ordinance.

TOWNHOUSE – A structure consisting of a series of 2 or more attached dwelling units with common party walls, with each dwelling unit having access to the outdoors not shared with the access of other dwelling units.

ZONING ORDINANCE – The Delmont Borough Zoning Ordinance.

Article III: Zoning District Regulations

§ 130-300. Establishment of Districts

This Article establishes zoning districts and describes the use regulations that apply to each district.

- A. Base zoning districts establish districts that divide the Borough into various residential, commercial, and industrial zones. Each district establishes uses that are permitted as a Use by Right (R), as a Conditional Use (C), or as a Special Exception (S). A use permitted by right is compatible with the other uses within the purpose of the district and therefore requires only administrative approval. Conditional uses and special exceptions are those uses that may generate additional impacts and warrant additional standards and an additional approval process to ensure their compatibility and compliance with these zoning requirements.
- B. Overlay zoning districts establish districts within which the standards of both the base and overlay zoning district apply. These districts address special situations that require additional regulations to protect the public health, safety, and general welfare of the community within the specific overlay. The additional regulations identified in the overlay district apply to the area specified for that overlay district only.

§ 130-301. Base Zoning Districts

The Borough is divided into the following zoning districts and as shown in the Zoning Ordinance Map of the Borough attached hereto and incorporated herein. The following types of zoning districts are hereby established:

| | |
|-----|--|
| R-1 | Single Family Residential District |
| R-2 | General Residential District |
| C-1 | Neighborhood Commercial District |
| C-2 | General Commercial and Industrial District |
| C | Conservation District |

§ 130-302. Overlay Zoning Districts

The following Overlay Zoning District has been established for the Borough. The overlay district is shown on the Zoning Ordinance Map of the Borough attached hereto and incorporated herein.

| | |
|------|-----------------------------------|
| CBDO | Central Business District Overlay |
|------|-----------------------------------|

§ 130-303. New Zoning Districts

Additional zoning districts may be added from time to time upon the recommendation of the Planning Commission to the Borough Council pursuant to § 130-715 Enactment of Zoning Ordinance Amendments.

§ 130-304. Zoning Ordinance Map

The map(s) delineating the boundaries of the zoning districts, together with all matters and things shown on such map(s), are adopted and approved, and collectively constitute the Zoning Ordinance Map. The Zoning Ordinance Map is incorporated by reference and made a part of this Chapter. These map(s) are on file in the Borough office. The Zoning Ordinance Map carries the zoning district designations established in this Chapter.

§ 130-305. Zoning District Boundaries

When definite distances in feet are not shown on the Zoning Ordinance Map, the following rules apply:

- A. Boundaries indicated as approximately following the right-of-way or centerlines of streets, highways, or alleys shall be construed to follow the centerlines of streets, highways, or alleys.
- B. Boundaries indicated as approximately following recorded lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following Borough limits shall be construed as following the Borough boundary;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- F. Whenever any street, alley, or other public way not subject to zoning regulations is vacated by official action of the Borough the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the center of such vacation, and all areas so involved shall then be subject to all regulations of the extended districts; and
- G. Where physical features existing on the ground vary from those shown on the Zoning Ordinance Maps, or in other circumstances where the zoning boundary is unclear, the Zoning Officer shall interpret the district boundaries. Appeals to such determinations shall be made to the Zoning Hearing Board pursuant to the requirements of this Chapter.

§ 130-306. Zoning District Permitted Uses

- A. No land, structure, building, or development approval shall be issued unless the proposed development conforms to the regulations prescribed within the applicable zoning district and this Chapter.
- B. 3 classifications of principal uses are established in this Chapter. No principal use is permitted unless it is listed as a Use by Right (R), Conditional Use (C), or Special Exception (S) and identified in the Table of Authorized Principal Uses (Table 6). Uses permitted as principal uses within each zoning district are those uses listed in the Table of Authorized Principal Uses (Table 6). Uses not specifically listed in Table 6 are allowable subject to the provision of this Article and more specifically § 130-307 Uses Not Listed. The classification of uses includes:
 - 1. Uses permitted by right (R) are those authorized uses for which a zoning approval will be issued by the Zoning Officer upon the Zoning Officer's review of the application for development if the application for development indicates compliance with this Chapter.
 - 2. Conditional uses (C) are those authorized uses that are permitted by approval of the Borough Council in accordance with this Chapter and more specifically Article VI Express Standards and Criteria for Conditional Uses.
 - 3. Uses by special exception (S) are those authorized uses that are permitted by approval of the Zoning Hearing Board in accordance with this Chapter and more specifically Article V Express Standards and Criteria for Special Exceptions.

§ 130-307. Uses Not Listed

- A. Uses Not Listed. It is the intent of this Chapter to group similar or compatible land uses into specific zoning districts. Uses that are not specifically listed in the Tables of Authorized Uses (Principal and Accessory), shall not be permitted in the Borough unless determined to be a use similar to a use specifically listed in the Tables of Authorized Uses (Principal and Accessory). Uses that are not specifically listed but are similar to a specifically listed use shall be permitted by special exception in the same zoning district in which the similar specifically listed use is permitted and the Zoning Hearing Board shall make findings with regard to the similarity of the uses. In the event that the Zoning Hearing Board finds the use is similar and permissible as a special exception within the proposed district, all standards and requirements related to the similar use within the district shall be applicable to the proposed use.
- B. If it is determined that there is no specifically listed use that is similar to the proposed use, the use shall be permitted as a Special Exception in the C-2 General Commercial and Industrial District. Requirements of § 130-513 for heavy industrial uses shall apply.
- C. Uses Preempted by State Statute. Notwithstanding any provision of this Article to the contrary, uses that are required to be permitted in any zoning district by State statute may be permitted in accordance with State law whether or not the use is included in the Tables of Authorized Uses (Principal and Accessory).
- D. In all residential zoning districts, there shall only be one principal use and one principal structure on a lot.
- E. In all nonresidential zoning districts, 2 or more nonresidential principal buildings can occupy the same lot or building. In all cases described herein, all applicable requirements for each of the structures or uses shall be met on the lot.
- F. In addition to the provisions for principal uses, accessory uses shall also be permitted in accordance with the provisions of this Chapter. In all zoning districts, all accessory uses and structures shall be located on the same lot with the principal structure to which they are accessory. Accessory use regulations are set forth in § 130-316 through 318.

§ 130-308. Bulk and Area Regulations

Bulk and area regulations for uses are specified in the tables in each Section for the specific zoning district.

§ 130-309. R-1 – Single Family Residential District

- A. Purpose. It is the purpose of this district to provide areas for lower-density single-family residential neighborhoods and other compatible uses.
- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district.
- C. Authorized Accessory Uses. See Section § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district.
- D. Area and Bulk Regulations. The area and bulk regulations within the district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
- E. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements.

Table 1 – R-1 Area and Bulk Regulations

| R-1 Zoning District Bulk and Area Regulations | | |
|---|--------------------------------|----------------|
| | With Water/Sewer | No Water/Sewer |
| Townhouse | | |
| Minimum Lot Area | 2,500 sq. ft. | 20,000 sq. ft. |
| Minimum Lot Width | 20 ft. | 100 ft. |
| Minimum Front Yard**1 | 25 ft. | 35 ft. |
| Minimum Side Yard** | 10 ft. | |
| Minimum Rear Yard | 50 ft. | |
| Maximum Lot Coverage | 50% | |
| Maximum Building Height | 2 1/2 stories or 30 ft. | |
| All Other Principal Uses | | |
| Minimum Lot Area | 10,000 sq. ft. | 20,000 sq. ft. |
| Minimum Lot Width | 75 ft. | 100 ft. |
| Minimum Front Yard**1 | 25 ft. | 35 ft. |
| Minimum Side Yard** | 10 ft. per side/24 ft. total* | |
| Minimum Rear Yard | 50 ft. | |
| Maximum Lot Coverage | 30% | |
| Maximum Building Height | 2 1/2 stories or 30 ft. | |
| Accessory Uses | | |
| Minimum Side Yard** | 5 ft. from interior lot line** | |
| Minimum Rear Yard | 10 ft. | |
| Maximum Lot Coverage | 40% of rear yard area | |
| <i>*Any lot platted prior to the enactment of this Chapter, which is less than 75 ft. wide, may reduce the 2 side yards by 9 inches for each foot of difference to a total width of not less than 16 ft. Under such circumstances, the width of the narrower of the 2 side yards shall not be less than 7 ft.</i> | | |
| <i>**For corner lots, the setback for principal and accessory structures is 10 ft. for all yards facing a right-of-way.</i> | | |
| <i>1Also see Table 8 for required buffer yards.</i> | | |

§ 130-310. R-2 –General Residential District

- A. Purpose. It is the purpose of this district to provide a transitional area between lower-density residential land use and commercial or downtown type uses and to provide for a wide variety of residential options. This district also exists to promote an efficient, compact land use pattern to promote easy access among stores and services by pedestrians, to shorten trips, and to lessen dependence on the automobile.
- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district.
- C. Authorized Accessory Uses. See § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district.

Article III: Zoning District Regulations

- D. Area and Bulk Regulations. The area and bulk regulations within the district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
- E. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements.

Table 2 – R-2 Area and Bulk Regulations

| R-2 Zoning District Bulk and Area Regulations | | |
|--|--|----------------|
| | With Water/Sewer | No Water/Sewer |
| Townhouse | | |
| Minimum Lot Area | 2,500 sq. ft. | Not Permitted |
| Minimum Lot Width | 20 ft. | Not Permitted |
| Minimum Front Yard ^{**1} | 25 ft. | 35 ft. |
| Minimum Side Yard ^{**} | 5 ft. | |
| Minimum Rear Yard | 20 ft. | |
| Maximum Lot Coverage | 50% | |
| Maximum Building Height | 3 stories or 35 ft. | |
| All Other Principal Uses | | |
| Minimum Front Yard ^{**} | 25 ft. | 35 ft. |
| Minimum Side Yard ^{**} | 8 ft. per side/20 ft. total* | |
| Minimum Lot Area | 7,500 sq. ft. | 15,000 sq. ft. |
| Minimum Lot Width | 75 ft. | 100 ft. |
| Minimum Rear Yard | 20 ft. | |
| Maximum Building Height | 3 stories or 35 ft. | |
| Maximum Lot Coverage | 30% | |
| Principal Multi Family Dwelling ^{***} | | |
| Minimum Lot Area | 14,000 sq. ft. for 2 dwelling units; for each additional dwelling unit, the lot area is increased by 6,000 sq. ft. | |
| Minimum Lot Width | 85 ft. for 2 dwelling units; for each additional dwelling unit, the lot width is increased by 10 ft. | |
| Accessory Uses | | |
| Minimum Side Yard ^{**} | 5 ft. from interior lot line ^{**} | |
| Minimum Rear Yard | 5 ft. ^{**} | |
| Maximum Lot Coverage | 40% of rear yard area | |
| Maximum Lot Coverage | 40% of rear yard area | |
| <i>**For corner lots, the setback for principal and accessory structures is 5 ft. for all yards facing a right-of-way.</i> | | |
| <i>***Principle use standards apply except where specifically noted.</i> | | |
| <i>¹Also see Table 8 for required buffer yards.</i> | | |

§ 130-311. C-1 Neighborhood Commercial District

- A. Purpose. It is the purpose of this district to provide for a variety of retail and commercial uses primarily in the central portion of the community. While concentrations of commercial- and service-oriented land uses exist, the character of adjacent residential uses and the convenience of pedestrian and vehicular traffic shall be protected.
- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district.
- C. Authorized Accessory Uses. See § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district.
- D. Area and Bulk Regulations. The area and bulk regulations within the district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
- E. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements.

Table 3 – C-1 Area and Bulk Regulations

| C-1 Zoning District Bulk and Area Regulations | | |
|---|---|----------------|
| | With Water/Sewer | No Water/Sewer |
| Principal Uses | | |
| Minimum Front Yard ¹ | 7 ft. including sidewalk area | |
| Minimum Side and Rear Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Side and Rear Yard Adjoining R-1, R-2 or C Districts ¹ | 50 ft. or 1/2 the height of the structure, whichever is greater | |
| Minimum Lot Area | 2,000 sq. ft. | |
| Minimum Lot Width | 50 ft. | |
| Maximum Building Height | 3 stories or 35 ft. | |
| Maximum Lot Coverage | N/A | |
| Accessory Uses | | |
| Minimum Side and Rear Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Side and Rear Yard Adjoining R-1, R-2 or C Districts ¹ | 5 ft. | |
| Maximum Lot Coverage | N/A | |
| ¹ Also see Table 8 for required buffer yards. | | |

§ 130-312. C-2 General Commercial and Industrial District

- A. Purpose. It is the purpose of this district to provide areas with access to high-volume roadways separated from residential uses for a variety of commercial, office, service, and industrial uses.

Article III: Zoning District Regulations

- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district.
- C. Authorized Accessory Uses. See § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district.
- D. Area and Bulk Regulations. The area and bulk regulations within the district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
- E. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements.

Table 4 – C-2 Area and Bulk Regulations

| C-2 Zoning District Bulk and Area Regulations | | |
|--|--|----------------|
| | With Water/Sewer | No Water/Sewer |
| Non-Industrial Principal Uses | | |
| Minimum Front Yard ¹ | N/A | |
| Minimum Side Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Side Adjoining R-1, R-2, or C Districts ¹ | 50 ft. or 20% of lot width for corner lots | |
| Minimum Lot Area | N/A | |
| Minimum Lot Width | N/A | |
| Minimum Rear Yard Adjoining an Alley ^{* 1} | 30 ft. from center line of alley | |
| Minimum Rear Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Rear Yard Adjoining R-1, R-2, or C Districts ¹ | 50 ft. | |
| Maximum Building Height | 3 stories or 35 ft. | |
| Maximum Lot Coverage | 90% | |
| Industrial Principal Uses | | |
| Minimum Front Yard Adjoining C-1 or C-2 Districts ¹ | 20 ft. | |
| Minimum Front Yard Adjoining R-1, R-2, or C Districts ¹ | 30 ft. | |
| Minimum Side Yard ¹ | 8 ft. per side/20 ft. total | |
| Minimum Lot Area | 7,500 sq. ft. | |
| Minimum Lot Width | 60 ft. | |
| Minimum Side and Rear Yard Adjoining C-1 or C-2 Districts | 25 ft. | |
| Minimum Side and Rear Yard Adjoining R-1, R-2, or C Districts | 40 ft. | |
| Maximum Building Height | 4 stories or 50 ft. | |
| Maximum Lot Coverage | 50% | |
| ¹ Also see Table 8 for required buffer yards. | | |
| [*] Alley may be an existing alley or an alley of record. | | |

§ 130-313. C Conservation District

- A. Purpose. It is the purpose of this district to provide areas for active and passive recreational activities and facilities.
- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district.
- C. Authorized Accessory Uses. See § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district.
- D. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements.
- E. Area and Bulk Regulations. The area and bulk regulations within the district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
 - 1. Maximum Lot Coverage: 10 percent.
 - 2. Maximum Building Height: 2 1/2 stories or 30 ft.

§ 130-314. CBDO Central Business District Overlay

- A. Purpose. It is the purpose of this overlay district to promote business and provide for a mix of commercial, residential, and mixed uses that fit the historic character of Delmont's downtown core. Infill and adaptive reuse development along a pedestrian-oriented corridor that preserves, highlights, and enhances the historic core of Delmont and the Borough's unique community character are prioritized.
- B. Authorized Principal Uses. See § 130-315 Table of Authorized Uses (Table 6) for authorized principal uses and method of authorization in the district. The authorized uses for the underlying zoning district shall apply.
- C. Authorized Accessory Uses. See § 130-317 Table of Authorized Accessory Uses (Table 7) for authorized accessory uses and method of authorization in the district. The authorized accessory uses for the underlying zoning district shall apply.
- D. Area and Bulk Regulations. The area and bulk regulations within the overlay district shall be subject to the standards identified in this Section, except as they may be modified by the express standards and criteria for the specific permitted uses, conditional uses, or uses by special exception.
- E. Where there is a conflict between the requirements of the CBDO and the underlying zoning district, the requirements of the CBDO shall apply.

Table 5 – CBDO Area and Bulk Regulations

| CBDO Zoning District Bulk and Area Regulations | | |
|---|---|----------------|
| | With Water/Sewer | No Water/Sewer |
| Principal Uses | | |
| Minimum Front Yard ¹ | The building line shall align with the building lines of the 2 adjacent structures; if the 2 adjacent structures are not aligned, the minimum front yard is the average of the 2 adjacent front yards | |
| Minimum Side and Rear Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Side and Rear Yard Adjoining R-1, R-2 or C Districts ¹ | N/A | |
| Minimum Lot Area/Maximum Lot Area | 2,000 sq. ft./5,000 sq. ft. | |
| Minimum Lot Width/Maximum Lot Width | 50 ft./100 ft. | |
| Maximum Building Height/Minimum Building Height | 3 stories or 35 ft./2 stories or 25 ft. | |
| Maximum Lot Coverage | N/A | |
| Accessory Uses | | |
| Minimum Side and Rear Yard Adjoining C-1 or C-2 Districts ¹ | N/A | |
| Minimum Side and Rear Yard Adjoining R-1, R-2 or C Districts ¹ | 5 ft. | |
| Maximum Lot Coverage | N/A | |
| ¹ Also see Table 8 for required buffer yards. | | |

F. Building layout and design shall adhere to the following:

1. All buildings shall reflect a continuity obtained by maintaining a building scale and setback that is consistent with the surrounding buildings.
2. Building facades facing public or private streets shall be at least 25 percent transparent.
3. The front building facade of every building shall face a street, plaza, or landscaped walkway that is visible and directly accessible from a public street.
4. Mechanical equipment and utilities such as furnaces, air conditioners, elevators, transformers, and utility equipment, whether on the roof or mounted on the ground, shall be completely screened from adjacent properties and adjacent streets. Screening shall be compatible with the architectural treatment of the principal structure and/or adjacent area landscape treatments.
5. Dumpsters or other service areas may not face a public street. If the building does not have an area facing away from a public street, the dumpster or service areas shall be completely screened from adjacent streets.
6. To illustrate conformity with the requirements herein, submission of architectural elevations for any proposed building may be required.

- G. Vehicle and pedestrian access areas shall adhere to the following:
1. Sidewalks shall be constructed along any side of a public or private street that is within or adjacent to any development.
 2. Vehicular access to residential units via alleys at the rear of buildings is encouraged.
 3. Convenient and safe pedestrian circulation shall be provided through a system of walkways, paths, and/or sidewalks between parking areas and buildings, and to adjacent developments and residential neighborhoods.
 4. Pedestrian circulation shall be separated from vehicular traffic.
 5. Sidewalks within a site shall connect buildings with all parking areas and sidewalks along nearby streets.
 6. Sidewalks parallel to parking lots and/or streets shall be separated from such areas by a curbed landscaped area measuring a minimum of 4 feet in width.
 7. If road or intersection improvements are required, crosswalks shall be constructed to move people safely to and from buildings and parking areas. Crosswalks shall be constructed of a material that provides strong contrast with the vehicular travel surface, such as stamped concrete with integral coloring.
 8. Curb cuts along streets shall be minimized. Where possible, shared vehicle access between adjacent properties shall be used.
 9. Drive through facilities are not permitted in the CBDO regardless of permitted principal or accessory uses in the underlying zoning district.
- H. Off-Street Parking and Loading. See Article IX for off-street parking and loading requirements. Also see § 130-902 for minimum parking ratios required in the CBDO. Should off-street parking be provided, the site shall adhere to the following:
1. Off-street parking areas shall be designed to reduce the negative impacts of large paved areas and contain landscaped areas and defined pedestrian walkways.
 2. Parking lots shall be divided by landscaped strips into smaller parking areas of no more than 20 parking spaces. Such landscape strips shall be a minimum of 6 feet wide and shall contain a minimum of one canopy tree (minimum 2.5 inches caliper in size) every 30 feet.
 3. All parking lots containing more than 5 spaces and that serve multifamily dwellings and nonresidential uses shall be screened from streets and adjacent properties using landscaping and/or decorative walls or fences along the parking lot perimeter. The perimeter screening shall be continuous and include masonry walls, decorative fencing, or a row of shrubs and one shade tree planted every 30 feet, or a combination of wall, fencing, or landscaping. The walls, fencing, or landscaping (at time of planting) shall be between approximately 42 inches and 48 inches in height, such that the headlights from parked vehicles are screened from view.
 4. A maximum of one bay of parking having a maximum depth of 35 feet may be placed between a public street and the front facade of a building.
 5. Parking areas shall be designed to allow for logical interconnections to abutting properties for providing effective and safe circulation that supports access management strategies for collector and arterial roadways.
- I. Outdoor eating areas shall adhere to the following:
1. Restaurants or other similar food services may provide outdoor seating in sidewalk areas, if a 4-foot clear pedestrian passage is maintained and building access is not impaired.

§ 130-315. Table of Authorized Principal Uses

A. Table 6 establishes the authorized principal uses, the zoning districts where the principal uses are authorized, and the method of authorization.

R – Permitted Use by Right

S – Use by Special Exception

C – Conditional Use

Where blank the use is not permitted in the corresponding district.

Table 6 – Table of Authorized Uses

| Table of Authorized Land Uses | | | | | | |
|-------------------------------|---------------------------------------|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | R-1 | R-2 | C-1 | C-2 | C |
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| RESIDENTIAL | | | | | | |
| 1 | Bed and Breakfast | C | C | C | | |
| 2 | Group Homes | R | R | | | |
| 3 | Hotels/Motels | | | C | C | |
| 4 | Institutional Living | | C | C | C | |
| 5 | Mobile Home Park | C | | | | |
| 6 | Multifamily Dwelling | | R | R | | |
| 7 | Planned Residential Development | R | R | | | |
| 8 | Residential/Non-Residential Mixed Use | | C | C | C | |
| 9 | Single Family Dwelling | R | R | R | | |
| 10 | Townhouse | R | R | R | | |

| | | R-1 | R-2 | C-1 | C-2 | C |
|---|---|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| SOCIAL (SOCIAL, INSTITUTIONAL, AND RELIGIOUS) | | | | | | |
| 11 | Cemetery | R | R | R | R | R |
| 12 | Entertainment Facilities | | | S | R | S |
| 13 | Health Care, Medical or Treatment | | | | R | |
| 14 | Parks and Outdoor Recreation Space | R | R | R | R | R |
| 15 | School, Nursery School, Day Care (Adult or Child) | S | S | S | R | |
| 16 | Social, Cultural or Religious Assembly, Large Scale | | | S | S | |
| 17 | Social, Cultural or Religious Assembly, Small Scale | R | R | R | R | S |
| COMMERCIAL (SHOPPING, BUSINESS, OR TRADE) | | | | | | |
| 18 | Adult-Oriented Businesses | | | | S | |
| 19 | Artisan Manufacturing and Small-Scale Production | C | R | R | R | |
| 20 | Automobile-Oriented Goods and Services | | | C | C | |
| 21 | Brewery With Sales | | | R | R | |
| 22 | Integrated Business or Shopping Centers | | | C | R | |
| 23 | Kennel | | | | C | |
| 24 | Medical Marijuana Dispensary | | | | C | |
| 25 | Office With On Site Services, Large Scale | | | R | C | |
| 26 | Office With On Site Services, Small Scale | C | C | R | R | |

| | | R-1 | R-2 | C-1 | C-2 | C |
|--|--|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| 27 | Office Without On Site Services, Large Scale | | | R | R | |
| 28 | Office Without On Site Services, Small Scale | C | R | R | R | |
| 29 | Restaurant or Bar With Drive Through | | | C | C | |
| 30 | Restaurant or Bar Without Drive Through | | | R | R | |
| 31 | Retail Goods and Services, Large Scale | | | C | C | |
| 32 | Retail Goods and Services, Medium Scale | | | C | R | |
| 33 | Retail Goods and Services, Small Scale | | | R | | |
| 34 | Skilled Gaming | | | | C | |
| INDUSTRIAL (INDUSTRIAL, MANUFACTURING, INFRASTRUCTURE, STORAGE, AND NATURAL RESOURCES) | | | | | | |
| 35 | Agricultural Uses | | | | S | |
| 36 | Communications Antennas and Communication Equipment Buildings | S | S | S | R | |
| 37 | Communication Towers | S | S | S | R | |
| 38 | Community Gardens/Farming | R | R | R | R | R |
| 39 | Drilling, Oil and Gas | | | | S | |
| 40 | Emergency Response or Public-Safety | | C | C | C | |
| 41 | Essential Services | R | R | R | R | R |
| 42 | Flex/Light Industrial Space | | | | R | |
| 43 | Forestry | R | R | R | R | R |
| 44 | Heavy Industrial, or Heavy Goods Storage or Handling, Cremation | | | | S | |
| 45 | Junkyards | | | | S | |
| 46 | Medical Marijuana Grower/Processor | | | | S | |
| 47 | Mineral Extraction | | | | S | |
| 48 | Micro Cell Towers and Antennas, Distributed Antenna Systems, and Data Collection Units | S | S | S | S | |

| | | R-1 | R-2 | C-1 | C-2 | C |
|----|---|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| 49 | Mini-Warehouse | | | C | R | |
| 50 | Outdoor Storage, Contractor Yard, Building Material Sales | | S | | S | |
| 51 | Warehousing, Non-Retail Storage | | | | S | |

§ 130-316. Accessory Uses and Structures

- A. Applicability. This Section and § 130-317 through 318 apply to any subordinate use of a building or other structure, or use of land that is:
1. Conducted on the same lot as the principal use to which it is related; and
 2. Clearly incidental to, and customarily found in connection with, the principal use or structure.
- B. Where a principal use or structure is permitted, such use may include accessory uses and structures subject to this Section and § 130-317 through 318, but in no case shall the keeping of livestock, horses, poultry, bees, and other similar uses be permitted in the Borough except as a permitted principal or accessory agricultural use.
- C. Establishment of Accessory Uses.
1. Accessory structures, buildings, or uses shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established.
 2. In no instance shall an accessory building or use be established on a vacant lot.

§ 130-317. Table of Authorized Accessory Uses and Structures

- A. Accessory uses shall be permitted in accordance with Table 7:

R – Permitted Use by Right

S – Use by Special Exception

C – Conditional Use

Where blank the use is not permitted in the corresponding district.

Table 7 – Table of Accessory Uses and Structures

| Table of Authorized Accessory Uses and Structures | | | | | | |
|---|---|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | R-1 | R-2 | C-1 | C-2 | C |
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| 1 | Any other building or use that the Zoning Officer determines is customarily incidental to the permitted principal use or principal building | C | C | C | C | C |
| 2 | Communications Facilities, Antennas, or Towers For Commercial Use | S | S | S | R | |
| 3 | Communications Facilities, Antennas, or Towers For Personal Use | R | R | R | R | R |
| 4 | Day Care (accessory to place of worship or school only) | S | S | S | R | |
| 5 | Decks, Patios, or Porches | R | R | R | R | R |
| 6 | Drive Through | | | C | C | |
| 7 | Fire Escapes, Fire Towers, or Handicap Ramps Where Required By The Building Code | R | R | R | R | R |

| | | R-1 | R-2 | C-1 | C-2 | C |
|----|--|---------------------------|---------------------|-------------------------|-----------------------------------|--------------|
| | | Single Family Residential | General Residential | Neighborhood Commercial | General Commercial and Industrial | Conservation |
| 8 | Garages and Carports | R | R | R | R | R |
| 9 | Gazebo | R | R | R | R | R |
| 10 | Heating and Cooling Units (permitted in side or rear yards only) | R | R | R | R | R |
| 11 | Home Occupation | R | R | R | R | |
| 12 | No-Impact Home-Based Business | R | R | R | R | |
| 13 | Outdoor Dining (Accessory to permitted use) | | | C | C | |
| 14 | Parking | R | R | R | R | R |
| 15 | Paved Sports Courts | R | R | R | R | R |
| 16 | Satellite Dishes | R | R | R | R | R |
| 17 | Small Solar Energy System | R | R | R | R | R |
| 18 | Small Wind Energy System | R | R | R | R | R |
| 19 | Private Stable | | | | C | |
| 20 | Storage Buildings and Sheds (including barns) | R | R | R | R | R |
| 21 | Stormwater Detention or Retention Facilities or Ditches | R | R | R | R | R |
| 22 | Swimming Pools | R | R | R | R | R |
| 23 | Swing and Play Sets | R | R | R | R | R |

§ 130-318. Dimensional Standards for Accessory Uses and Structures

- A. Accessory uses and structures shall be permitted in accordance with the following standards:
1. Detached accessory buildings and structures shall not be located in the front yard.
 2. The location of permitted nonresidential accessory structures is governed by the same dimensional regulations as set forth for the principal use or principal structure or structures.
 3. Nonresidential accessory structures shall be counted towards the maximum lot coverage on a lot and in no case shall exceed the maximum lot coverage for the district in which it is located when considering all structures on the lot.
 4. Accessory uses shall be located on the same lot as the principal use for which they serve.
 5. All permanent accessory structures shall be set back a minimum of 5 feet from any property line.
 6. Not more than one accessory structure by type shall be permitted on an individual lot (e.g. shed, play structure, etc.).
 7. Accessory structures shall not exceed 12 feet in height except structures required by building and fire codes and those which customarily exceed 12 feet as follows:
 - a. Flag and light poles shall not exceed 25 feet in height.
 - b. Signs subject to Article VIII.
 - c. Wind and solar energy systems subject to the requirements of § 130-423 Small Solar and Wind Energy Systems.
 - d. Telecommunications facilities, antennas, or towers subject to the requirements of this Chapter and Article IV.

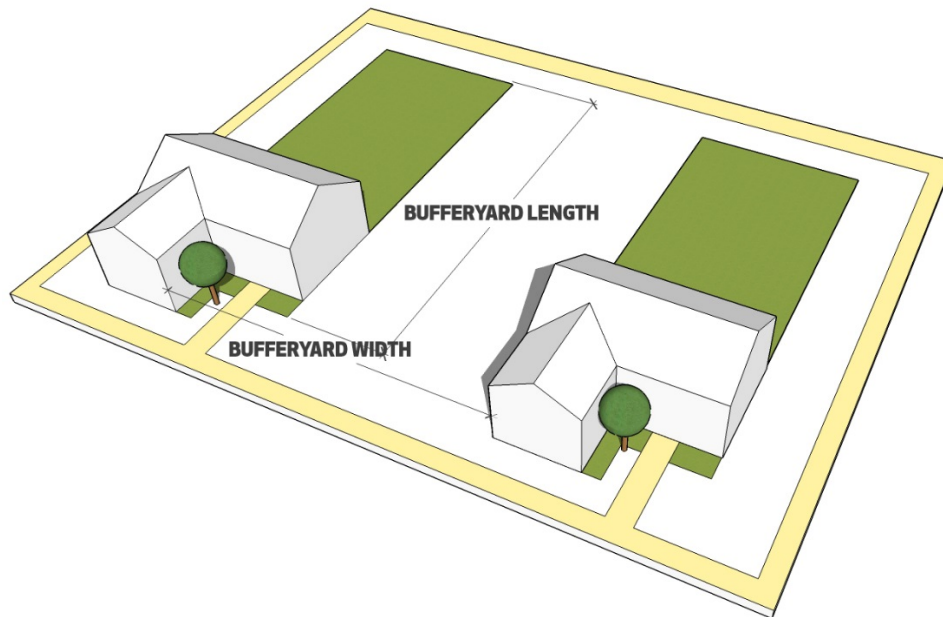
Article IV: General and Supplemental Regulations

§ 130-400. Screening and Landscaping

A. Buffer Yards

1. Figure 1 illustrates a typical buffer yard. The regulations below outline the minimum width, length, and number of plants for each type of buffer yard. The Applicant may either install new plants or preserve existing plants within the required buffer that meet the requirements of this Section.

Figure 1 – Buffer Yards



2. Buffer Area Requirements. Buffer areas shall adhere to the following:
 - a. Buffer area A:
 - i. Minimum buffer yard width: 30 feet.
 - ii. 2 canopy trees, 3 understory trees, and 5 shrubs are required for every 50' feet of buffer yard length.
 - b. Buffer area B:
 - i. Minimum buffer yard width: 20 feet.
 - ii. 1 canopy tree, 3 understory trees, and 3 shrubs are required for every 50' feet of buffer yard length.
 - c. Buffer area C:
 - i. Minimum buffer yard width: 10 feet.

- ii. 3 understory trees and 3 shrubs are required for every 50' feet of buffer yard length.
- 3. Buffer areas are required under the following circumstances:
 - a. Where a buffer yard is required by the express standards and criteria for a conditional use or use by special exception.
 - b. Adjacent Uses. Buffer yards are intended to minimize impacts of different uses on adjacent sites or properties. When new development is proposed, buffer yards will be required along the perimeter of the site according to Table 8.

Table 8 – Buffer Yard Use

| Proposed Use | Adjacent Parcel Zoning | Buffer Yard |
|---------------------------------|------------------------|---------------|
| Commercial | R-1 | Buffer Yard B |
| Industrial | | Buffer Yard A |
| Residential & Social | | None Required |
| Commercial | R-2 | Buffer Yard B |
| Industrial | | Buffer Yard A |
| Residential & Social | | None Required |
| Commercial | C-1 | None Required |
| Industrial | | Buffer Yard C |
| Residential & Social | | None Required |
| Commercial | C-2 | None Required |
| Industrial | | None Required |
| Residential & Social | | Buffer Yard D |
| Commercial | C | Buffer Yard B |
| Industrial | | Buffer Yard A |
| Residential & Social | | None Required |
| Commercial | CBDO | None Required |
| Industrial | | Buffer Yard B |
| Residential & Social | | None Required |

B. General Provisions

- 1. Existing Vegetation. Every attempt should be made to preserve existing vegetation when possible. Where trees already exist within the required buffer area, these trees shall remain undisturbed, except that diseased or dead material may be removed. If existing vegetation and/or existing topography provides screening that is adequate to meet the intent of the required buffer area to screen the buildings, activities, and parking areas from adjoining properties, the Borough Council, upon recommendation by the Planning Commission, may determine that the existing topography and/or vegetation constitutes all or part of the required buffer area. If such a determination is made, the Applicant may be required to record a conservation easement of the depth specified by the Borough Council to guarantee that the existing topography and/or vegetation will not be disturbed or removed from the approved buffer area.
- 2. Any existing trees within the required buffer area that are a minimum of 4 inches in diameter at a point one foot above the ground shall be preserved to the extent possible and shall count as a required tree within the buffer area. At no point, however, shall any existing trees and required trees be separated at a distance greater than the distance specified in the required buffer area.

3. Openings for driveways shall be permitted to cross a required buffer area. Plantings in required buffer areas shall be located so as not to obstruct visibility for traffic entering or leaving the site.
4. If a site has elevation differences at the perimeter of the site and the buildings and/or developed areas intended to be screened, the buffer yard shall be moved to a location where plantings are at the same elevation as the finished first floor or surface parking lot elevation they are intended to screen.
5. Maintenance Required. It shall be the responsibility of the Owner/Applicant to assure the continued growth of all required landscaping and/or to replace the same in the event of frost, vandalism, disease, or other reasons for the discontinued growth of the required trees, shrubs, and bushes. Replacement shall be no later than the subsequent planting season.
6. Conflict between buffer areas and building setback requirements. When the width of a required buffer area conflicts with the minimum building setback requirements of this Chapter, the greater distance shall apply. The buffer area planting requirement shall be adhered to regardless of the setback requirement. The area of the setback requirement may be included in the required buffer area.
7. Stormwater management facilities and structures may be maintained within a buffer area, but the existence of such facilities or structures shall not be a basis for a failure to meet the planting requirements.

C. Plant Sizes.

1. Deciduous Trees. All required trees shall be a minimum of 2 inches diameter at breast height. All required trees shall be a minimum of 6 feet in height at time of planting measured from the ground adjacent to the planted tree to the top of the tree.
2. Evergreen Trees. All required evergreen trees shall be a minimum of 6 feet in height at the time of planting measured from the ground adjacent to the planted tree to the top of the tree.
3. Shrubs. All required shrubs shall be a minimum of 24 inches in height at the time of planting.

§ 130-401. Lighting Requirements

Lighting for all uses in the Borough shall meet the following requirements.

§ 130-402. Nonresidential Use Lighting Standards

All exterior parking lots, driveways, vehicular access aisles, pedestrian access areas, sidewalks, pathways, and loading spaces shall be sufficiently illuminated to provide safe movements on site.

- A. Illumination shall be by sharp cut-off fixtures with flush-mounted lens cap, with the following exceptions.
 1. Decorative street lighting along private streets (not including parking lot areas) is exempt from this requirement. However, street light poles for decorative street lighting shall not exceed 25 feet in height, measured from finished grade to the top of the fixture.
 2. Decorative lighting along pedestrian walkways in front of buildings and in pedestrian plazas is exempt from this requirement. However, light poles for the decorative lighting shall not exceed 15 feet in height, measured from finished grade to the top of the fixture.
- B. Fixtures (including those mounted on a building or other structure) shall be mounted parallel to the ground surface, with the following exceptions.

1. Decorative street lighting along private streets, decorative lighting along pedestrian walkways in front of buildings, and decorative lighting in pedestrian plazas are exempt from this requirement.
 2. Lighting for the purpose of highlighting a structure or landscape feature shall be exempt from this requirement.
- C. Pole height shall be a maximum of 24 feet.
- D. Illumination shall not exceed 10.75 Nits at all property boundaries. The 10.75 Nit illumination shall be measured horizontally on the ground surface and vertically at a 5-foot height at the property lines.
- E. There shall be no direct or sky-reflected glare, whether from floodlights or from high-temperature processes (for example, combustion or welding), that is visible from within any residential district.
- F. All site lighting including architectural, landscape, and canopy lighting shall be from a concealed source that is not visible from the property boundaries or public street right-of-way. Lighting associated with a freestanding or building canopy shall be recessed into the canopy.
- G. Where elevation differences exist between a proposed development and adjacent properties, the direct source of lighting shall be shielded from adjacent uses to the extent possible using baffles or shades.

§ 130-403. Residential Use Lighting Standards

- A. For all residential uses that require parking lots that contain more than 10 parking spaces the proposed development shall comply with the requirements of the nonresidential use lighting standards above.
- B. All other proposed lighting in residential districts shall be oriented so as not to interfere with adjacent properties. Decorative street lights constructed in conjunction with a proposed residential development shall be designed to minimize impact to existing developments or properties.

§ 130-404. Fences and Walls

- A. Unless otherwise stated, fences and walls shall be allowed in all districts. Except where required to meet local, Federal, or State regulations, documented standards to protect the health, safety, and welfare of Borough residents, or by specific criteria for a permitted use by right, special exception, or conditional use, fences and walls shall adhere to the following:
1. No fence, structure, wall, or continuous hedge shall be located within an existing right-of-way.
 2. Required sight distances for traffic safety shall be maintained.
 3. Fences may be located anywhere on a lot and on a lot line.
 4. If one side of a fence is more finished or has a flatter appearance than another side of a fence and if the fence faces onto an abutting dwelling or street, then the more finished or flatter side shall face the abutting dwelling or street.
- B. With respect to any fence installed in Delmont Borough, sharp or protruding edges shall be prohibited, unless the sharp points or edges are turned under. It shall be unlawful to erect or maintain in Delmont Borough any fence constructed in whole or in part of barbed wire or saw-toothed wire.

§ 130-405. Performance Standards

- A. Noise. The ambient noise level of any operation, other than those exempted below, shall not exceed the decibel levels prescribed.
1. No operation or activity shall cause or create noise in excess of the sound levels prescribed below:
 - a. Residential Districts. At no point beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 60 dBA.
 - b. Nonresidential Districts. At no point on or beyond the boundary of any lot within these districts shall the exterior noise level resulting from any use or activity located on such lot exceed a maximum of 65 dBA.
 - c. Where 2 or more zoning districts in which different noise levels are prescribed share a common boundary, the most restrictive noise level standards shall govern.
 - i. The following uses or activities shall be exempted from the noise regulations:
 - (a) Customary and usual farming activities in all zoning classifications.
 - (b) Noises emanating from construction or maintenance activities between 7:00 am and 8:00 pm.
 - (c) Noises caused by safety signals, warning devices, and other emergency-related activities or uses.
 - (d) Noises emanating from public recreational uses between 7:00 am and 11:00 pm.
 - (e) Normal utility and public works activities between the hours of 7:00 am and 9:00 pm, and emergency operations at any time.
 2. In addition to the above regulations, all uses and activities within the Borough shall conform to all applicable County, State, and Federal regulations. Whenever the regulations contained herein are at variance with any other lawfully adopted rules or requirements, the more restrictive shall govern.
- B. Vibrations. Except for vibrations emanating from construction or maintenance activities between 7:00 am and 8:00 pm, vibrations detectable without instruments on neighboring property in any district shall be prohibited.
- C. Glare. There shall be no direct or sky-reflected glare, whether from floodlights or from high-temperature processes (for example, combustion or welding), that is visible from within any district. Beacon lighting shall not be permitted in the Borough unless required by a State or Federal agency.
- D. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.
- E. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- F. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
- G. Air Pollution. No pollution by air by fly ash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling.
- H. Determination of Compliance. During the review of an application for zoning approval, the Applicant may be required to submit data and evidence documenting that the proposed activity, facility, or use will comply with the provisions of this Section. In reviewing such documentation, the Borough may seek the assistance of any public agency having jurisdiction or interest in the particular issues and the Borough may seek advice from a qualified technical expert. All costs of the expert's review and report shall be paid by the Applicant. A negative report by the technical expert and the Applicant's refusal or inability to make alterations to ensure compliance with this Section shall be a basis for denying approval of the application.

§ 130-406. Temporary Construction Trailers, Model Homes, or Sales Offices

Temporary construction trailers, model homes, or sales offices shall be permitted in any zoning district subject to the following conditions:

- A. Temporary construction trailers shall be permitted only during the period that the construction work is in progress under a valid building permit. The temporary construction trailer shall be removed upon completion of the construction authorized under a building permit or upon completion of the installation of the public improvements in a development plan or subdivision. If construction is phased, the temporary construction trailer shall be moved from the completed phase to the next phase when 90 percent of the required improvements in the completed phase have been installed as determined by the Borough Engineer.
- B. Model homes or sales offices shall be permitted only until 90 percent of the lots or dwelling units in the development are sold. In the case of a phased development, the use of a model home or sales office shall be permitted to continue only if the subsequent phase is initiated within 6 months of the completion of 90 percent of the lots or dwelling units in the prior phase.
- C. A permit for the temporary structure or use shall be obtained from the Zoning Officer prior to the commencement of construction.
- D. Temporary construction trailers shall be located on the lot on which the construction is progressing unless an alternative location is approved by the Zoning Officer based on circumstances that make it impractical to locate on the lot on which construction is occurring. In any case, the temporary trailers shall not be located within 25 feet of any property line adjoining an occupied residential use.
- E. Temporary construction trailers shall be used only as temporary field offices and for storage of incidental equipment and supplies. They shall not be used for any dwelling use.
- F. No combustible materials shall be stored in temporary construction trailers.
- G. Model homes shall be located on a separate lot and shall meet all the requirements for permanent dwellings in the zoning district in which they are located. Sales offices may be located in a model home or may be located in a trailer located on a vacant lot in the plan or on the site of construction. If the sales office is located in a trailer, the trailer shall not be located within 25 feet of any property line adjoining an occupied residential use.
- H. Model homes or sales offices located in a trailer shall not be utilized for any dwelling use during the time they are approved as a temporary use or structure in accordance with the provisions of this Section.
- I. Model homes or sales offices shall be used primarily for sales associated with the development in which they are located and shall not be used as the primary place of business for the listing realtor.

§ 130-407. Outdoor Storage

- A. In C-1 and C-2 zoning districts except for nurseries, garden supply, building supply, custom crafting, and similar businesses that require outside storage of materials, storage and display of materials outside a completely enclosed structure shall not be permitted. In the case of nurseries, garden supply, building supply, custom crafting, and similar businesses, outside display and storage areas shall be completely enclosed by an opaque fence or dense, compact evergreen hedge which is at least 6 feet in height.
- B. In R-1, R-2, and C zoning districts any material or equipment stored outside an enclosed building, except for the purposes identified above, shall be incidental to the principal use of the lot, and shall be stored to the rear of the building or an alternative location that screens the storage area from public view from the street. Buffering as identified in the buffer yard requirements of this Chapter may be required to screen material or equipment stored outside.

- C. All organic rubbish and discarded materials shall be contained in tight, vermin proof dumpsters that shall be screened from public view by an opaque fence, masonry wall or dense, compact evergreen hedge, which is at least 6 feet in height. Containers shall not be permitted in the front yard.
- D. The parking and storage of trailers, camping and recreational equipment, mobile homes, motor homes, campers, and similar recreational vehicles shall be prohibited within the right-of-way of any public street. At no time shall such parked or stored vehicle be occupied or used as a dwelling.
- E. Commercial and construction equipment or vehicles, including without limitation, trucks of one-ton capacity or greater, tractors of 40 horsepower or larger, tandems, tractor-trailers, cargo-moving equipment, and construction equipment or vehicles, shall not be stored or parked temporarily or permanently in the R-1 or R-2 district, except within a completely enclosed structure. This Section shall not apply to active construction or development sites that have otherwise received the appropriate authorizations of the Borough.
- F. No manure, rubbish, or new, used, and/or discarded construction materials shall be stored outside of a structure within any district where said action creates an adverse impact on neighboring properties or residents, affects the safety and welfare of the Borough's residents, or has created a public nuisance and menace to the public at large.
- G. No storage of toxic, highly volatile, or radioactive substances may be stored in any manner, whether permanently or temporarily, within the Borough of Delmont.

§ 130-408. Household Pets

Any member of the swine, goat, sheep, poultry, insect, bovine, or equidae family or quadrupeds, such as elephants, rhinoceros, hippopotamus, moose, deer, fur-bearing animals for commercial purposes, multiple quadrupeds for commercial purposes or reptiles having a venomous or constrictor nature shall not be kept in a residential zone unless otherwise permitted as an agricultural pet or as part of a permitted commercial operation.

§ 130-409. Agricultural Pets

The regulations of this section are established to permit the keeping of agricultural pets in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

- A. Horses and cattle are not considered agricultural pets and shall not be permitted under this Section.
- B. All seed, fertilizer, and animal feed shall be stored in a covered, secured, rodent-proof container and housed within an enclosed structure.
- C. The permitting of agricultural pets shall depend on the size of available permeable space on the lot. Permeable space is bare ground, lawn, or planted areas. Concrete or paved areas are not permeable space. One or more agricultural pets may be kept in accessory to each business establishment or dwelling unit based on the requirements below. The lot must meet the space requirement for each animal. Space requirements for one animal may not be counted towards space requirements for an additional animal.
 - 1. Domestic Fowl: Roosters or male chickens are not permitted. A lot must have at least 36 square feet of permeable space per chicken or domestic fowl.
 - 2. Goats: Goats may be kept if they are miniature, dwarf, or pygmy. All goats must be dehorned female or dehorned neutered male. A lot must have at least 130 square feet of permeable space per goat.

3. Pigs: Pigs may be kept if they are miniature potbelly pigs, commonly known as Vietnamese, Chinese, or Asian potbelly pigs. The pig must not be greater than 22 inches in height at the shoulder or more than 150 pounds in weight. A lot must have at least 130 square feet of permeable space per pig.
- D. The agricultural pet's shelter must be on the rear 50 percent of the lot and the permeable space must be enclosed by adequate fencing that is at least 4 feet tall.
- E. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property. This area shall not count towards the space requirements for any agricultural pet.

§ 130-410. Lot Area Measurement and Depth

- F. For purposes of measuring lot area on exceptionally deep lots, only that part of the depth that is less than 6 times the average width of the lot may be utilized in calculations.
- G. A lot containing a slope 1 ½ to 1 (1 ½ feet horizontal to one foot vertical) or greater for a distance of 50 percent of its total depth shall have a minimum 25 percent total increase in lot depth than as otherwise required by this Chapter prior to the granting of a zoning permit.

§ 130-411. Yard Requirements

- A. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building. However, required buffer yards may be included as part of a required yard.
- B. The following may project into the required yards as established herein:
 1. Steps or stoops not exceeding 24 square feet of area.
 2. Eaves, cornices, and belt courses not exceeding 2 feet.
 3. Open fire escapes not exceeding 54 inches.

§ 130-412. Swimming Pools

Private swimming pools are permitted only when located in the rear of the primary structure. The design and installation of a swimming pool shall comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended and with all other applicable life safety requirements.

§ 130-413. Rear Dwellings

No building in the rear of a main building on the same lot may be used for living purposes in a residential district.

§ 130-414. Cellar/Foundation Dwellings

Unfinished cellar or foundation dwellings that are unfinished on the exterior of the dwelling shall not be used as a dwelling unit.

§ 130-415. Setback Average

Where one or more existing structures are located on adjacent lots with 150 feet on either side of a proposed structure, such proposed structure setback may conform to the average setbacks of the existing structures or adjacent properties.

§ 130-416. Reduction in Lot Area

No lot area, though it may consist of one or more adjacent lots of record, shall be reduced in area so that the yard lot area per dwelling unit, lot width, building area, or other requirements of this Chapter are not maintained, public utilities excepted.

§ 130-417. Height Measurement

- A. Measurement of height shall be the vertical distance from the mean level of the ground at the front of the building or structure to the point on the roof measured as follows:
 - 1. In case of flat roof structures: highest point of coping.
 - 2. In case of mansard roof structures: deckline of roof.
 - 3. In case of gable or hipped roof structures: the average height of the roof.
- B. A habitable attic shall be counted as one story when determining height as required in this Chapter.

§ 130-418. Height Exceptions

The height limitations of this Chapter shall not apply to flag poles, church spires, belfries, domes, or similar projections not used for human occupancy; nor to chimneys, ventilations, skylights, water tanks, public utility facilities, bulkheads, wind and solar energy systems, silos, antennas, and other necessary mechanical and operational apparatus usually carried above the roof level.

§ 130-419. Forestry

Forestry, as defined herein, shall be conducted in accordance with the following provisions:

- A. All operations shall be located at least 300 feet from any existing dwelling.
- B. All operations shall only be conducted during the hours of 7:00 am and 8:00 pm; provided, further, that such operations shall not take place during any hours on Sundays.
- C. Routes to be used by the hauling trucks shall be approved by the Borough and the operator shall demonstrate that there shall be no negative impact on Borough streets from the proposed operation.
- D. A performance bond shall be posted in favor of and in an amount required by the Borough to guarantee restoration of Borough streets used as hauling routes pursuant to the requirements of the Pennsylvania Vehicle Code.
- E. The Applicant shall submit a copy of the State permit for hauling on State roads.
- F. The operator shall be responsible for cleaning dirt and debris from public streets daily during the operation.
- G. The Applicant shall supply the Borough with the name of an on-site contact person.
- H. Compliance with State laws. The Applicant shall show compliance with the following laws and regulations of the commonwealth and all necessary permits shall be maintained during the operation:

1. Erosion and sedimentation control regulations contained in Chapter 102, issued pursuant to the Pennsylvania Clean Streams Law (35 P.S. § 691.1 et seq.).
 2. Stream crossing and wetlands protection regulations contained in Chapter 105, issued pursuant to the Pennsylvania Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.).
 3. Stormwater management plans and regulations issued pursuant to the Pennsylvania Storm Water Management Act (32 P.S. § 680.1 et seq.).
- I. Any suspension or revocation of a State permit shall constitute revocation of the zoning approval and the operator shall be subject to the enforcement provisions of this Chapter.
- J. A logging plan prepared and sealed by a registered surveyor shall be submitted which shows at a minimum:
1. The design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
 2. The design, construction, and maintenance of water control measures and structures such as culverts, broad based dips, filter strips, and water;
 3. The design, construction, and maintenance of stream and wetland crossings, if any;
 4. The general boundaries of the proposed operation in relation to Borough and State streets, including any accesses to those streets;
 5. The site location, including boundaries of the property and boundaries of the proposed harvest area;
 6. Significant topographic features;
 7. The location of all earth-disturbance activities such as roads, landings, and water control measures and structures; and
 8. The location of all crossings of the waters of the commonwealth.
- K. Felling or skidding on or across any public street is prohibited without the express written consent of the Borough or the Pennsylvania Department of Transportation (PennDOT) whichever is responsible for maintenance of the street.
- L. No tops of trees or debris shall be left within 25 feet of any public or private street providing access to adjoining residential property.
- M. No tops of trees or debris shall be left on any adjoining property or across any property line without the consent of the adjoining owner.
- N. Upon completion of the forestry operation, haul roads shall be restored to their original condition.

§ 130-420. Utilities

Electrical, telephone, cable television, and other communication system service laterals on a lot or site shall be installed underground for new developments.

§ 130-421. Screening of Roof Equipment

Mechanical equipment designed to be located on the roof of a structure or building shall be screened with typical building materials approved by the Zoning Officer. The screen shall be designed to conceal this equipment from neighboring property owners and the public on adjacent roadways.

§ 130-422. No-Impact Home-Based Business

No-impact home-based businesses, as defined in this Chapter, are permitted as an accessory to any residential use as a permitted use by right, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of land nor any master deed, bylaw, or other document applicable to a common interest ownership community.

§ 130-423. Small Solar and Wind Energy Systems

- A. The owner shall provide a copy of the letter from the electric utility company indicating that it has received and processed an application for interconnection of renewable generation equipment with the application for a zoning permit. The owner shall provide a copy of the final inspection report or other final approval from the electric utility company to the Borough prior to the issuance of a certificate of use and occupancy for the small wind energy or small solar energy system. Off-grid systems shall be exempt from this requirement.
- B. The owner of the small wind energy or small solar energy system shall, at the owner's expense, complete decommissioning within 12 months after the end of the useful life of the system. It shall be presumed that the system is at the end of its useful life if no electricity is generated for a continuous period of 12 months.
- C. The owner of the system shall provide evidence that the owner's insurance policy has been endorsed to cover damage or injury that might result from the installation and operation of the system.
- D. All on-site utility and transmission lines extending to and from the small energy system shall be placed underground.
- E. No part of any small energy system shall be located within or above any front yard, along any street frontage, nor within any required setback of any lot.
- F. Small Solar Energy Systems. Small solar energy systems shall be permitted in all zoning districts as appurtenances to any building or as accessory structures and shall be subject to the following regulations:
 - 1. The design and installation of small solar energy system shall conform to applicable industry standards, including those of the ANSI, Underwriters Laboratories (UL), the ASTM, or other similar certifying organizations, and shall comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.
 - 2. All small solar energy systems shall be designed and located to prevent reflective glare toward any inhabited structure on adjacent lots as well as adjacent street rights-of-way.
 - 3. Small solar energy systems mounted on the roof of any building shall be subject to the maximum height regulations specified within each zoning district. The owner shall provide evidence in the form of stamped plans certified by a professional engineer that the roof is structurally sound.
 - 4. Small solar energy systems that are ground mounted or detached from the principal or accessory structure shall not exceed 12 feet in height.
 - 5. For a building-mounted system installed on a sloped roof that faces the front yard, the system shall be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 18 inches between the roof and the highest edge of the system.
 - 6. For a building-mounted system installed on a sloped roof, the highest point of the system shall not exceed 3 feet above the highest point of the roofline to which it is attached.
 - 7. For a building-mounted system installed on a flat roof, the highest point of the system shall not exceed 6 feet above the roof to which it is attached.

8. No signage or graphic content may be displayed on the system except the manufacturer's badge, safety information, and equipment specification information. Said information shall be depicted within an area no more than 36 square inches in size.
 9. The owner shall provide a copy of the letter from the electric utility company indicating that it has received and processed an application for interconnection of renewable generation equipment with the application for a zoning permit. The owner shall provide a copy of the final inspection report or other final approval from the electric utility company to the Borough prior to the issuance of a certificate of use and occupancy for the small solar energy system. Off-grid systems shall be exempt from this requirement.
- G. Small Wind Energy Systems. Small wind energy systems shall be permitted in all zoning districts as accessory uses and accessory structures and shall be subject to the following regulations:
1. The design and installation of all small wind energy systems shall conform to applicable industry standards, including those of the ANSI, Underwriters Laboratories (UL), the ASTM, or other similar certifying organizations, and shall comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.
 2. No more than one small wind energy system shall be permitted per lot.
 3. Small wind energy systems shall not generate noise that exceeds 55 decibels measured at any property line.
 4. Small wind energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration.
 5. All small wind energy systems shall be independent of any other structure and shall be located a minimum distance of 1.1 times the turbine height from any inhabited structure, property line, street right-of-way, or overhead utility line.
 6. The maximum height of any small wind energy system shall not exceed the greater of 50 feet or the maximum height of the zoning district in which it is located.
 7. No portion of any small wind energy system shall extend over parking areas, access drives, driveways, or sidewalks.
 8. The minimum height of the lowest position of the wind turbine shall be 15 feet above the ground.
 9. All small wind energy systems shall be completely enclosed by a minimum 8-foot high fence with a self-locking gate, or the wind turbine's climbing apparatus shall be limited to no lower than 15 feet from the ground, or the wind turbine's climbing apparatus shall be fully contained and locked within the tower structure.
 10. Small wind energy systems shall not display signs, except for reasonable identification of the small wind energy system's manufacturer. Such sign shall have an area of less than 4 square feet.
 11. When an accessory building is necessary for storage cells or related mechanical equipment, the accessory building shall not have a floor area exceeding 200 square feet, and shall comply with the accessory building requirements specified within each zoning district.
 - a. Accessory buildings shall not be located within any front yard or along any street frontage, nor within any required setback of any lot.

Article V: Special Exceptions

§ 130-500. Special Exceptions

Purpose: Special exception use provisions apply to all uses identified as special exception uses in the Tables of Authorized Uses (Principal and Accessory). The special exception use approval process is designed to allow the Zoning Hearing Board to review and approve certain uses that may have additional impacts on the community and the environment beyond those typical for uses that are allowed by right. The intent is to allow certain specified uses identified as special exception uses in the Tables of Authorized Uses (Principal and Accessory) to be reviewed by the Zoning Hearing Board so that they may determine use compliance with this Chapter and attach reasonable conditions and safeguards, in addition to the standards and criteria expressed in this Chapter, as the Zoning Hearing Board may deem necessary to implement the purposes of this Chapter and the MPC.

§ 130-501. General Standards

When considering applications for special exceptions, the following general standards shall be met:

- A. The use shall be consistent with the spirit, purposes, and the intent of this Chapter.
- B. Compliance with this Chapter. The Applicant shall establish by credible evidence that the application complies with all applicable requirements of this Chapter. The Applicant shall provide sufficient plans, studies, or other data to demonstrate compliance.
- C. Compliance with Other Laws. The approval may be conditioned upon the Applicant demonstrating compliance with other specific applicable local, State, and Federal laws, regulations, and permits.
- D. The application shall include proper site layout, internal circulation, parking, buffering, and all other elements of proper design as specified in this Chapter.
- E. The Applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion and provide adequate access arrangements after considering any improvements proposed to be made by the Applicant as a condition on approval.
- F. The proposed use shall not substantially change the character of any surrounding residential neighborhood after considering any proposed conditions upon approval.
- G. The proposed use shall not create a significant hazard to the public health safety, and welfare.
- H. The proposed use shall be suitable for the property in question, and designed, constructed, operated, and maintained to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
- I. A traffic impact analysis shall be submitted, where the proposed development according to the Institute of Transportation Engineers (ITE) standards will generate 100 trips in addition to the adjacent roadway's peak hour volumes. Improvements identified in the traffic impact analysis may be required as a condition of approval.

§ 130-502. Procedure for Approval

Procedure: The Zoning Hearing Board shall consider special exception applications and render its decision in accordance with the requirements of the MPC and this Chapter and subject to the following:

- A. If land development approval is required for the use by special exception, the application for approval of a land development required by the Subdivision and Land Development Ordinance shall be submitted to the Borough Planning Commission and Borough Council following approval of the use by special exception by the Zoning Hearing Board.
- B. Application Procedure. The Applicant shall submit an application for approval of a special exception to the Zoning Officer or designated staff person of the Borough. The application shall indicate the Section of this Chapter under which the special exception is sought and shall State the grounds upon which it is requested.
- C. Application Content. An application for approval of a special exception shall include the following:
 - 1. One copy of the application form provided by the Borough and completed by the Applicant. If the Applicant is other than the landowner, the landowner's authorization of the application and the nature of Applicant's interest in the site shall accompany application.
 - 2. 12 paper copies and one electronic copy of a site plan meeting the requirements for a preliminary plan for land development as set forth in Subdivision and Land Development Ordinance and, in addition, demonstrating conformity with all requirements of this Chapter.
 - 3. Application fee and review fees established by ordinance or resolution of the Borough to cover the cost of review.
- D. Administrative Review. Within 7 working days after a special exception application is submitted, the Borough shall review the application for completeness of required submission items. Within said time, the Borough shall notify the Applicant in writing if the application is incomplete and rejected, stating the deficiencies in the application and returning the filing fee. The Applicant may reapply, submitting the fee and missing material at any time.
- E. A hearing pursuant to public notice, as defined herein, shall be commenced by the Zoning Hearing Board within 60 days of submission of a complete and properly filed application. Said hearing shall be conducted in accordance with the procedures specified by this Chapter and State law.
- F. Burden of Proof. In proceedings involving a request for a use by special exception, both the duty of initially presenting evidence and the burden of persuading the Zoning Hearing Board that the proposed use is authorized as a use by special exception and satisfies the specific or objective requirements for the grant of a use by special exception as set forth in this Chapter rest upon the Applicant. The Applicant shall demonstrate that the request is not detrimental to the health, safety, and welfare of the neighborhood.
- G. Conditions. In considering any special exception, the Zoning Hearing Board may attach reasonable conditions and safeguards, in addition to those expressed in this Chapter, as the Board deem necessary to implement the purposes of the MPC and this Chapter. A violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Chapter.
- H. Written Decision. The Zoning Hearing Board shall render a written decision or, when no decision is called for; make written findings on the special exception application within 45 days after the last hearing before the Zoning Hearing Board. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the Applicant personally or mailed to him no later than the day following its date.
- I. Expiration. Special exception approval shall expire automatically without written notice to the Applicant if no application for subdivision and land development, zoning approval for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the special exception approval has been submitted within 12 months of said approval, unless the Zoning Hearing Board, in its sole discretion, extends the special exception approval upon written request of the Applicant received prior to its expiration. The maximum extension permitted shall be one 12-month extension. The Zoning Hearing Board may grant an extension for good cause shown by the Applicant and provided that the extension will not be contrary to the purposes of this Chapter.

- J. Effect on Prior Approvals. Special exception approval, granted prior to the effective date of this Chapter, shall expire automatically without written notice to the Applicant if no application for subdivision and land development, zoning approval for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the special exception approval has been submitted within 12 months of the effective date of this Chapter or as specified in the approval, unless the Zoning Hearing Board, in its sole discretion, extends the special exception approval upon written request of the Applicant received prior to its expiration. The maximum extension permitted shall be one 12-month extension.
- K. All provisions of Subdivision and Land Development Ordinance, which are not specifically modified by the Zoning Hearing Board in approving a conditional use, shall apply to any special exception use involving subdivision and land development.
- L. Burden of Proof. In any application for special exception, the Applicant shall have the persuasion burden and presentation duty to show compliance with this Chapter, and the Applicant shall have the persuasion burden to show the Applicant's request is not detrimental to the health, safety, and welfare of the neighborhood.

§ 130-503. Express Specific Standards for Specified Uses

In addition to the standards listed in this Chapter and the general standards for all special exceptions, the following specific standards shall be met when considering a specific request for a special exception as authorized in the Tables of Authorized Principal and Accessory Uses of this Chapter.

§ 130-504. Entertainment Facilities

Entertainment facilities shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The Applicant shall demonstrate that the primary visitor drop-off and pick-up area is located in a manner that does not cause undue traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood.
- B. The number of points of ingress/egress shall be based upon projected peak hour traffic for the use and approved by the Borough Engineer to ensure employee and visitor safety.
- C. If the parking area is adjacent to a residential use, the following shall apply:
 - 1. An additional 10-foot setback for the respective lot line shall be provided along the parking lot's perimeter to minimize the impact of inappropriate noise, dust, light, and other disturbances on adjacent residential use.
 - 2. 1.5 times the required number of plants for screening and buffering shall be required around off-street parking and loading areas; or
 - 3. A berm shall be installed along the parking area proposed adjacent to the lot line shared with the residential use, a minimum of 3.5 feet in height at its peak, and the sides do not exceed a 4:1 change in elevation. The berm shall be landscaped with plants that provide 4 seasons of vegetated cover not including turf grass.
- D. The Applicant shall coordinate site drainage so that site development and grading do not create adverse effects on adjacent properties. The Applicant shall provide a signed and sealed engineer's stormwater management plan approved by the Borough Engineer and compliant with the Borough Stormwater Ordinance.
- E. Coverage, including structures, parking lots, and buildings, shall not exceed 50 percent of the lot.
- F. The facility area and lot boundaries shall be landscaped as required by the Borough to minimize noise projection and make the grounds aesthetically compatible to the surrounding properties.
- G. Structures shall be 100 feet or more from any lot line, and no less than 200 feet from the nearest residential structure.

- H. All facilities shall abut a public road and have a permanent access thereto.
- I. Alcoholic beverages without a Pennsylvania Liquor Control Board license, amplified music, and jukeboxes shall be prohibited on the premises.
- J. No direct or sky-reflected glare, whether from floodlights or any other kind of light, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
- K. All swimming pools shall be surrounded by a fence at least 6 feet in height, the entrance to which shall be kept locked when attendant is not present; and shall be constructed in accordance with all applicable State requirements.
- L. Tennis courts shall be protected by a permanent fence 10 feet in height behind each base line extending 10 feet beyond the playing area in each direction.
- M. The Applicant shall demonstrate the proposal will be compatible with the neighborhood and not adversely affect adjoining lots.
- N. The amount of new traffic generated shall not have a detrimental impact on the neighborhood.
- O. Plans shall clearly show ingress-egress facilities and provide proper sight visibility for motorists.
- P. Hours of operation shall be scheduled to minimize negative impacts on surrounding residential neighborhoods. The Borough may limit hours within this period based on the use and location of the facility. Operating hours for the purpose of this Section shall mean the period of time that the recreational, entertainment, or athletic activity is occurring.
- Q. Entertainment facilities in the C-1 District must be located on a lot or lots with frontage on Route 66.

§ 130-505. School, Nursery School, Day Care (Adult or Child)

Schools, nursery schools, and day cares shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. If the facility is a school for adults over the age of 18, the following shall apply:
 - 1. Such use shall not exceed the impact on the environment and adjacent streets of any use specifically listed as permitted in the zoning district in which the school is located. In making such determination, the following shall considerations shall be reviewed:
 - a. The number of employees.
 - b. The number of students.
 - c. The floor area of the building or gross area of the lot devoted to the proposed use.
 - d. The type of products, materials, equipment, and/or the process involved in the proposed use.
 - e. The traffic and environmental impacts.
 - f. The ability of the proposed use to comply with the performance standards of this Chapter.
 - 2. The school shall comply with all applicable area and bulk regulations of the zoning district in which it is located.
 - 3. Schools shall have a minimum of one point of ingress/egress to a collector or arterial road as defined by this Chapter. The road shall have sufficient capacity to handle traffic generated by the facility.
 - 4. As part of all land development, the Applicant shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of 10.75 Nits.
 - 5. At no time shall any supply materials or equipment be permitted to be stored outdoors.

6. The owner(s) and operator(s) of a school shall be responsible for the conduct and safety of its students, staff, visitors, or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by students, staff, visitors, and guests.
 7. If housing is included with the facility, the setback and density requirements of the base zoning district shall apply.
- B. If the facility is a public or private facility for students generally under the age of 18 (preschool through high school), the following shall apply:
1. Access drives shall be located to take maximum advantage of sight distances for motorists; and shall be as remote as possible from street intersections.
 2. Parking areas shall be screened from view of neighboring houses or those directly across the street from the lot.
 3. Buildings on the lot shall be set back at least 30 feet from side yard lines and shall be no higher than 45 feet and 2 ½ stories.
 4. Recreational areas shall be located no closer than 30 feet to an abutting street or 10 feet to other lot lines.
 5. The school's course of instruction or other activities on the lot shall not create noise, dirt, glare, dust, or other nuisances on adjacent properties.
 6. Ingress and egress to the site shall be designed to assure safe drop off and pick up. All drop-off locations shall be designed to not interfere with the free flow of traffic on adjacent streets.
- C. If the facility is a nursery school or day care center for adults or children, the following shall apply:
1. The facility shall be licensed as such by the Commonwealth of Pennsylvania.
 2. Ingress and egress to the site shall be designed to assure safe drop off and pick up. All drop-off locations shall be designed to not interfere with the free flow of traffic on adjacent streets.
 3. Outdoor play areas shall be provided and shall be secured by a fence, at least 4 feet in height, with a self-latching gate.
 4. Exterior open space shall be provided, being usable and accessible only for the patrons of the facility, at a minimum ratio identified in regulations of the Pennsylvania Department of Welfare. In addition, other lot and area requirements within the zoning district in which the facility is proposed shall apply.
 5. Depending on traffic and/or adjoining use of the premises, a fence of approved height and strength may be required along the lot's perimeter for the protection of those using the facility.
 6. Outdoor play areas that adjoin residential lots shall be screened as per the screening requirements of this Chapter.

§ 130-506. Day Care or Nursery School (Accessory to Place of Worship or School)

Nursery schools and day cares shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Exterior open space shall be provided, being usable and accessible only for the patrons. Interior space shall be provided as per any applicable regulations of the Pennsylvania Department of Welfare. In addition, other lot and area requirements within the zoning district shall apply.
- B. If the accessory nursery school or day care use is operated exclusively for regular patrons of the primary use, no additional parking is required. If the nursery school or day care use is operated exclusively during hours when the regular patrons of the principal use are not using the facility, parking may be shared between the uses. If the nursery school or day care is operated during hours when regular patrons of the principal use are using the facility and if the nursery school or day care is open to

members of the public who may or may not be patrons of the primary facility, required parking shall be provided in addition to the required parking spaces for the principal use.

- C. Depending on traffic and/or adjoining use of the premises, a fence of approved height and strength may be required along the lot's perimeter for the protection of those using the facility.
- D. Safe vehicular access and areas for discharging and picking up patrons shall be provided.
- E. Drop-off locations shall not interfere with the free flow of traffic on adjacent streets.
- F. Any applicable licensing shall be current, available, and provided for Borough reference upon inquiry.

§ 130-507. Social, Cultural, or Religious Assembly, Large-Scale

Large-scale social, cultural, or religious assembly shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The Applicant shall demonstrate that the primary visitor drop-off and pick-up area is located in a manner that does not cause undue traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood.
- B. The number of points of ingress/egress shall be based upon projected peak hour traffic for the use and approved by the Borough Engineer to ensure employee and visitor safety.
- C. If the parking area is adjacent to a residential use, the following shall apply:
 - 1. An additional 10-foot setback for the respective lot line shall be provided along the parking lot's perimeter to minimize the impact of inappropriate noise, dust, light, and other disturbances on adjacent residential use.
 - 2. 1.5 times the required number of plants for screening and buffering shall be provided to screen off-street parking and loading areas; or
 - 3. A berm shall be installed along the parking area proposed adjacent to the lot line shared with the residential use, a minimum of 3.5 feet in height at its peak, and the sides do not exceed a 4:1 change in elevation. The berm shall be landscaped with plants that provide 4 seasons of vegetated cover not including turf grass.
- D. The Applicant shall coordinate site drainage so that site development and grading do not create any adverse effects on adjacent properties. The Applicant shall provide a signed and sealed engineer's stormwater management plan approved by the Borough Engineer and compliant with the Borough Stormwater Ordinance.
- E. No new facility shall be constructed on a lot that comprises less than one acre.
- F. Ingress, egress, and internal traffic circulation shall be designed to minimize the impact of the traffic upon the surrounding neighborhood and to ensure safety and access by appropriate emergency vehicles.
- G. Any utilization of the property and structures located thereon for uses incidental or accessory to the primary use, such as day care, preschool and the like, shall require a separate special exception approval and adherence to the terms hereof.
- H. If the facility is a funeral home, the following shall apply:
 - 1. The lot shall contain a minimum frontage of 85 feet and an area of 15,000 square feet.

§ 130-508. Social, Cultural, or Religious Assembly, Small-Scale

Small-scale social, cultural, or religious assembly shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The use shall be compatible with the nature of the Conservation District and shall serve the residents of Delmont Borough through programming or offerings that are available to the public free of cost.
- B. The Applicant shall demonstrate that the primary visitor drop-off and pick-up area is located in a manner that does not cause undue traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood.

§ 130-509. Adult-Oriented Business

The definitions in Article II shall apply to this Section. Adult- or sexually oriented businesses cannot be completely prohibited. The first amendment to the US Constitution protects adult books, magazines, videos, and live performances unless they are obscene, which is defined by the US Supreme Court in the *Miller v. California* case. Local zoning shall allow adult-oriented businesses in some district. Courts have upheld regulations of adult-oriented businesses if:

- A. The restriction is not based on speech, but on the secondary effects of the business (harmful effects on neighborhoods) as identified by studies entered into the record when the regulations were passed.
- B. The restriction promotes a substantial public purpose (the location is separated from any residential zone, a single or multifamily dwelling, place of worship, park, or school and/or requires that the adult-oriented business be a certain distance from another adult-oriented business to protect against harmful effects on neighborhoods).
- C. References for studies on the secondary effects of adult- or sexually oriented businesses:
 - 1. Methodological Critique of the Linz-Yao Report: Report to the City of Toledo, Ohio by Richard McCleary, PhD and James W. Meeker, JD, PhD, May 15, 2004.
 - 2. Crime-Related Secondary Effects of Sexually Oriented Businesses: Report to the City Attorney (Los Angeles, CA) by Richard McCreary, PhD, May 6, 2007.
 - 3. Crime-Related Secondary Effects of Sexually Oriented Businesses, Report to the County Attorney, Palm Beach County, FL by Valerie Jenness, PhD, Richard McCleary, PhD, and James W. Meeker, JD, PhD, August 15, 2007.
 - 4. NLC Summaries of Sexually Oriented Businesses Land Use Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually Oriented Businesses by the National Law Center (NLC) for Children & Families, March 31, 1996 (This study dealt with 43 communities and states).

Adult-oriented businesses shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. No adult-oriented businesses shall be located outside a district in which an adult-oriented business is a permitted use. Adult-oriented businesses, as defined herein, shall be permitted as a permitted use only in the C-2 district.
- B. Hours of operation shall be from 8:00 am to 10:00 pm, Mondays through Saturdays and no such operation shall be permitted on Sundays or legal holidays recognized by the Borough of Delmont as when Borough offices are closed for business.
- C. No adult-oriented business may be operated within 250 feet of:
 - 1. A place of worship including, without limitation, any property owned or utilized for purposes of a convent, monastery, religious cemetery, religious retreat, or any other property utilized for religious functions or uses;
 - 2. A public or private pre-elementary, elementary, or secondary school;
 - 3. A public library;
 - 4. A public or private child-care facility or nursery school;
 - 5. A public park adjacent to any residential district;

6. A child-oriented business;
 7. A college and/or public or private university;
 8. Any property situated in the Borough of Delmont, Westmoreland County, Pennsylvania, which is zoned or used for residential purposes.
- D. No adult-oriented business may be operated within 200 feet of another adult-oriented business.
 - E. No more than one adult-oriented business may be operated in the same building, structure, or portion thereof.
 - F. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult-oriented business is conducted, to the nearest property line of any use or premises identified above.
 - G. For purposes of Subsection D above, the distance between any 2 adult-oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
 - H. Any adult-oriented business lawfully operating on the date of enactment of this Chapter that is in violation of Subsections A through G hereof shall be deemed a nonconforming use. In the event that 2 or more adult-oriented businesses are located within 200 feet of one another and otherwise in a permissible location, the adult-oriented business that was first established and continually operating at the particular location shall be considered the conforming use and the later established business shall be considered a nonconforming use. In the event that any preexisting nonconforming adult-oriented business shall be abandoned or not utilized as an adult-oriented business for a period of at least 12 months, said business shall lose its preexisting nonconforming status and shall thereafter comply with all provisions of this article to reopen.
 - I. An adult-oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult-oriented business permit, of any premises or use identified in Subsection C hereof within 250 feet of the adult-oriented business. This provision applies only to the renewal of a valid permit and shall not apply when an application for a permit is submitted after a permit has expired or has been revoked.
 - J. The requirements for a permit as specified in § 130-719 shall be met before a Special Exception approval is granted.

§ 130-510. Communications Towers

Communications towers shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The Applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable.
- B. The Applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- C. Communications towers shall comply with all applicable Federal Aviation Administration and the PA Bureau of Aviation standards and 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 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. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from any such structure exceeding applicable standards established by the Federal Communications Commission 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/or communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 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 not be required for a lease parcel on which a communications tower is proposed to be constructed, provided the tower 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. The maximum height of any communications tower erected under the terms hereof 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.
- 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 150 feet and shall be set back from any other property line (not lease line) at least 75 feet.
- K. The base of a communications tower shall be landscaped to screen the foundation, base, and any equipment/buildings from abutting properties in a manner consistent with the essential character of the surrounding neighborhood.
- L. The Applicant shall submit certification from a Pennsylvania registered professional engineer that the 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.
- M. The Applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas.
- N. All guy wires associated with guyed communications towers shall be clearly marked to be visible at all times and shall be located within a fenced enclosure.
- O. The site of a communications tower shall be secured by a fence with a minimum height of 8 feet to limit accessibility by the public.
- P. No signs, lights, sirens or horns shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.

- Q. Communications towers shall be protected and maintained in accordance with the requirements of all applicable ordinances now or hereafter in effect in the Borough of Delmont.
- R. If a communications tower remains unused for a period of 12 consecutive months, the owner or operator thereof shall dismantle and remove the communications tower within 6 months of the expiration of such 12-month period.

§ 130-511. Communications Antennas and Communication Equipment Buildings

Communications antennas and communication equipment buildings shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Building-mounted communications antennas shall not be located on or within 150 feet of any single-family dwelling or 2-family dwelling.
- B. Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than 20 feet.
- C. Omni-directional or ship communications antennas shall not exceed 20 feet in height and 7 inches in diameter.
- D. Directional or panel communications antennas shall not exceed 5 feet in height and 3 feet in width.
- E. Any Applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania 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.
- F. Any Applicant proposing communications antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted for review by the Borough Engineer for compliance with general safety and design standards and other applicable law.
- G. 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 structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
- H. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- I. Communications antennas shall not cause radio frequency interference with other communications facilities located within the Borough of Delmont.
- J. A communications equipment building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure, and all appropriate permits, including building and occupancy, shall be obtained.
- K. The owner or operator of communications antennas shall be licensed by the Federal Communications Commission to operate such antennas.
- L. A building 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.
- M. Recording of a plat of subdivision or land development shall not be required for a lease parcel on which a building is proposed to be constructed, provided the communications equipment building is unmanned.

§ 130-512. Drilling, Oil, and Gas

Drilling shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The application shall specify the maximum number of wells for each well pad and a new application shall be submitted if the number of wells exceeds that identified maximum number.
- B. In addition to the other requirements to this Chapter the Applicant shall provide to the Borough of Delmont at the time of application the following information:
 1. A narrative describing an overview of the project including the number of acres to be disturbed for development, the number of wells to be drilled including DEP permit number(s) for all wells, if available, at the time of submittal and provided when issued later, and the location, number, and description of equipment and structures.
 2. A narrative describing an overview of the project as it relates to natural gas compressor stations or natural gas processing plants.
 3. The address of the oil or gas well site, natural gas compressor station, or natural gas processing plant as determined by the County 911 addressing program and information needed to gain access in the event of an emergency.
 4. The contact information of the individual or individuals responsible for the operation and activities at the oil or gas well site shall be provided to the Borough of Delmont and all applicable Emergency Responders as determined by the Borough. Such information shall include a phone number where such individual or individuals can be contacted 24 hours per day, 365 days a year. Annually, or upon any change of relevant circumstances, the Applicant shall update such information and provide it to the Borough and all applicable Emergency Responders as determined by the Borough of Delmont.
 5. A site plan of the oil or gas well site showing the drilling pad, planned access roads, the approximate location of derricks, drilling rigs, equipment and structures, all permanent improvements to the site, and any post construction surface disturbance in relation to natural resources. Included in this map shall be an area within the development site for vehicles to locate while gaining access to the site configured such that the normal flow of traffic on public streets shall be undisturbed.
 6. To the extent that the information has been developed, the Applicant shall provide a plan for the transmission of gas from the oil or gas well site. The plan will identify, but not be limited to gathering lines, natural gas compressor stations, and other midstream and downstream facilities located within the Borough and extending 800 feet beyond the Borough boundary.
 7. A site plan of the natural gas compressor station or natural gas processing plant including any major equipment and structures, and all permanent improvements to the site.
 8. A narrative and map describing the planned access routes to the well sites on public roads including the transportation and delivery of equipment, machinery, water, chemicals, and other materials used in the location, drilling, construction, maintenance, and operation of the oil or gas well site.
 9. The operator shall comply with any generally applicable bonding and permitting requirements for Delmont roads that are to be used by vehicles for site construction, drilling activities, and site operations.
 10. A description of, and commitment to maintain, safeguards that shall be taken by the Applicant to ensure that the Borough of Delmont streets utilized by the Applicant shall remain free of dirt, mud, and debris resulting from site development activities; and the Applicant's assurance that such streets will be promptly swept or cleaned if dirt, mud, and debris occur as a result of Applicant's usage.

11. A statement that the Applicant will make the operation's Preparedness, Prevention, and Contingency Plan available to the Borough and all Emergency Responders at least 30 days prior to drilling of an oil or gas well and at least annually thereafter while drilling activities are taking place at the oil or gas well site.
12. An appropriate site orientation and training course of the Preparedness, Prevention, and Contingency Plan for all applicable Emergency Responders as determined by the Borough. The cost and expense of the orientation and training shall be the sole responsibility of the Applicant. If multiple wells/well pads are in the same area (covered by the same emergency response agencies), evidence from the appropriate emergency response agencies that a training course was offered in the last 12 months shall be accepted. Site orientation for each well/well pad shall still be required for the appropriate Emergency Responders, as determined by the Borough.

C. Access.

1. Vehicular access to a natural gas well, oil well or well pad solely via a residential street is not permitted.
2. Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to.
3. Access directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit Approval. Prior to initiating any work at a drill site, the Borough of Delmont shall be provided a copy of the Highway Occupancy Permit.

D. Height.

1. Permanent structures associated with an oil and gas well site, both principal and accessory, shall comply with the height regulations for the zoning district in which the oil or gas well site is located.
2. Permanent structures associated with natural gas compressor stations or natural gas processing plants shall comply with the height regulations for the zoning district in which the natural gas compressor station or natural gas processing plant is located.
3. There shall be an exception to the height restrictions contained in this Section for the temporary placement of drilling rigs, drying tanks, pad drilling, and other accessory uses necessary for the actual drilling or redrilling of an oil or gas well. The duration of such exemption shall not exceed the actual time period of drilling or redrilling of an oil or gas well or pad drilling.

E. Setbacks/Location.

1. Drilling rigs and equipment shall be located a minimum setback distance of one foot for every foot of height of equipment from any property line, public or private street, or building not related to the drilling operations on either the same lot or an adjacent lot.
2. Natural gas compressor stations and natural gas processing plants shall comply with all general setback and buffer requirements of the zoning district in which the natural gas compressor station or natural gas processing plant is located.
3. Well pads shall be set back a minimum of 500 feet from any residential property line or residential zoning district.
4. Well heads shall be located 800 feet from any residential property line or residential zoning district.
5. Recognizing that the specific location of equipment and facilities is an integral part of the oil and gas development, and as part of the planning process, the operator shall strive to consider the location of its temporary and permanent operations, where prudent and possible, to minimize interference with Delmont residents' enjoyment of their property and future development activities as authorized by the Borough's applicable ordinances.

F. Screening and Fencing.

1. Security fencing shall be required at oil or gas well sites during the initial drilling, or redrilling operations.
2. 24-hour on-site supervision and security are required during active drilling operations.

3. Upon completion of drilling or redrilling security fencing consisting of a permanent chain link fence shall be promptly installed at the oil or gas well site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the site.
4. Security fencing shall be at least 8 feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide. Additional lockable gates used to access oil and gas well sites by foot may be allowed, as necessary.
5. First Responders shall be given means to access oil or gas well sites in case of an emergency. The Applicant shall provide the County 911 Communications Center necessary information to access the well pad in the event of an emergency.
6. Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency. During active drilling and hydraulic fracturing, clearly visible warning signage shall be posted on the pad site.
7. In construction of oil or gas well sites, the natural surroundings should be considered and attempts made to minimize impacts to adjacent properties.

G. Lighting.

1. Lighting at the oil or gas well site, or other facilities associated with oil and gas development, either temporary or permanent, shall be directed downward and inward toward the activity to minimize the glare on public roads and adjacent properties.
2. Lighting at a natural gas compressor station or a natural gas processing plant shall be limited to security lighting.

H. Noise. The operator shall take the following steps to minimize noise resulting from the oil or gas well development:

1. Prior to drilling of an oil or gas well, the operator shall evaluate and establish a continuous 72-hour ambient noise level at the nearest property line of a residence or public building, school, medical, emergency, or other public residence or public facility, or 100 feet from the nearest residence or public building, school, medical, emergency, or other public residence or public facility, whichever point is closer to the affected facility. In lieu of establishing the above 72-hour ambient noise level, the operator may assume and use, for the purposes of compliance with this Chapter, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment, which will provide equivalent data.
2. The operator shall provide documentation of any established 72-hour evaluation relied upon to establish an ambient noise level greater than 55 dBA, to the Zoning Officer within 3 business days of such a request.
3. The noise generated during drilling and hydraulic fracturing activities shall not exceed the average ambient noise level (as determined by the 72-hour evaluation as identified in Subsection 1 above) or default level, whichever is higher:
 - a. During drilling activities, by more than 10 decibels during the hours of 7:00 am to 8:00 pm.
 - b. During drilling activities, by more than 7 decibels during the hours of 9:00 p.m. and 7:00 a.m. or by more than 10 decibels during hydraulic fracturing operations. The operator shall inform the Borough of which level (average ambient noise level or default level) is being used.
4. All permanent facilities associated with oil and gas well sites, including, but not limited to, natural gas compressor stations and natural gas processing plants, shall meet the general noise requirements of this Chapter. Where a conflict exists, the more stringent requirements shall apply.
5. Effective sound mitigation devices shall be installed to permanent facilities to address sound levels that would otherwise exceed the noise level standards.

6. Natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions shall be constructed to mitigate sound levels, or have installed mitigation devices to mitigate sound levels to prevent such activity from being a nuisance to nearby residential or public buildings, medical, emergency, or other public facilities.
7. If a complaint is received by the Borough regarding noise generated during construction, drilling, or hydraulic fracturing activities, or for natural gas compressor stations, natural gas processing plants, or midstream facilities, the operator shall, within 24 hours following receipt of notification, begin continuous monitoring for a period of 48 hours at the nearest property line to the complainant's residential or public building or 100 feet from the complainant's residential or public building, school, medical, emergency or other public facilities, whichever is closer. The Applicant shall report the findings to the Borough of Delmont and shall mitigate the problem to the allowable level if the noise level exceeds the allowable rate.
- I. As a condition of approval, the Applicant shall provide all permits and plans from the Pennsylvania Department of Environmental Protection and other appropriate regulatory agencies within 30 days of receipt of such permits and plans. A narrative describing the environmental impacts of the proposed project on the site and surrounding land and measures proposed to protect or mitigate such impacts shall be provided to the Borough.
- J. Temporary housing for workers on the site is not permitted.

§ 130-513. Heavy Industrial, Heavy Goods Storage or Handling, or Cremation

Heavy industrial, heavy goods storage or handling, or cremation shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. All materials and equipment shall be stored within a completely enclosed building.
- B. The use shall comply with all performance standards specified in this Chapter.
- C. The storage or manufacture of hazardous or potentially hazardous materials shall not be permitted.
- D. Any outdoor storage conducted on the lot shall comply with Borough standards.
- E. Hours of operation and activities shall be appropriately scheduled to protect the operation of the surrounding neighborhood from detrimental noise, dust, odor, vibration, light, or other disturbance or interruption.
- F. An inventory of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemical, liquids, gases or solids stored and/or used on site shall be available upon request.

§ 130-514. Junkyards

Junkyards shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The site is completely enclosed by a sight obscuring screen, masonry wall, wooden fence, or compact evergreens at least 8 feet in height.
- B. The site contains one entrance and one exit less than 30 feet in width.
- C. Storage is limited to nonorganic material.
- D. The site is located a minimum of 200 feet from any adjoining district.
- E. Screening and buffering shall be provided:
 1. 1.5 times the required number of plants for screening and buffering shall be required around the site; or

- 2. A berm shall be installed around the site, a minimum of 3.5 feet in height at its peak, and the sides do not exceed a 4:1 change in elevation. The berm shall be landscaped with plants that provide 4 seasons of vegetated cover not including turf grass.
- F. Off-street parking is provided within the site enclosure.
- G. On-site burning or incineration of vehicles is prohibited unless said burning is carried out in a completely enclosed incinerator as approved by the Borough Fire Department and/or any other applicable Borough, County or State codes, rules, regulations, or statutes.
- H. The facility is in full compliance with State statutes and regulations.

§ 130-515. Mineral Extraction

Mineral extraction shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Any topsoil removed from the surface and retained on the site shall be removed and stockpiled in a manner to prevent erosion for reapplication to disturbed areas during reclamation.
- B. Hours of operation shall be limited to the hours of 7:00 am to 8:00 pm for operational activities, including blasting, excavation, processing, and hauling. Hours and days of operation may be restricted for operations within 1,000 feet of any residential uses or that rely on residential roadways for access.
- C. Designated truck routes shall be used for all hauling as well as for all access to the site. All other routes and access shall be reviewed and approved by the Borough Engineer prior to approval.
- D. Stormwater run-off, erosion, and sedimentation shall be controlled by a plan submitted to the Borough by the Applicant and approved by the Borough Engineer. The plan shall address the compatibility of the proposed use with the Borough Stormwater Ordinance and any adopted Borough drainage or stormwater plans applicable to the area.
- E. The Applicant shall provide signs on the property and along haul routes where deemed necessary to promote the safety and general welfare of the neighborhood and general area. Required signs may include, but shall not be limited to, "No Trespassing," "Trucks Hauling," "Blasting," and "Danger." Other signs may be required if necessary.
- F. Operations shall maintain compliance with local and State standards for noise, dust, and vibration. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access roads shall be maintained in a dust free condition by surfacing or other treatment on a regular basis as may be specified by the Borough Engineer. A water truck for the purposes of dust control may be required on site.
- G. Adequate dust control methods shall be implemented. Roadways adjacent to the property shall be swept and cleaned on a regular basis and when directed by the Borough Engineer as being necessary.
- H. A performance bond or other financial security in an amount satisfactory to the Borough Engineer and in a form approved by the Borough Solicitor shall be secured from the Applicant to ensure that all standards are fully met during operation and to ensure that proper reclamation of the site is completed in a timely manner.
- I. An 8 foot high continuous security fence shall be provided around the entire perimeter of the property on which the quarrying activity will take place. Additional fencing requirements may be imposed on portions of the site abutting residentially zoned or planned areas, parks, playgrounds, sidewalks, trails, schools, places of worship, and other public facilities and gathering places.
- J. Where a stockpile is visible from an arterial roadway or residential district, the height of a stockpile may be limited to the lowest height that is economically feasible on the site. In no case shall the height of a stockpile exceed 50 feet for permanent

stockpiles and 75 feet for temporary stockpiles, unless the stockpile would not be visible from an arterial roadway or residential district.

K. Lighting.

1. Lighting at the site, or other facilities associated with the use, either temporary or permanent, shall be directed downward and inward toward the activity to minimize the glare on public roads and adjacent properties.
2. Lighting shall be limited to security lighting.

L. A blasting plan shall be submitted to the Borough Engineer, with proof of insurance in an amount and form as approved by the Borough Solicitor. Such activity shall be conducted only by licensed, insured individuals or entities and shall be in conformance with all applicable Federal, State, and local regulations.

M. Where applicable, no excavation shall occur within 100 feet of a protected water body, unless otherwise permitted by the DEP. Where excavation occurs on more than one side of a protected water body, a setback of 50 feet may be maintained on one side when a setback of 200 feet or more is maintained on the other, if approved by the DEP and the Borough Engineer.

§ 130-516. Agricultural Uses

Agricultural uses shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

A. The minimum site for agricultural uses is 1 acre.

B. If the agricultural use is a private stable, the following shall apply:

1. 5 acres of contiguous land is required for each equine animal.
2. All animals, except while exercising or pasturing, shall be confined in a building erected or maintained for that purpose and shall meet the following requirements:
 - a. The building shall not be erected or maintained within 300 feet of any lot line and 75 feet from any public or private road.
 - b. The building shall not be less than 200 square feet in size for each equine animal.

C. All outdoor training, show, riding, boarding or pasture areas shall be enclosed by a minimum 4 foot high fence and shall be set back a minimum of 100 feet from any adjacent residence whose owner is not the owner of this use.

D. Satisfactory evidence shall be presented to indicate that adequate storage and disposal of animal waste will be provided in a manner that will not create a public health hazard or nuisance.

E. All parking compounds and unimproved overflow parking areas shall be set back at least 100 feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties.

§ 130-517. Warehousing, Non-Retail Storage

Warehousing and non-retail storage shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

A. Every portion of the property used for warehouse uses shall be located 200 feet or more from any abutting property that is in a different zoning district.

B. All vehicular maneuvering shall be located on-site.

- C. Curb cuts shall be minimized to the maximum extent feasible in order to achieve access to the site.
- D. Such use shall not create detrimental impacts on the surrounding properties, taking into consideration the probable traffic generation, the physical relationship of the proposed use and structure to surrounding uses and structures, the emission of noise or glaring light, and proposed accessory uses, such as meeting facilities.
- E. Loading areas shall not be visible from a public right-of-way or an adjacent residence. A landscaped buffer yard a minimum of 25 feet in width shall be provided adjacent to all residential land uses. Buffer yards shall be landscaped with a combination of deciduous and evergreen trees, shrubs, and groundcovers.
- F. Grass, sod, lawn, or turf shall not be considered an acceptable plant for use within landscaped buffer yards.
- G. Outdoor storage of foods and/or materials shall not be permitted.
- H. The ground surface of off-street parking and loading spaces shall be paved with bituminous paving, brick, concrete, or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.

§ 130-518. Micro Cell Towers and Antennas, DAS, and Data Collection Units

Micro cell towers and antennas, distributed antenna systems (DAS), and data collection units shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Coverage Map and General Information. A narrative description and a map showing the coverage area of the provider's existing facilities that serve customers in the Borough and the specific site that is the subject of the application.
- B. A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the Applicant's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.
- C. A copy of a sworn statement by an authorized representative that the Applicant holds all applicable licenses or other approvals required by the Federal Communications Commission, the Pennsylvania Public Utility Commission and any other agency of the Federal or State government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- D. A copy of a sworn statement by an authorized representative that the Applicant complies with all conditions required for such license and approvals.
- E. A description of the number, type, power rating, frequency range, and dimensions of all wireless telecommunications facilities proposed to be installed.
- F. A site plan and elevations drawn to scale. Plans shall include microcell or roof mounted antennas and all related equipment. Elevations shall include all structures on which facilities are to be mounted.
- G. A description of the proposals for camouflaging all facilities from public view so that the facilities will not be rendered readily visible. Where any facility or part thereof would be readily visible, the application shall explain why it cannot be made not readily visible. Demonstration that the proposed methods will achieve the desired effect of minimizing visibility.
- H. If a ground-mounted or freestanding tower is proposed, the application shall include an explanation as to why other, less obtrusive, facility types are not feasible.
- I. The Applicant shall also include an agreement to pay the reasonable actual cost of peer review by a professional engineer to review the technical information submitted with the application.
- J. Location Requirements

1. A mini commercial cell tower may be erected within a public right-of-way if, in addition to other requirements, the Pennsylvania Public Utility Commission has issued a Certificate of Public Convenience for its location; and, provided further, that it shall be determined by the Borough that it shall not interfere with other utilities, visibility, or other matters of public safety.
 2. Such facility may be located in the right-of-way of a State highway, approved by the Pennsylvania Department of Transportation (Penn DOT);
 3. Such facilities shall not be located in residential zoning districts unless there is evidence supporting the need for service.
 4. No freestanding facilities shall be located within 1,000 feet of other freestanding facilities unless they have been rendered not readily visible and mounting on a building or co-location is determined to be infeasible.
- K. Height and Size Limits. Facilities shall be the minimum functional height and width required to support the proposed antenna installation, unless a higher tower will facilitate co-location or other objectives of this Chapter provided, however, that no Mini Commercial cell tower shall exceed a height of 50 feet, and no attached antenna shall extend more than 5 feet above the top of the tower.
- L. Aesthetics. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible, considering the technological requirements, by means of placement, screening, and camouflage, the Applicant shall use the smallest and least visible antennas feasible to accomplish coverage or capacity objectives. All wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from the habitable living areas within 100 feet shall incorporate appropriate techniques to camouflage or disguise the facility, and blend it into the surrounding environment, to the greatest extent feasible.
- M. Lighting. All facility lighting shall be designed to meet, but not exceed minimum requirements for security, safety, and Federal Aviation Administration regulations, and in all instances shall be designed to avoid glare and minimize the illumination of adjacent properties. Beacon lighting shall not be included in the design of facilities unless required by the Federal Aviation Administration

§ 130-519. Outdoor Storage, Contractor Yard, Building Material Sales

Outdoor storage, contractor yard, and building material sales shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Service areas shall be screened from the public right-of-way and not conflict with off-street parking associated with the use. No service areas shall be located between the front lot line of the lot and the front facade of the principal structure in which it is located.
- B. A Delivery Plan for the use shall be submitted for approval.

§ 130-520. Medical Marijuana Grower/Processor

Medical marijuana grower/processor shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- C. The requirements of § 130-513 for heavy industrial uses are met.

Article VI: Conditional Uses

§ 130-600. Conditional Uses

Purpose: Conditional use provisions apply to all uses identified as conditional uses in the Tables of Authorized Uses (Principal and Accessory). The conditional use approval process is designed to allow the Borough Council to review and approve certain uses that may have additional impacts on the community and the environment beyond those typical for uses that are allowed by right. The intent is to allow certain specified uses identified as conditional uses in the Tables of Authorized Uses (Principal and Accessory) to be reviewed by the Borough Council so that they may determine compliance with this Chapter and attach reasonable conditions and safeguards, in addition to the standards and criteria expressed in this Chapter as the Borough Council may deem necessary to implement the purposes of this Chapter.

§ 130-601. General Standards

When considering applications for conditional uses, the following general standards shall be met:

- A. The use shall be consistent with the spirit, purposes, and the intent of this Chapter.
- B. Compliance with this Chapter. The Applicant shall establish by credible evidence that the application complies with all applicable requirements of this Chapter. The Applicant shall provide sufficient plans, studies, or other data to demonstrate compliance.
- C. Compliance with Other Laws. The approval may be conditioned upon the Applicant demonstrating compliance with other specific applicable local, State, and Federal laws, regulations, and permits.
- D. The application shall include proper site layout, internal circulation, parking, buffering, and all other elements of proper design as specified in this Chapter.
- E. The Applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion and provide adequate access arrangements after considering any improvements proposed to be made by the Applicant as a condition on approval.
- F. The proposed use shall not substantially change the character of any surrounding residential neighborhood after considering any proposed conditions upon approval.
- G. The proposed use shall not create a significant hazard to the public health safety, and welfare.
- H. The proposed use shall be suitable for the property in question, and designed, constructed, operated, and maintained to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
- I. A traffic impact study shall be submitted, where the proposed development according to the Institute of Transportation Engineers (ITE) standards will generate 100 trips in addition to the adjacent roadway's peak hour volumes. Improvements identified in the traffic impact analysis may be required as a condition of approval.

§ 130-602. Procedure for Approval

Procedure: The Borough Council shall consider the conditional use application and render its decision in accordance with the requirements of the MPC and this Chapter and subject to the following:

- A. If a land development approval is required for the conditional use, the application for conditional use approval and the application for approval of a land development required by the Borough's adopted Subdivision and Land Development Ordinance may be processed concurrently or separately at the discretion of the Applicant, provided that all application requirements of both Ordinances for a conditional use and the land development plan are met.
- B. Application Procedure. The Applicant shall submit an application for a conditional use approval to the Zoning Officer or designated staff person of the Borough. The application for development shall indicate the Section of this Chapter under which the conditional use is sought and shall state the grounds upon which it is requested.
- C. Application Content. An application for approval of a conditional use shall include the following:
 - 1. One copy of the application form provided by the Borough and completed by the Applicant. If the Applicant is other than the landowner, the landowner's authorization of the application and the nature of Applicant's interest in the site shall accompany application.
 - 2. 12 paper copies and one electronic copy of a site plan meeting the requirements for a preliminary plan for land development as set forth in the Subdivision and Land Development Ordinance and, in addition, demonstrating conformity with all requirements of this Chapter.
- D. Administrative Review. Within 7 working days after a conditional use application is submitted, the Borough shall review the conditional use application for completeness of required submission items. Within said time, the Borough shall notify the Applicant in writing if the conditional use application is incomplete and rejected, stating the deficiencies in the application and returning the filing fee. The Applicant may reapply, submitting the fee and missing material at any time.
- E. The Borough shall submit a conditional use application to the Borough Planning Commission for review and recommendations. The Planning Commission shall review the application and make a written recommendation to the Borough Council. If the proposed development is also a land development, the Planning Commission shall also make a recommendation under the provisions of the Subdivision and Land Development Ordinance.
- F. The Borough Council shall hold a hearing, in accordance with 913.2 of the MPC, 53 P.S. 10913.2, and public notice shall be given as defined in this Chapter. The hearing shall be commenced by the Borough Council within 60 days from the date of an Applicant's request for a hearing.
- G. Conditions. In considering any conditional use, the Borough Council may attach reasonable conditions and safeguards, in addition to those expressed in this Chapter, as the Borough Council deem necessary to implement the purposes of the MPC and this Chapter. A violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Chapter.
- H. Written Decision. The Borough Council shall render a written decision or, when no decision is called for; make written findings on the conditional use application within 45 days after the last hearing before the Borough Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the Applicant personally or mailed to him no later than the day following its date.
- I. Expiration. Conditional use approval shall expire automatically without written notice to the Applicant if no application for subdivision and land development, zoning approval for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the conditional use approval has been submitted within 12 months of said approval, unless the Borough Council, in their sole discretion, extend the conditional use approval upon written request of the Applicant received prior to its expiration. The maximum extension permitted shall be one 12-month extension. The Borough Council may grant an extension for good cause shown by the Applicant and provided that the extension will not be contrary to the purposes of this Chapter.
- J. Effect on Prior Approvals. Conditional use approval, granted prior to the effective date of this Chapter, shall expire automatically without written notice to the developer if no application for subdivision and land development, zoning approval

for structures, zoning approval for occupancy and use, or a grading or building permit to undertake the work described in the conditional use approval has been submitted within 12 months of the effective date of this Chapter or as specified in the approval, unless the Borough Council, in its sole discretion, extends the conditional use approval upon written request of the Applicant received prior to its expiration. The maximum extension permitted shall be one 12-month extension.

- K. All provisions of Subdivision and Land Development Ordinance, which are not specifically modified by the Borough Council in approving a conditional use, shall apply to any conditional use involving subdivision and land development.
- L. Burden of Proof. In any application for conditional use, the Applicant shall have the persuasion burden and presentation duty to show compliance with this Chapter, and the Applicant shall have the persuasion burden to show the Applicant's request is not detrimental to the health, safety, and welfare of the neighborhood.

§ 130-603. Express Specific Standards for Specified Uses

In addition to the standards listed in this Chapter and the general standards for all conditional uses, the following specific standards shall be met when considering a specific request for a conditional use as authorized in the Tables of Authorized Principal and Accessory Uses of this Chapter.

§ 130-604. Bed and Breakfast

Bed and breakfast facilities shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. No cooking facility shall be permitted in any of the rented rooms.
- B. Breakfast shall be served to overnight guests only from the residential kitchen. No kitchen remodeling for commercial restaurant operation or restaurant operation purposes shall be permitted.
- C. The dining and/or meeting area of the facility may be utilized for meetings or gatherings where the service of food and/or beverage is incidental thereto.
- D. The maximum number of rooms which may be rented is 4, unless it can be shown that the structure and/or parcel is of sufficient size to contain more rooms while meeting the purpose hereof.
- E. One non-illuminated sign shall be permitted, not to exceed 4 square feet in area. Additional signs otherwise permitted in Article VIII are not permitted.
- F. The bed and breakfast facility shall comply with all other provisions of the zoning district in which it is located and shall comply with all other ordinances of the Borough of Delmont.

§ 130-605. Hotels/Motels

Hotel/motel facilities shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The location, orientation, and lot circulation shall be such as to minimize the disturbance to surrounding uses.
- B. All off-street parking areas located adjacent to residential land uses shall reduce exterior lights to half power between 8:00 pm and 7:00 am.
- C. Drop-off/temporary parking areas shall remain free and clear of obstructions for general safety and emergency access.

- D. A 12 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. Service of meals and/or beverages (alcoholic/non-alcoholic) shall be secondary to the principal use of room or suite rental.
- F. The owner/operator 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.

§ 130-606. Institutional Living

Institutional living facilities shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The Applicant of said use shall file a detailed statement of intent with the Borough Council describing the proposed use. The statement shall identify how said use will be conducted in a responsible manner without detriment to the surrounding lots and neighborhood.
- B. 24 hour supervision of residents by a facility employee approved by the Pennsylvania Department of Public Welfare shall be required.
- C. The minimum lot size shall be 1/2 acre.
- D. The institution shall be accredited as applicable by the State.
- E. The institution shall be the sole occupant of the lot.
- F. Access drives shall be located to take maximum advantage of sight distances for motorists and shall be as remote as possible from street intersections.
- G. Said facility with 6 or more residents shall not be located within 1,000 feet of another facility with 6 or more residents.
- H. In cases where 2 or more buildings are constructed on a plot of ground, not subdivided into the customary lots and streets and which will not be subdivided, or where the existing or contemplated street and lot layout make it impractical to apply the requirements of this Chapter to the individual building units, the application of the terms of this Chapter may be varied in a manner which will be in harmony with the character of the neighborhood.
- I. All operations must be licensed by the Commonwealth of Pennsylvania as required by state law.
- J. Nursing homes and assisted living facilities shall be permitted if the operation thereof complies with the provisions in Subsections A through H above and is compatible with the integrity of the surrounding area, and provided further that:
 - 1. The lot contains a minimum frontage of 85 feet and an area of 15,000 square feet.

§ 130-607. Mobile Home Park

Mobile home parks shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Public water and sanitary sewer facilities are available and used by the mobile home park.
- B. No mobile home park shall be less than 3 acres in size.
- C. Each mobile home shall be placed on a foundation.
- D. Minimum yard and area requirements shall be required for individual spaces as follows:

Table 9: Minimum Yard Area for Mobile Home Parks

| Lot Area | Width | Depth | Side Yard | Height |
|-----------------------|--------|---------|------------------------------------|----------------|
| 7,500 ft ² | 75 ft. | 100 ft. | 24 ft. combined; 10 ft. minimum | 16 ft. maximum |

- E. A minimum of 15 feet setback shall be provided from and between any adjoining pavement, any part of a mobile home, any parking lot, street, or other common area.
- F. There shall be a minimum of 25 feet between an individual mobile home and any adjoining mobile home.
- G. Pavement Widths.
 - 1. All entrance streets and other collector streets with guest parking on both sides: 36 feet minimum.
 - 2. Collector street with no parking: 22 feet minimum.
 - 3. Local cul-de-sac street with no parking: 20 feet minimum.
 - 4. One-way local street with no parking (acceptable only if less than 500 feet total length and serving fewer than 25 mobile home stands: 11 feet minimum.
- H. Mobile home parks shall provide a 6-foot tall screen planting of trees, evergreens or hedges or shrubs 10 feet wide on the side and rear property lines.
- I. In addition to meeting the above requirements and conforming to other laws, codes, or regulations of the Borough, County, or State, mobile home parks shall also conform to the requirements set forth in Minimum Property Standards for Mobile Home Courts of the Federal Housing Administration. Where provisions of such regulations conflict with those of the existing Borough, County, or State, the most restrictive or those imposing the higher standards shall govern.

§ 130-608. Residential/Nonresidential Mixed Use

Residential/nonresidential mixed use buildings shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. All units are provided with off-street parking.
- B. The total density shall be determined by the size of the lot, its location with respect to streets and other parcels and buildings, in addition to the density's impact on other municipal resources and services, including, but not limited to, public services, public parks and open spaces, traffic, and human congestion. The residential unit densities may not exceed a maximum of 7 residential units per acre.

§ 130-609. Automobile-Oriented Goods and Services and Mini-Warehouse

Automobile-oriented goods and services shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and will not create hazardous conditions, and provided further that:

- A. A traffic impact analysis shall be submitted. Improvements identified in the traffic impact analysis may be required as a condition of approval.
- B. Such uses shall not be less than:

1. 100 feet from a residential district.
 2. 200 feet of a street entrance or exit of any school, park, or playground conducted for and attended by children.
 3. 100 feet of any hospital, place of worship, or public library.
- C. No equipment above the surface of the ground for the service of motor vehicles shall be closer than 30 feet to any property line.
- D. The width of any entrance driveway leading from the public street to such service station or other drive-through use shall not exceed 30 feet at its intersection with the curb line or edge of pavement.
- E. No 2 driveways leading from a public street to such use shall be within 15 feet of each other at their intersection with the curb or street line.
- F. Automobile-oriented goods and service establishments and mini-warehouse establishments in the C-1 District must be located on a lot or lots with frontage on Route 66.

§ 130-610. Kennel

Kennels shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and will not create nuisance conditions, and provided further that:

- A. Such uses shall be located at least 100 feet from any property line adjoining an existing residential lot and at least 50 feet from any other property line or public right-of-way as defined by this Chapter.
- B. The minimum lot area shall be 2 acres.
- C. Outdoor animal runs and similar facilities shall be adequately secured by a fence with a self-latching gate and shall be screened by a 6 to 8 foot high (depending on the needs of the kennel) compact hedge or 100 percent opaque fence on all sides that are visible from an existing residential lot or a public right-of-way.
- D. The kennel shall be soundproofed to minimize noise impact on adjacent residential properties.
- E. The kennel shall be licensed by the State of Pennsylvania; and compliance with all applicable rules and regulations of the State of Pennsylvania and the Westmoreland County Health Department shall be maintained.
- F. At no time shall the animals be permitted to run loose on the lot other than in a completely enclosed area.

§ 130-611. Office with On Site Services, Large-Scale

Large-scale office with onsite services shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Off-street parking and loading spaces shall be paved with bituminous, brick, concrete, or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
- B. Side and rear buffer areas shall be maintained in accordance with this Chapter.
- C. Paved off-street stacking spaces shall be arranged to not cause blockage of any means of ingress or egress and to insure that the traffic flow on public rights-of-way is not endangered in any way. A separate means of ingress shall be established and clearly marked, as shall be a separate means of egress from the office. Should any traffic congestion occur in the public right-of-way, it shall be the responsibility of the owner to direct traffic away from the facility by posting a "Temporarily Closed" sign or other means.
- D. Drive through facilities shall comply with the following:

1. No drive through window or the like shall be located in a front yard.
2. The drive through shall have direct access to a public right-of-way.
3. A minimum of 3 stacking spaces shall be provided for each drive through lane.
4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of way.

§ 130-612. Restaurant or Bar with Drive Through

A restaurant with drive through shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. A traffic impact analysis shall be submitted. Improvements identified in the traffic impact analysis may be required as a condition of approval.
- B. Drive through facilities shall comply with the following:
 1. No drive through window or the like shall be located in a front yard.
 2. The drive through shall have direct access to a public right-of-way.
 3. A minimum of 3 stacking spaces shall be provided for each drive through lane.
 4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of way.
- C. Required off-street parking for the restaurant shall be clearly designated and shall be located within 300 feet of the entrance to the restaurant.
- D. Dumpsters and service areas shall be screened from the public right-of-way and not conflict with off-street parking associated with the use. No dumpsters and/or service areas shall be located between the front lot line of the lot and the front facade of the principal structure in which it is located.
- E. Outdoor storage of materials shall not be permitted.
- F. A Delivery Plan for the use shall be submitted for review and approval.
- G. If the restaurant or bar with drive through is located in the C-1 District, the facility must be located on a lot or lots with frontage on Route 66.

§ 130-613. Retail Goods and Services, Large Scale and Medium Scale

Large scale and medium scale retail goods and services shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. A traffic impact analysis shall be submitted. Improvements identified in the traffic impact analysis may be required as a condition of approval.
- B. Pedestrian walkways and loading areas shall be designed to be an integral part of the surrounding street system and to minimize conflicts with vehicles.
- C. Dumpsters and service areas shall be screened from the public right-of-way and not conflict with off-street parking associated with the use. No dumpsters and/or service areas shall be located between the front lot line of the lot and the front facade of the principal structure in which it is located.

- D. Outdoor storage of materials shall not be permitted.
- E. A Delivery Plan for the use shall be submitted for approval.
- F. All lot lines adjoining residential uses or zoning districts shall be screened.
- G. Building setbacks shall be consistent with the existing building setbacks of adjoining lots.
- H. As a part of all land development, the Applicant shall provide a plan for photometrics of the lot. Illumination on a lot, when adjacent to a residential district, shall be a maximum of zero Nits. Lighting levels shall also be reduced to ½ of their standard operating power between 11:00 pm and 6:00 am.
- I. The location and arrangement of parking on a lot shall be designed and constructed so that general safety and circulation is optimized and so that the impact of vehicles and lighting on rights-of-way or residential activity in proximity to the lot is minimized.
- J. Off-street parking shall be paved with bituminous, brick, concrete, or stone block paving material to protect the surrounding neighborhood from inappropriate dust or other disturbances.
- K. For large-scale retail goods and services, one landscaped island for every 15 parking spaces shall be provided within all parking areas. All landscaped islands shall contain one tree a minimum of 2 inches diameter at breast height at the time of planting.
- L. For medium scale retail goods and services, one landscaped island for every 25 parking spaces shall be provided within all parking areas. All landscaped islands shall contain one tree a minimum of 2 inches diameter at breast height at the time of planting.
- M. If drive through facilities are a permitted accessory use (by right, conditional use, or special exception; or are permitted by approved variance), drive through facilities shall comply with the following:
 - 1. No drive through window or the like shall be located in a front yard.
 - 2. The drive through shall have direct access to a public right-of-way.
 - 3. A minimum of 3 stacking spaces shall be provided for each drive through lane.
 - 4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of way.
- N. If the facility is a garden center, nursery, or greenhouse, it shall comply with Subsections A through M above and the following:
 - 1. The location, orientation, and lot circulation shall be such as to minimize the disturbance of the surrounding open space.
 - 2. Equipment storage shall be permitted to include man-operated or mechanical equipment or other machinery that is in operable condition. The storage of inoperable vehicles is prohibited for this use.
 - 3. Site grading shall be completed to ensure that surface run-off is directed away from material storage areas.
 - 4. An 8 foot high screen shall be constructed around the perimeter of any storage areas if equipment and/or materials are not contained within an enclosed building/area. The screen shall be 80 percent opaque and composed of finished masonry, wood, or black or green vinyl-covered chain link fencing with 8 foot high evergreen plantings on the exterior side of the fence.
 - 5. No storage or transfer of toxic, corrosive, flammable, carcinogenic, or explosive materials, chemicals, liquids, gases, or solids shall be permitted.
- O. Loading and equipment storage areas shall, at a minimum, be paved with crushed limestone aggregate.
- P. If a large-scale retail goods and services facility is located in the C-1 District, it must be located on a lot or lots with frontage on Route 66.

§ 130-614. Emergency Response or Public Safety

Emergency response or public safety services shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. An access analysis shall be conducted in order to evaluate sight distance and to identify appropriate lot access points. Special traffic signage control and lighting may need to be provided pending the results of said access analysis.

§ 130-615. Outdoor Dining

Outdoor dining shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The following criteria is met for outdoor dining that is not in the public right-of-way:
 - 1. The dining area is screened from adjoining residential properties by a building and/or a 4-foot wall, hedge, or solid fence.
 - 2. Seating is limited to an additional 10 percent of the existing interior seating of the establishment.
 - 3. For sites directly adjacent to the R-1 or R-2 districts, the outdoor dining area shall be closed between the hours of 10:00 pm and 7:00 am.
 - 4. Areas utilized for outdoor dining shall comply with setback requirements applicable to the site.
- B. No additional parking stalls shall be required for outdoor dining usage.
- C. Outdoor dining located within the public right-of-way shall allow for at least 4 feet of passage on the public sidewalk.

§ 130-616. Home Occupation and Office with/without On Site Services, Small Scale and Artisan Manufacturing and Small Scale Production

Home occupations, small-scale offices, and artisan manufacturing shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. In the R-1 district, the following shall apply:
 - 1. Uses as a subsidiary and subordinate use to residential units, provided:
 - a. Official residence shall be maintained by the owner on site.
 - b. The accessory use shall be located in the main residential unit.
 - c. The accessory use shall not occupy more than 30 percent of total structure.
 - d. There shall be no nonresident (a person not living in the dwelling where the home occupations or professional office is located) employed on the premises, regardless of full-time or part-time status.
- B. In the R-2 district, the following shall apply:
 - 1. Uses as a subsidiary and subordinate use to residential units shall meet the following conditions:
 - a. Official residence shall be maintained by the occupant who may be an owner, a renter, or a lessee.
 - b. The accessory use shall be located in a principal dwelling building.
 - c. The accessory use shall not occupy more than 40 percent of the ground floor area of the principal dwelling building.

- d. There shall not be more than 2 nonresidents employed on the premises, regardless of full-time or part-time status.
 - e. The use of an accessory building including automobile garage shall be limited to the total ground floor area of the accessory structure at the time of the adoption of this Chapter.
- C. If the home occupation is a home day care for adults or children, the following shall apply:
- 1. Exterior open space shall be provided, being usable and accessible only for the patrons. Interior space shall be provided as per the regulations of the Pennsylvania Department of Welfare.
 - 2. Safe vehicular access and areas for discharging and picking up patrons shall be provided.
 - 3. Drop-off locations shall not interfere with the free flow of traffic on adjacent streets.
 - 4. Any applicable licensing shall be current, available, and provided for Borough reference upon inquiry.
 - 5. If the facility is located within a dwelling, it shall be secondary to the use of the dwelling for living purposes and shall serve no more than 6 people who do not live in the household.

§ 130-617. Drive Through

Drive through facilities shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. A traffic impact analysis shall be submitted. Improvements identified in the traffic impact analysis may be required as a condition of approval.
- B. No drive through window or the like shall be located in a front yard.
- C. The drive through shall have direct access to a public right-of-way.
- D. A minimum of 3 stacking spaces shall be provided for each drive through lane.
- E. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of-way.
- F. Any facility with a drive through located in the C-1 District must be located on a lot or lots with frontage on Route 66.

§ 130-618. Medical Marijuana Dispensary

A medical marijuana dispensary shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. The requirements of § 130-613 for large scale retail goods and services are met.

§ 130-619. Skilled Gaming

A skilled gaming facility shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- A. Hours of operation shall be from 8:00 am to 10:00 pm, Mondays through Saturdays and no such operation shall be permitted on Sundays or legal holidays recognized by the Borough of Delmont as when Borough offices are closed for business.

- B. A parking study and a traffic study are completed and indicate that the facility will not create negative impacts on the surround neighborhoods and businesses.

§ 130-620. Integrated Business or Shopping Centers

Integrated business or shopping centers shall be permitted if the operation thereof is compatible with the integrity of the surrounding area and provided further that:

- C. The number of points of ingress/egress shall be based upon projected peak hour traffic for the use and approved by the Borough Engineer to ensure employee and visitor safety.
- D. If the parking area is adjacent to a residential use, the following shall apply:
 - 1. 1.5 times the required number of plants for screening and buffering shall be provided to screen off-street parking and loading areas; or
 - 2. A berm shall be installed along the parking area proposed adjacent to the lot line shared with the residential use, a minimum of 3.5 feet in height at its peak, and the sides do not exceed a 4:1 change in elevation. The berm shall be landscaped with plants that provide 4 seasons of vegetated cover not including turf grass.
- E. The Applicant shall coordinate site drainage so that site development and grading do not create any adverse effects on adjacent properties. The Applicant shall provide a signed and sealed engineer's stormwater management plan approved by the Borough Engineer and compliant with the Borough Stormwater Ordinance.
- F. No new facility shall be constructed on a lot that comprises less than one acre.
- G. Ingress, egress, and internal traffic circulation shall be designed to minimize the impact of the traffic upon the surrounding neighborhood and to ensure safety and access by appropriate emergency vehicles.
- H. All structures and parking areas shall be located a minimum of 100 feet from any residential district or residential lot.
- I. The development shall maintain a 30-foot setback from all property lines.

Article VII: Processes for Permits, Applications, Variances, Rezoning, and Amendments

§ 130-700. Applicability

- A. It shall be unlawful to use or occupy any structure or lot or part thereof until zoning approval has been issued by the Borough. Further, no structure shall be erected, added to, or otherwise have any structural alterations made to it until zoning approval has been issued by the Borough. No zoning approval shall be issued until prior approvals and requirements of this Chapter and the Subdivision and Land Development Ordinance have been complied with, including but not limited to, conditional use, use by special exception, and recording of the final plat of a subdivision or land development. Any zoning approval issued in conflict with the provisions of this Chapter shall be null and void.
- B. Zoning approval shall state that the proposed use of the structure or lot conforms to the requirements of this Chapter. Any change in use category shall require the requisite approval as set forth in this Chapter.

§ 130-701. Repairs and Maintenance

Repairs and Maintenance. Ordinary repairs and maintenance to existing structures that do not involve an expansion or change of a use or structure shall not be regulated by this Chapter.

§ 130-702. Authorization of Types of Uses

- A. Permitted Uses by Right. The Zoning Officer shall issue a permit under this Chapter in response to an application for a use that is permitted by right if it meets all of the requirements of this Chapter.
- B. Special Exceptions and Variances. A permit under this Chapter for a use requiring a special exception or variance shall be issued only in response to a written approval by the Zoning Hearing Board following a hearing.
- C. Conditional Use. A permit under this Chapter for a use requiring conditional use approval shall be issued by the Zoning Officer only after the Borough Council grants conditional use approval.

§ 130-703. Schedule of Fees

- A. The Borough Council shall, by resolution, establish a schedule of fees and shall post said schedule conspicuously in the Borough Building.
- B. No permit, certificate, application, or variance shall be issued unless, or until, such costs, charges, fees, or expenses as established by such resolution have been paid in full; nor shall any action be taken by the Borough Council and/or Zoning Hearing Board unless or until preliminary charges and fees have been paid in full.
- C. A zoning certificate shall be required prior to the establishment, change, or alteration of any use, or the construction, enlargement, expansion, or alteration of any structure. A building permit may also be required under the Borough of Delmont Code relating to building codes/construction.

§ 130-704. Building Permits

- A. Requirements. A building permit shall be required prior to the razing, erection, enlargement, and structural alteration of any building, structure, or portion thereof (including added porches, carports, and decks) and prior to the moving of a building into the Borough or from one place in the Borough to another. A building permit is not necessary for exterior painting or the removal and replacement of lights, roofing shingles, siding, windows, doors, chimneys, or entrances.
- B. Application for Building Permit. Applications for building permits shall be made in writing to the Zoning Officer on such forms as may be furnished by the Borough. Such application shall include, when deemed necessary, building and plot plans of a satisfactory nature. If deemed necessary, building and plot plans shall contain all information necessary to ascertain whether the proposed erection, alteration, use, or change in use complies with the provisions of this Chapter. Application for a permit shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by an affidavit of the owner or the qualified Applicant, or a signed statement of the qualified Applicant witnessed by the Zoning Officer or his designee to the effect that the proposed work is authorized by the owner in fee and that the Applicant is authorized to make such application. The full names and addresses of the owner, lessee, Applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
- C. Requirements. All Applicants for building permits shall be required to furnish with their applications and plans, as otherwise required in this Section, the following specific data:
1. For new structures:
 - a. The elevation of the proposed foundation and of the first floor with reference to the nearest abutting street level; in case of a corner lot, the elevation should be given as to both the front and side street, alley, or highway abutting thereon.
 - b. The nearest available sanitary and drainage sewers and the elevation of the basement and first floor above both the sanitary and drainage sewers with which connection is to be made for service of the property.
 - c. The information required shall be furnished by profile plans or other data of a satisfactory nature sufficient to satisfy the above requirements. Failure to furnish such information and satisfactory proof that suitable sewerage and drainage facilities will be available shall constitute grounds for denial of a building permit.
 2. For additions, alterations, decks, porches, and landscape structures:
 - a. The nature, location, dimension, and kinds of materials shall be furnished as part of the building permit application for all additions and alterations including decks, porches, and landscape structures. All such structures shall conform to lot and yard requirements in Article III Zoning District Regulations.
 - b. Adequate information, plans, and other data shall be required to provide for privacy and quiet of adjacent landowners by the use of solid screen fences, buffers of landscaping, or changes in elevation.
 3. Industry approval. Any application for a permit for a building project (construction or alteration) that requires the approval of the Pennsylvania Department of Labor and Industry shall be accompanied by satisfactory evidence that said Department has approved the plans for said building project.
 4. Public record. All applications, with accompanying plans and documents, shall be a public record.

§ 130-705. Expiration of Building Permits

No permit for the erection, razing, change, alteration, or removal of a building or for the construction of decks, porches, or landscape structures shall be valid or effective after 6 months from the date of issuance thereof and shall thereafter be void, unless the work authorized by the permit shall have been substantially commenced within 6 months from the date of issuance and

carried on with due diligence. If, however, the Applicant has been delayed in proceeding with the work for which the permit was granted because of any reasonable cause not due to his own negligence, the permit may be renewed without additional cost to the Applicant.

§ 130-706. Certificate of Occupancy

A. Requirements.

1. No building or part thereof hereafter erected, altered, enlarged, or changed in use shall be occupied or used without a certificate of occupancy certifying that the work has been inspected and approved as being in conformity with the building permit, the provisions of this Chapter and other applicable ordinances.
2. A new certificate of occupancy shall be required for all change of occupancy through sale of property or for continued occupancy of any structure determined uninhabitable by the Building Inspector until the same is brought up to acceptable standards.

B. Application.

1. Upon completion of any erection, movement, alteration, or razing of a building and prior to the use or occupancy of the property, the holder of the building permit shall notify the Zoning Officer of said completion and shall request issuance of a certificate of occupancy.
2. The owner or occupant of a parcel of land or an existing structure who desires to change the use of said land or structure without alterations requiring a building permit shall apply for a certificate of occupancy on such forms as the Borough may provide, setting forth the existing and proposed uses of said land or structure. The owner or occupant of any nonconforming use shall apply for a certificate of occupancy within 6 months after the effective date of this Chapter. Such application shall constitute registration of the nonconforming use. It shall be the duty of the Zoning Officer to notify owners or occupants of nonconforming uses of the provisions of this Chapter.

§ 130-707. Zoning Permits

No structure or building shall be erected, added to, or otherwise have any structural alterations made to it and no use listed in this Chapter may be established or changed until a zoning permit has been issued by the Borough. No zoning permit shall be issued for any structure or building where said construction, addition, structural alteration, or use thereof would be in violation of any of the provisions of this Chapter. Any zoning permit issued in conflict with the provisions of this Chapter shall be null and void. A zoning permit need not precede subdivision and land development applications.

A. Application Requirements. All applications for zoning permits shall be made in writing on a form supplied by the Borough. The application shall include 4 paper copies of the following information:

1. A statement as to the proposed use of the building or land.
2. A site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses, and any existing buildings in relation to property and street lines. If the application relates to property scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.
3. The location, dimensions, and arrangements of all open spaces and yards, including methods to be employed for screening.
4. The location, size, arrangement, and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading, and provisions to be made for lighting such areas.

5. The dimensions, location, and methods of illumination for signs, if applicable.
 6. The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use.
 7. Provisions to be made for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage.
 8. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land.
 9. A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, water pollution, fire hazards, traffic congestion, or other safety hazards.
 10. Description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards, or other safety hazards as determined from review of operations.
 11. Any other data deemed necessary by the Zoning Officer to enable a determination the compliance of the proposed development with the terms of this Chapter.
- B. A decision either approving or disapproving an application for a zoning permit shall be rendered within 90 days after the application is filed. Any disapproval of the application shall contain a brief explanation setting forth the reasons for the disapproval and the manner in which the application can be corrected and/or modified to obtain the required approval. If no decision is rendered on the application within 90 days, the application shall be deemed to have been granted immediately, unless the Applicant has agreed, in writing, to an extension of time.

§ 130-708. Requests for Reasonable Accommodation

- A. Persons with a claim for reasonable accommodation under the Fair Housing Amendments Act or the Americans with Disabilities Act shall submit an application for a special exception to the Zoning Hearing Board. The Zoning Hearing Board shall require the information outlined in § 130-502 Procedure for Approval to process the application.
- B. The Zoning Hearing Board may hold any meeting(s) and/or hearing(s) necessary in its discretion to elicit information or argument pertinent to the request for accommodation.
- C. The Zoning Hearing Board's decision shall be in writing.
- D. The Zoning Hearing Board shall issue its written decision to the Applicant and the Borough Council within 30 days of filing of the request for accommodation or at the next regularly scheduled Zoning Hearing Board meeting, whichever is the later of the dates.
- E. A request for reasonable accommodation should be directed to the Zoning Hearing Board. In considering a request for reasonable accommodation, the Zoning Hearing Board shall, with the advice of the appointed legal counsel, apply the following criteria:
 1. Whether the Applicant is handicapped or disabled within the meaning of the Federal Fair Housing Act Amendments or the Americans with Disabilities Act.
 2. The degree to which the accommodation sought is related to the handicap or disability of the Applicant.
 3. A description of hardship, if any, that the Applicant will incur absent provisions of the reasonable accommodation requested.
 4. The extent to which the requested accommodation is necessary to afford the Applicant an opportunity equal to a non-handicapped or non-disabled person to use and enjoy the dwelling in question.
 5. The extent to which the proposed accommodation may affect other landowners in the immediate vicinity.

6. The extent to which the proposed accommodation may be consistent with or contrary to the zoning purposes promoted by the community development objectives set forth in this Chapter.
7. The extent to which the requested accommodation would impose financial and administrative burdens upon the Borough.
8. The extent to which the requested accommodation would impose an undue hardship upon the Borough.
9. The extent to which the accommodation would require a fundamental alteration in the nature of the Borough's regulatory policies, objectives, and regulations.
10. The extent to which the requested accommodation would result in a subsidy, privilege, or benefit not available to non-handicapped or non-disabled persons.
11. The permanency of the requested accommodation and the conditions under which such accommodation will be removed, terminated, or discontinued when they are no longer needed to provide handicapped or disabled persons equal opportunity to use and enjoy the dwelling in question.
12. The extent to which the requested accommodation will increase the value of the lot during and after its occupancy by the Applicant.

§ 130-709. Special Exception Procedures of Approval

Approval of uses by special exception shall follow the procedures in Article V Special Exceptions.

§ 130-710. Conditional Uses Procedure for Approval

Approval of uses by conditional use shall follow the procedures in Article VI Conditional Uses.

§ 130-711. Variances

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the Applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 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 or conditions generally created by the provisions of this Chapter 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 Chapter and that 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 of the regulation in issue.

- B. A variance from the terms of this Chapter shall not be granted by the Zoning Hearing Board unless and until:
 - 1. A written application for the variance is submitted.
 - 2. The required fees are paid.
 - 3. Public notice by advertising shall be given at least 2 weeks in advance of the hearing. The owner of the property for which the variance is sought or his agent shall be notified by mail.
 - 4. The hearing shall be held. Any party may appear in person, by agent, or by attorney.
 - 5. The Zoning Hearing Board shall make findings that the requirements of this Article have been met by the Applicant for the variance.
 - 6. The Zoning Hearing Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - 7. Zoning Hearing Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- C. In granting any variance, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and such safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and subject to Article XI Enforcement, Violations, and Remedies.
- D. Under no circumstances shall the Zoning Hearing Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in said district.

§ 130-712. Purpose of Rezoning

- A. The purpose of rezoning is to protect the safety, capacity, and efficiency of the Borough's existing infrastructure systems; to maintain fiscal responsibility; and to uphold the objectives of this Chapter.
- B. Rezoning considerations shall be based on the projected benefits and/or detrimental effects to the Borough of Delmont as a whole.

§ 130-713. Rezoning Applications

- A. All Applicants submitting rezoning applications shall be required to prepare a series of plans, analyses, and reports to demonstrate the compatibility of a rezoning proposal.
- B. An Applicant shall submit the following analyses and reports as part of rezoning applications. The plans, analyses, and reports to be submitted include:
 - 1. A plan showing sufficient detail to demonstrate the changes and impacts of the rezoning on the surrounding lots, residential uses, roadways, natural areas, and recreation amenities.
 - 2. Estimated infrastructure (sanitary sewer and potable water) demands (gallons per day).
 - 3. Off-street parking projections (number of parking spaces) available on site.
 - 4. A summary of anticipated impacts on adjoining lots including but not limited to noise, vibration, night-time lighting, service area locations, visibility, and hours of operation.

5. Borough Council may require an Applicant to prepare other potential related studies depending on the location of lot access, infrastructure service/demands, and impacts to adjoining lots.

§ 130-714. Review of Rezoning Applications

- A. The Zoning Officer shall review the application in compliance with the following procedural guidelines:
 1. Upon receipt of a rezoning application, the Zoning Officer will perform a desk check review of the package to determine the completeness of the application.
 2. The Zoning Officer will provide the Applicant a letter within 7 business days stating that the application has been submitted with all required information attached.
 3. If the Zoning Officer finds the application to be incomplete or insufficient, the rezoning application will be returned to the Applicant.
 4. When the rezoning application is found to be complete, the Zoning Officer shall compile a report, forward the application package, and report to the Planning Commission for review.
- B. As part of the rezoning approval process, the Planning Commission and the Borough Council shall consider the motivation and implications of each plan, analysis, and report.
- C. The Planning Commission shall review the application in compliance with the following procedural guidelines:
 1. If the rezoning proposal is found to be generally consistent with the community development objectives set forth in this Chapter, the Planning Commission shall consider any projected beneficial and/or detrimental effects on the Borough. The Planning Commission may host a public hearing on the application if they deem it applicable.
 2. Based on these analyses, the Planning Commission shall submit a written recommendation either in favor or not in favor of the rezoning proposal including a specific statement as to whether or not the proposed rezoning is in accordance with the objectives of this Chapter.
- D. The final recommendation of the Planning Commission shall be forwarded to the Borough Council.
- E. Upon receipt of the Planning Commission's final recommendations, the Borough Council shall host a public hearing on the application. The Borough Council shall compose a brief summary explanation of its decision and forward the decision and explanation to the Applicant. The Borough Council may deny the rezoning proposal and shall provide a brief summary explanation of the decision to the Applicant. Upon approval of the rezoning proposal, the Zoning Officer shall update the Zoning Ordinance Map accordingly.
- F. The Planning Commission and the Borough Council reserve the right to request additional information as part of the rezoning review and approval process in order to evaluate the applicability of the rezoning.

§ 130-715. Enactment of Zoning Ordinance Amendments

- A. The Borough Council may amend, supplement, or repeal any of the regulations and provisions of this Chapter as set forth in the MPC.
- B. The Borough Council will conduct hearings and make decisions in accordance with the MPC. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within the Borough, or an owner of the mineral rights in a tract or parcel of land within the Borough who has made a timely request in accordance with MPC Section 109.

- C. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to mailed and electronic public notice as specified by the MPC, before proceeding to vote on the amendment.
- E. Prior to the public hearing on the amendment by the Borough Council, the amendment shall be forwarded to Westmoreland County and surrounding municipalities for recommendations.
- F. A copy of the adopted amendment to this Chapter shall be forwarded to Westmoreland County for record.

§ 130-716. Procedure for Landowner Curative Amendments

- A. An Applicant who desires to challenge on substantive grounds the validity of this Chapter, the Zoning Ordinance Map, or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in § 916.1 of the MPC. The curative amendment and challenge shall be referred to the Planning Commission and Westmoreland County as provided in § 609 of the MPC and notice of the hearing thereon shall be given as provided in § 610 and § 916.1 of the MPC.
- B. The Borough Council will conduct hearings and make decisions in accordance with the MPC. If the Borough does not accept an Applicant's curative amendment brought in accordance with this Section and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire Chapter and Zoning Ordinance Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
- C. The Borough Council, if it determines that a validity challenge has merit, may adopt landowner's curative amendment, with or without revision, or may adopt an alternative amendment, which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans, and explanatory material submitted by the landowner and shall also consider:
 - 1. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities.
 - 2. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter or Zoning Ordinance Map.
 - 3. The suitability of the lot for the intensity of use proposed by the lot's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features.
 - 4. The impact of the proposed use on the lot's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.

§ 130-717. Procedure for Borough Curative Amendments

- A. If the Borough determines that this Chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
 - 1. The Borough shall declare by formal action, this Chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal the Borough Council shall:
 - a. By resolution make specific findings setting forth the declared invalidity of this Chapter, which may include:

- i. References to specific uses that are either not permitted or not permitted in sufficient quantity.
 - ii. Reference to a class of use or uses that require revision.
 - iii. Reference to this entire Chapter, which requires revisions.
 - b. Begin to prepare and consider a curative amendment to this Chapter to correct the declared invalidity.
2. The Borough Council will conduct hearings and make decisions in accordance with the MPC.

§ 130-718. Content of Public Notice

- A. Public notices of proposed zoning ordinances and amendments shall include either the full text thereof, or a brief summary setting forth the principal provisions in reasonable detail, and a reference to a place within the Borough where copies of the proposed ordinance or amendment may be examined, in addition to the time and place of a hearing. If the proposed amendment involves a Zoning Ordinance Map change, notice of said public hearing shall comply with MPC.

§ 130-719. Adult-Oriented Business Permits

- A. The definitions in Article II shall apply to this Section.
- B. Any person who operates an adult-oriented business without a valid permit issued by Delmont Borough is guilty of a violation of this Chapter.
- C. An application for a permit to operate an adult-oriented business shall be made on a form provided by the Borough. Plans approved by the Pennsylvania Department of Labor and Industry depicting the floor plan and plot plan configuration of the premises, including a statement of total floor space to be occupied by the business, shall accompany the application. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.
- D. The Applicant shall be qualified according to the provisions of this Article and the premises shall be inspected and found to be in compliance with the law by the Borough.
- E. If a person who wishes to operate an adult-oriented business is an individual, he shall sign the application for a permit as Applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business shall sign the application for a permit as Applicant. If a corporation is listed as owner of an adult-oriented business or as the entity that wishes to operate such a business, each individual having a direct or indirect interest of 10 percent or greater in the corporation shall sign the application for a permit as Applicant.
- F. The fact that a person possesses other types of permits issued by the Borough shall not exempt the person from the requirement of obtaining an adult-oriented business permit under the provisions hereof.
- G. Issuance of permit.
1. The Code Enforcement Officer shall approve the issuance of a permit to an Applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:
 - a. An Applicant is under 18 years of age.
 - b. An Applicant or an Applicant's spouse is overdue in his payment to the Borough of taxes, fees, fines or penalties assessed against him or imposed upon him in relation to an adult-oriented business.
 - c. An Applicant has failed to provide all information required for issuance of the permit or has falsely answered a question or request for information on the application form.

- d. An Applicant is residing with a person who has been denied a permit by the Borough to operate an adult-oriented business within the preceding 12 months or residing with a person whose permit to operate an adult-oriented business has been revoked within the preceding 12 months.
 - e. The premises to be used for the adult-oriented business have been reviewed and have been disapproved by the Code Enforcement Officer as not complying with applicable laws and ordinances.
 - f. The permit fee required by this article has not been paid.
 - g. An Applicant of the proposed establishment is in violation of or does not comply with any of the provisions of this article.
 - h. An individual Applicant or any individual holding a direct or indirect interest of more than 10 percent of a corporate Applicant or any of the officers and directors of a corporate Applicant, if the Applicant is a corporation; or any of the partners, including limited partners, if the Applicant is a partnership; or the manager or other person in charge of the operation of the Applicant's business, has or have been convicted of an offense involving sexual misconduct within the State of Pennsylvania, including, but not limited to, prostitution, obscenity, and possession of child pornography or convicted of any offense in any jurisdiction other than the State of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the State of Pennsylvania. In order for approval to be denied pursuant to this Subsection, the person or person's conviction or release in connection with the sexual misconduct offense must have occurred within 2 years of the date of application in the event of a misdemeanor and within 5 years of the date of application in the event of a felony.
2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that it may be easily read at any time.
 3. The Code Enforcement Officer shall complete his certification that the premises are or are not in compliance within 20 days of receipt of the application by the Code Enforcement Officer.
- H. Inspection.
1. An Applicant or permittee shall permit an administrative inspection of the premises by the Code Enforcement Officer at any time that the permitted business operation is open for business in order to ensure continued compliance with the law.
 2. Any person who operates an adult-oriented business or his agent or employee violates this Chapter if such person refuses to permit a lawful inspection of the premises as set forth above.
- I. Expiration of permit.
1. Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided in this Section. Application for renewal should be made at least 60 days before the expiration date and, when made fewer than 60 days before the expiration date, the pendency of the application will not prevent the expiration of the permit.
 2. If the Code Enforcement Officer denies renewal of a permit, the Applicant shall not be issued a permit for one year from the date of denial, except that after 90 days have elapsed since the date of denial, the Applicant may be granted a permit if the Code Enforcement Officer finds that the basis for denial of the renewal permit has been corrected or abated.
- J. Suspension of permit.
1. The Code Enforcement Officer shall suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has:
 - a. Violated or is not in compliance with any Section of this article;
 - b. Refused to allow an inspection of the adult-oriented business premises as authorized by this article; or

- c. Knowingly permitted gambling by any person on the adult-oriented business premises.

K. Revocation of permit.

1. The Code Enforcement Officer shall revoke a permit if a cause for suspension set forth in § 130-105 occurs and the permit has been suspended within the preceding 12 months.
2. The Code Enforcement Officer shall revoke a permit if he determines that:
 - a. A permittee, or any of the persons specified in Subsection G above, is or has been convicted of the offenses specified in Subsection G above.
 - b. A permittee gave false or misleading information in the material submitted to the Borough during the application process.
 - c. A permittee or an employee of a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - d. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises.
 - e. A permittee or an employee of a permittee knowingly operated the adult-oriented business during a period of time when the permittee's permit was suspended.
 - f. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other explicit sexual conduct to occur in or on the permitted premises.
 - g. A permittee is delinquent in payment to the Borough or the State of Pennsylvania of any taxes or fees relating to adult-oriented businesses.
3. When the Code Enforcement Officer revokes a permit, the revocation shall continue for one year and the permittee shall not be issued an adult-oriented business permit for one year from the date the revocation became effective. If the revocation is pursuant to Subsection K(2) above, the revocation shall be effective for 2 years in the event of a misdemeanor or 5 years in the case of a felony.
4. All permit denial, renewal, suspension, or revocation decisions shall be sent in writing to the Applicant and/or permittee. All such decisions that deny, refuse to renew, suspend, or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an Application or denial of a renewal of an application or after suspension or revocation of any permit, the Applicant or permittee may appeal pursuant to procedures of the Local Agency Law (2 Pa.C.S.A. §101 et seq.) to the Delmont Borough Council, except as modified herein. Any such appeal shall be filed, in writing, with the Code Enforcement Officer within 10 days from the date of the mailing of the decision appealed from and shall specify, in detail, the basis for the appeal. Failure or refusal to file said appeal or specify the basis of said appeal with the Code Enforcement Officer shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. If an appeal is timely filed, the Delmont Borough Council will then hold a Local Agency Law hearing pursuant to 2 Pa.C.S.A. §101 et seq. within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. In the case of a denial or renewal or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of:
 - a. The expiration of the 10-day appeal period without filing of an appeal; or
 - b. The date of a final decision dismissing any appeal.
5. Any person aggrieved by a decision of the Delmont Borough Council may appeal to a court of competent jurisdiction pursuant to the Local Agency Law (2 Pa.C.S.A. §101 et seq.) and 42 Pa.C.S.A. §933, Subdivision (a)(2). Delmont Borough shall, upon filing of such appeal, consent to any request by a permit Applicant or permittee to the court to give expedited review of such appeal. Delmont Borough shall certify any record to the court within 20 days after the appeal is filed. In

the case of a denial of a permit renewal or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the denial, suspension, or revocation until the earlier of:

- a. The expiration of the 30-day appeal period without filing an appeal; or
- b. The date of a decision dismissing an appeal by a court of competent jurisdiction.

L. Transfer of permit.

1. A permittee shall not transfer his permit to another person. A permittee shall not operate an adult-oriented business under the authority of a permit at any place other than the address designated in the application.

Article VIII: Signs

§ 130-800. Applicability

The regulations in this Chapter shall govern and control the erection, rehabilitation, maintenance, animation, and illumination of all signs displayed that are visible from the public right-of-way or from property other than that on which the subject sign is located. Any sign erected, altered, or maintained after the effective date of this Chapter shall conform to the following regulations.

§ 130-801. Purpose

The intent of this Chapter is to regulate all signs within the Borough of Delmont and ensure that all signs appropriately reflect their respective uses, maintain uniformity with their associated property and the surrounding environment, and are protective of the public's general welfare by:

- A. Establishing a clear process for the review and approval of sign permit applications and variances, and guidelines for violations and penalties.
- B. Encouraging sound signage practices and standards with respect to size, lighting, spacing, placement, and type for the purpose of safeguarding and enhancing properties in each of the Borough's zoning districts.
- C. Protecting public investment in public structures, open spaces, and thoroughfares.
- D. Providing an environment that will promote the orderly growth and development of business and industry in the Borough.

§ 130-802. General Regulations

- A. No sign, except those erected by authority of the State of Pennsylvania, Westmoreland County, or the Borough of Delmont, shall be erected within the lines of a street right-of-way except traffic signs and similar regulatory notices of the Borough, Westmoreland County, or the State.
- B. No sign established before the effective date of this Chapter shall be structurally altered or moved unless in compliance with the provisions of this Chapter.
- C. All permanent signs in all zoning districts will need approval from the Borough.
- D. Permits shall be required for all new permanent signs.
- E. No sign shall exceed the height limitations specified for the zoning district in which it is located.
- F. All signs over 50 square feet shall be constructed of non-combustible material.
- G. Sign Location:
 - 1. No sign shall be placed in such a position that endangers pedestrians, bicyclists, or vehicular traffic by interfering with official street signs or signals.
 - 2. All signs and their supporting structures shall maintain clearance of all surface and underground utility lines or equipment.
- H. Sign materials and construction:

1. All signs shall be constructed of a durable material, using non-corrosive fastenings, and maintained in good condition so that all sign information is clearly legible.
2. All signs shall be structurally safe and erected or installed in accordance with applicable building/construction codes adopted by the Borough.
3. When the Borough determines that a sign is a threat to public health and safety or is nuisance, the Borough may provide written notice and require the owner of the sign to repair it. If the sign is not repaired after 30 days from the date of written notice to repair had been sent, the Borough may order it removed within 30 additional days.

I. Sign area:

1. The area of a sign includes all lettering and accompanying designs, logos, and symbols.
2. No sign shall have more than 4 sides, and the areas of signs indicated in this Chapter shall be the maximum for one side.
3. In the event that a sign has movable elements attached, the sign area measurements shall be taken when the elements are fully extended.

J. Sign height:

1. The maximum height for all signs shall be determined by the sign type and the zoning district in which the sign is located.
2. The sign height is the measurement from the grade immediately below the sign to the highest point of the sign, including the sign face structure, pole and any projections, decoration or trim of the sign face, structure, or pole.

K. Sign illumination:

1. Illuminated signs are permitted in nonresidential zoning districts, unless otherwise prohibited by the regulations in this Chapter.
2. Light sources for illuminated signs shall not be a glare hazard, distraction to motorists, pedestrians, or adjacent properties.

L. Signs Prohibited in All Districts. All signs not expressly authorized under this Chapter or exempt from regulation hereunder in accordance with subsequent Sections are prohibited. Prohibited signs shall include, but are not limited to:

1. Abandoned signs or signs not in good condition or repair.
2. All illegal signs and all signs not in compliance with this Chapter or any other ordinance of the Borough.
3. Signs placed without the permission of the property's owner, with the exception of those required by local, State, or Federal government.
4. Any banner or sign suspended across a public street, without the permission of the owner of the property or road owner.
5. Inflatable devices or balloon signs; except those that are part of temporary signs or holiday decorations.
6. Reflective signs or signs containing mirrors.
7. Roof signs.
8. Signs interfering with or impeding driver line of sight, vehicular traffic, or visibility of safety signs.

§ 130-803. Permanent, On-Premises Signs

- A. Wall signs:
 - 1. Wall signs shall not be mounted less than 8 feet above the grade nor extend more than 12 inches from the building wall on which it is attached.
- B. Projecting signs:
 - 1. No projecting sign shall project more than 4 feet from the building façade.
 - 2. The minimum vertical clearance for projecting signs shall be at least 8 feet from the finished grade or aligned with the interior ceiling height of the ground floor.
 - 3. The edge of the projecting sign shall be no closer than 2 feet from the curb of a public street.
- C. Freestanding signs:
 - 1. Freestanding signs shall not extend into or interfere with a right-of-way.
 - 2. Freestanding signs shall not exceed the maximum height for a primary structure for the zoning district in which it is located.
- D. Window signs:
 - 1. Window signs completely within or affixed to windows shall not be regulated as signs.

§ 130-804. Permanent, Off-Premises Signs

- A. Permanent off-premises signs are permitted in the C-2 zoning district and in the C-1 zoning district on lots with frontage on Route 66 only.
- B. Location:
 - 1. Off-premises signs shall not be on lots of less than 1/4 of an acre.
 - 2. Off-premises signs shall not be on lots with any other principal or accessory use.
 - 3. No more than one off-premises sign is permitted per lot.
 - 4. Size and Height. Off-premises signs shall not exceed the maximum height for principal structures in the zoning district. Off-premises signs shall have a clearance of 7 feet above the finished grade.
- C. Sign Area. All off-premises signs shall adhere to the following sign area restrictions, based on the posted speed limit of the road the sign faces:

Table 10: Maximum Sign Area

| Roadway Speed | Maximum Sign Area (sq. ft.) |
|---------------|-----------------------------|
| ≤35 mph | 60 sq. ft. |
| 36-45 mph | 100 sq. ft. |
| 46-55 mph | 150 sq. ft. |
| 56-65 mph | 200 sq. ft. |

D. Illumination and changeable copy:

1. External illumination, internal illumination, and digital display signs are permitted forms of illumination, subject to the regulations outlined in this Chapter.
2. Digital displays are permitted. The maximum brightness from 7:00 am to 7:00 pm is 5,000 Nits. The maximum brightness from 7:00 pm to 7:00 am is 250 Nits. Digital signs shall comply with the provisions of § 130-812 Digital Displays.
3. The Applicant bears the burden of proof that the proposed off-premises sign will not interfere with public health, welfare, or create a safety hazard in the matter of location, design, and manner of operation.

E. Identification. Off-premises signs shall display the name and contact information of the owner of the structure on the structure.

F. Construction and maintenance:

1. Off-premises signs may be single- or double-sided, provided they meet the sign area regulations outlined in this Chapter.
2. The owner of the off-premises sign shall have an inspection conducted every 3 years by a Pennsylvania registered, licensed engineer, to ensure the sign is structurally sound and in good condition.

§ 130-805. Limited Duration Signs

- A. Limited duration signs are a type of non-permanent sign that typically requires longer display times than other types of non-permanent signs (such as a temporary sign). Such a sign will require the application for a one-year permit, which may be renewed annually. Such signs are restricted by size, height, and number permitted per property, as outlined by this Chapter. Such signs typically include development signs, contractor signs, and seasonal homegrown produce signs.
- B. Limited duration signs shall be permitted as identified below:

Table 11: Limited Duration Signs

| Limited Duration Signs | | |
|--|---|--|
| | Nonresidential Districts | Residential Districts |
| Large Limited Duration Signs (maximum area of 16 sq. ft. each) | | |
| Maximum Number | 1 per property 2 if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area | 1 per property if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area |
| Maximum Height | Maximum of 8 ft. | |
| Small Limited Duration Signs (maximum area of 6 sq. ft. each) | | |
| Maximum Number | 1 per property 2 if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area | 2 per property |
| Maximum Height | Maximum of 6 ft. | |

- C. Illumination. Illumination of any type is not permitted for limited duration signs.

§ 130-806. Temporary Signs

- A. Temporary signs are a type of non-permanent sign that is displayed for a short period. Such signs may be displayed for up to 30 consecutive days for up to 2 separate occasions per year. Such signs are exempt from standard permit requirements and are not included in the total allowable sign area for permanent signs on a property. Temporary signs typically include such signs related to special events such as a festival, yard sale, or estate sale.
- B. Duration and Removal. Temporary signs shall be displayed for no longer than 30 consecutive days, 2 times per year.
- C. Temporary signs shall be permitted as identified below:

Table 12: Temporary Signs

| Temporary Signs | | |
|--|---|--|
| | Nonresidential Districts | Residential Districts |
| Large Temporary Signs (maximum area of 32 sq. ft. each for banners and 16 sq. ft. each for all others) | | |
| Maximum Number | 1 per property 2 if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area | 1 per property if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area |
| Maximum Freestanding or Wall Sign Height | Maximum of 8 ft. | |
| Maximum Banner Height | Maximum of 24 ft. | |
| Small Temporary Signs (maximum area of 6 sq. ft. each) | | |
| Maximum Number | 1 per property 2 if property is 5+ acres with 400+ ft. of street frontage or has greater than 10,000 sq. ft. of floor area | 2 per property |
| Maximum Height | Maximum of 6 ft. | |

D. Permission:

1. Temporary signs are exempt from the standard permit requirements. A date of erection shall be legibly written on the lower right hand corner of the sign.
2. The owner of the temporary sign is responsible for obtaining permission of the property owner prior to posting the temporary sign.
3. Failure to obtain permission can result in the confiscation of the temporary sign.
4. Any temporary signs installed in violation of this Chapter may be confiscated by the Borough or property owner.

E. Illumination. Illumination of any type is not permitted for limited duration signs

§ 130-807. Signs Permitted in the Conservation District (C)

- A. In addition to signs identified as exempt, the following signs are permitted in the C district and subject to the regulations identified in this Chapter.
- B. Signs may not be illuminated except for signs internal to a site related to sports or recreation activities occurring after dusk.
- C. Signs shall be permitted as identified below:

Table 13: C District Signs

| C District On-Premises Signs | | |
|------------------------------|--|--|
| | Other Nonresidential Uses | Parks and Open Spaces |
| Wall and Projecting Signs | | |
| Maximum Number | 1 per tenant per building frontage, up to a maximum of 2 signs per tenant | 1 per structure |
| Maximum Area | 20 sq. ft. total | 24 sq. ft. each |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sign is attached, whichever is lower | The eaveline of the structure to which the wall is attached |
| Freestanding Signs | | |
| Maximum Number | 1 per street access up to a maximum of 2 signs per lot | 1 per entrance, plus 1 per scoreboard, plus 1 per each separate recreation use within the site |
| Maximum Area | 32 sq. ft. | 32 sq. ft. per sign |
| Maximum Height | 6 ft. | 20 ft. |

§ 130-808. Signs Permitted in Residential Districts (R-1 and R-2)

- A. In addition to signs identified as exempt, the following signs are permitted in residential districts and subject to the regulations identified in this Chapter.
- B. Additional regulations:
 1. Home occupation signs are not permitted in multifamily housing developments, or in multifamily dwellings.
 2. Residential developments are permitted to place one sign located at each entrance to any residential development. It may be placed inside the median of an entrance road with prior approval from the public entity responsible for the maintenance of the right-of way.
 3. Signs may be illuminated with external illumination if no reflective glare occurs on adjacent roads or properties.
 4. Digital displays are not permitted.
- C. Signs shall be permitted as identified below:

Table 14: R-1 and R-2 District Signs

| R-1 and R-2 District On-Premises Signs | |
|--|--|
| | All Uses |
| Wall and Projecting Signs | |
| Maximum Number | 1 per lot for home occupations 2 per lot for nonresidential uses |
| Maximum Area | 2 sq. ft. each for home occupations 20 sq. ft. each for nonresidential uses |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Freestanding Signs | |
| Maximum Number | 1 per lot for home occupations 1 per residential development entrance 1 per entrance for nonresidential uses |
| Maximum Area | Home occupations: 6 sq. ft. each Residential developments and nonresidential uses: 15 sq. ft. each |
| Maximum Height | Home occupations: 6 ft. Residential developments and nonresidential uses: 8 ft. |

§ 130-809. Signs Permitted in the C-1 Neighborhood Commercial District

- A. In addition to signs that are identified as exempt, the following signs are permitted in the C-1 district and subject to the regulations identified in this Chapter.
- B. Illuminated signs:
 1. Signs may be illuminated if no reflective glare occurs on adjacent roads or properties. Illumination may be from internal or external sources. Digital displays are not permitted unless they are facing Route 66. Permitted digital displays shall comply with § 130-810 Signs Permitted in the C-2 General Commercial District.
 2. No sign that is within 100 feet of a property that is used as a single-family dwelling or is zoned to permit single-family dwellings may be illuminated, unless it can be demonstrated that such illumination will not adversely affect such residential property.
 3. Illumination of signs is permitted between 5:00 am and 11:00 pm or ½ hour past the close of business, whichever is earlier.
- C. Signs shall be permitted as identified below:

Table 15: C-1 District Signs

| C-1 District On-Premises Signs | |
|--------------------------------|--|
| | All Uses |
| Wall Signs | |
| Maximum Number | 1 per tenant per street frontage (up to 2 per tenant) |
| Maximum Area | 24 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Freestanding Signs | |
| Maximum Number | 1 per street frontage, up to 2 per lot |
| Maximum Area | 1 sq. ft. per linear ft. of building frontage facing a public street or parking lot |
| Maximum Height | 20 ft. |
| Projecting Signs | |
| Maximum Number | 1 per ground floor establishment, plus 1 per building entrance serving tenants without a ground floor entrance |
| Maximum Area | 12 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Marquee Signs | |
| Maximum Number | 1 per building |
| Maximum Area | 150 sq. ft. of signage including text and graphics |
| Maximum Height | The eaveline of the structure to which the marquee sign is attached |

*Maximum area for a wall and projecting sign is a total of 1.5 sq. ft. per linear ft. of building frontage facing a public street or parking lot.

§ 130-810. Signs Permitted in the C-2 General Commercial and Industrial District

- A. In addition to signs that are identified as exempt, the following signs are permitted in the C-2 district and subject to the regulations identified in this Chapter.
- B. Illuminated signs:
 1. Signs may be illuminated if no reflective glare occurs on adjacent roads or properties. Illumination may be from internal or external sources.
 2. Digital displays are permitted. The maximum brightness from 7:00 am to 7:00 pm is 5,000 Nits. The maximum brightness from 7:00 pm to 7:00 am is 250 Nits. Digital signs shall comply with the provisions of § 130-812 Digital Displays. Digital displays may not exceed a maximum of 30% of the total sign area of the sign on which it is displayed.

3. No sign that is within 100 feet of a property that is used as a single-family dwelling or is zoned to permit single-family dwellings may be illuminated, unless it can be demonstrated that such illumination will not adversely affect such residential property.
 4. Illumination of signs is permitted between 5:00 am and 11:00 pm or ½ hour past the close of business, whichever is earlier.
- C. Signs shall be permitted as identified below:

Table 16: C-2 District Signs

| C-2 District On-Premises Signs | |
|---------------------------------|--|
| | All Uses |
| Wall Signs | |
| Maximum Number | 1 per tenant per street frontage (up to 2 per tenant) |
| Maximum Area | 32 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Freestanding Signs | |
| Maximum Number | 1 per street frontage, up to 2 per lot |
| Maximum Area | 50 sq. ft. plus an additional 10 sq. ft. per tenant up to 100 sq. ft. |
| Maximum Height | 20 ft. |
| Projecting Signs | |
| Maximum Number | 1 per ground floor establishment, plus 1 per building entrance serving tenants without a ground floor entrance |
| Maximum Area | 20 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Marquee Signs | |
| Maximum Number | 1 per building |
| Maximum Area | 200 sq. ft. of signage including text and graphics |
| Maximum Height | The eaveline of the structure to which the marquee sign is attached |
| Upper-Level Building Wall Signs | |
| Maximum Number | 1 per building |
| Maximum Area | 200 sq. ft. |
| Maximum Height | The eaveline of the structure to which the sign is attached |

*Maximum area for a wall and projecting sign is a total of 2 sq. ft. per linear ft. of building frontage facing a public street or parking lot.

§ 130-811. Signs Permitted in the Central Business District Overlay (CBDO)

- A. In addition to signs that are identified as exempt, the following signs are permitted in the Central Business District Overlay and subject to the regulations identified in this Chapter.
- B. Signs may be illuminated with internal or external illumination. Digital displays are not permitted unless they are facing Route 66. Permitted digital displays shall comply with § 130-810 Signs Permitted in the C-2 General Commercial District.
- C. Signs shall be permitted as identified below:

Table 17: CBDO Signs

| CBDO On-Premises Signs | |
|------------------------|--|
| | All Uses |
| Wall Signs | |
| Maximum Number | 1 per tenant per street frontage (up to 2 per tenant) |
| Maximum Area | 12 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |
| Freestanding Signs | |
| Maximum Number | 1 per street frontage, up to 2 per lot |
| Maximum Area | 15 sq. ft. plus an additional 5 sq. ft. per tenant up to 30 sq. ft. |
| Maximum Height | 10 ft. |
| Projecting Signs | |
| Maximum Number | 1 per ground floor establishment, plus 1 per building entrance serving tenants without a ground floor entrance |
| Maximum Area | 10 sq. ft.* |
| Maximum Height | The eaveline of the structure to which the sign is attached or the bottom of the second story window sill on the structure to which the sigh is attached, whichever is lower |

*Maximum area for a wall and projecting sign is a total of 1.5 sq. ft. per linear ft. of building frontage facing a public street or parking lot.

§ 130-812. Digital Displays

The length of time each message may be displayed on a digital display portion of a sign is based upon the visibility and speed limit unique to individual signs and adjacent road conditions. The following method should be used to calculate message duration for digital display signs.

- A. Determine the greatest distance from which the sign becomes visible on the road the sign is primarily intended to serve. If a sign is visible from more than one roadway, the road with the lower posted speed limit shall be used for determining message duration.
- B. Multiply the road's posted speed limit (MPH) by 5,280, and then divide by 3,600 to obtain the speed limit in feet/second.

- C. Divide the visibility distance by the speed limit (feet/second).
- D. Add an additional ten 10 percent of this number to the total.
- E. The resulting amount of time is the minimum permitted message duration, except where this value is less than 8 seconds, in which case the minimum message duration shall be no less than 8 seconds.

§ 130-813. Nonconforming Signs

All nonconforming signs in existence prior to the effective date of this Chapter are permitted to continue if such sign adheres to the following guidelines.

- A. No nonconforming sign shall be changed, altered, or expanded in any way that increases the sign's nonconformity or be replaced by another nonconforming sign.
- B. All permanent signs and sign structures shall be brought into conformance with the regulations outlines in this Chapter should the following occur:
 - 1. The sign is removed, relocated, or significantly altered. Significant alterations include changes in size or dimension. Changeable copy changes on the face of an existing nonconforming sign shall not be considered a significant alteration.
 - 2. 50 percent of a sign is damaged.
 - 3. Change in illumination methods or mechanical operations occurs.
 - 4. Change in the sign structure or sign face material occurs.
- C. Abandonment. If use of a nonconforming sign is abandoned or interrupted for a continuous period of more than 180 days, then such nonconforming sign together with its panel cabinet, supports, braces, anchors, and electrical equipment shall be removed within 14 days from the end of the aforesaid period and the use of such sign shall not be resumed except in accordance with the provisions of this Chapter.
- D. Health, Safety, and Welfare. If any sign or supporting structure subject to the regulation of the provisions of this Chapter constitutes a threat to health, safety, or welfare of the area surrounding said sign or has been constructed, installed, or maintained in violation of any provision of this Chapter, the Borough shall give written notice to the person or entity who owns or is maintaining such sign. If the owner or entity maintaining such sign fails to modify the sign so as to comply with the provisions of this article within 20 days after the date of said written notice, then the Borough shall take steps as necessary to promptly have said sign brought into compliance with this Chapter up to and including removal of the sign to comply with this Chapter.
- E. Nonconforming signs may be exempt from the provisions provided in this Section, provided that:
 - 1. The nonconforming sign possessed documented historic value.
 - 2. The nonconforming sign has special designation, value, or design as determined by the National Park Service, Pennsylvania Historical and Museum Commission, or a local historical commission.
 - 3. In the event that public right-of-way improvements require that the nonconforming sign be relocated.

§ 130-814. Signs Exempt from Permitting Requirements

The following signs shall be exempt from permitting requirements and shall not be included in the type, number, or area of signs permitted in each zoning district.

- A. Official Traffic Signs.

- B. Government/Regulatory Signs.
- C. Holiday Decorations.
- D. Legal Notices.
- E. Temporary Signs in accordance with the regulations in § 130-806 Temporary Signs.
- F. Signs smaller than 3 square feet.
- G. Directional Signs
- H. Window Signs
- I. Awning or Canopy Signs.
- J. Pennants, Flags, or Streamers.
- K. Portable Signs.

§ 130-815. Enforcement

Any sign permit issued by the Borough shall be revoked if the holder of such sign permit fails to comply with the requirements of this Chapter or any conditions attached to the sign permit.

§ 130-816. Penalties for Violation

The Borough shall give a written enforcement notice to the permit holder of the violation. Upon receiving notification, the permit holder shall have 30 days to comply with the notice. If after 30 days the permit holder fails to comply with the notice, a \$200 fine per day shall be issued to the permit holder until compliance is met.

Article IX: Off-Street Parking and Loading

§ 130-900. Parking

This Section sets minimum standards for off-street parking for new construction and expansion of, or changes to, existing uses. The purpose of this Section is to ensure that uses have a minimum level of on-street and off-street parking to avoid congestion on surrounding streets.

§ 130-901. Parking Ratios

- A. Applicability. The minimum parking ratio standards apply to all zoning districts except as may be modified in the provisions of this Chapter.
- B. Uses Not Identified. The Zoning Officer shall determine the parking requirement for uses that do not correspond to the categories listed in Table 18. In such instances, the Applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:
 - 1. Type of uses.
 - 2. Number of employees.
 - 3. Building design capacity.
 - 4. Square feet of sales area and service area.
 - 5. Parking spaces proposed on site.
 - 6. Parking spaces provided elsewhere.
 - 7. Hours of operation.
- C. Multiple Uses. Where the application identifies accessory or multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure. This provision shall not apply if the Applicant has sought and secured approval under the shared parking requirements of this Chapter.
- D. Fractional Measurements. When units or measurements determining the number of required off-street parking spaces result in a fractional space, then such fraction shall be rounded up to require a full off-street parking space.
- E. Floor Area Measurement. Floor area, gross floor area, and GFA are synonymous for purposes of this Chapter.

§ 130-902. Minimum Parking Ratios

§ 130-906 Parking Ratios establishes the minimum numbers of parking spaces required for the uses indicated. Parking requirements may be met by one or more of a combination of the following methods:

- A. On-Site Parking. A use shall provide the minimum number of required spaces for all uses located on the lot or site pursuant to § 130-906 Parking Ratios. Only spaces that are designed consistent with this Article are counted toward the minimum parking required. The following provisions apply when providing the minimum number of required on-site parking spaces:
 - 1. Required parking for single-family dwellings may be stacked and do not require separate access to each required space.

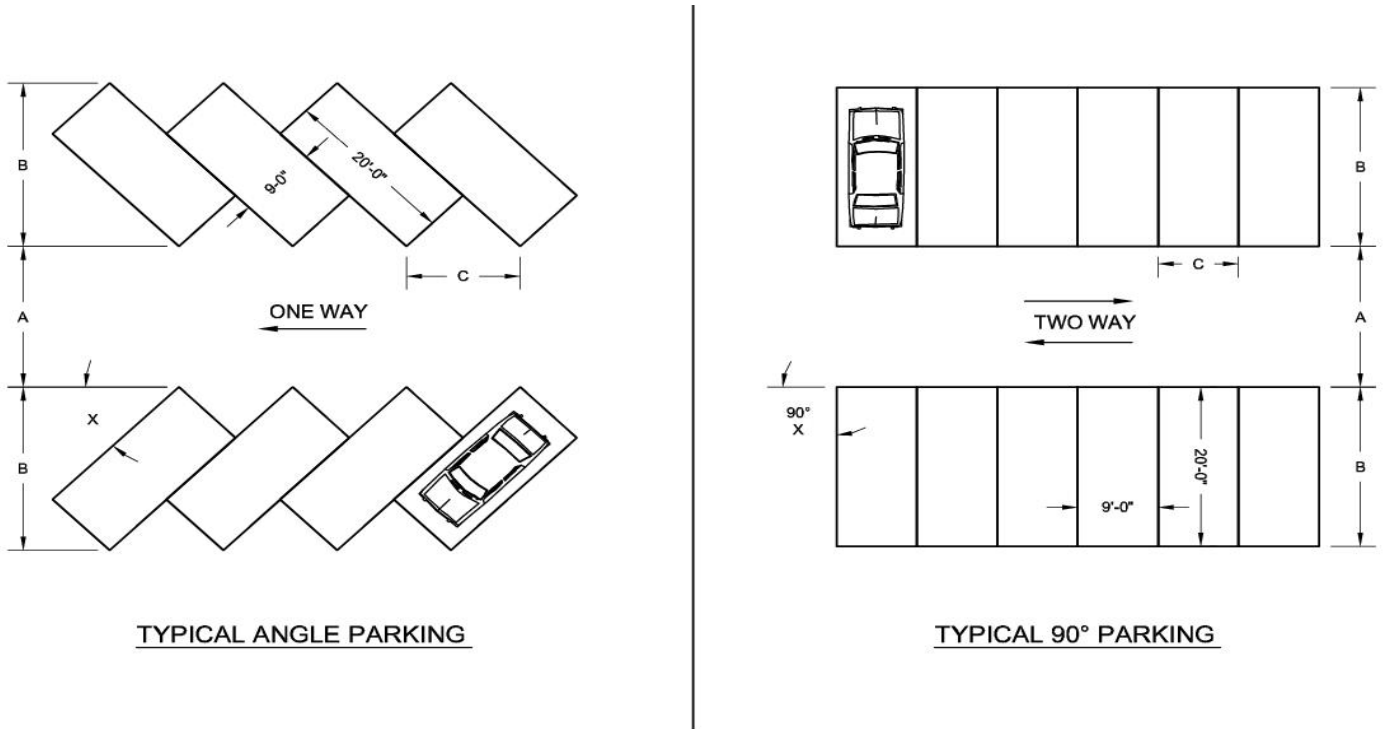
2. No on-site parking is required for commercial uses in the CBDO zoning district when the commercial use abuts a public street that has on street parking, or when other public parking is reasonably available to the site. No parking is required for the residential portions of mixed-use buildings in the CBDO zoning district where there are 2 or less residential units in the building. Stand-alone residential buildings and buildings or portions thereof that contain 3 or more dwelling units in the CBDO zoning district shall be required to provide on-site parking for that portion of building that contains the residential use.
 3. Spaces at gasoline pumps and bays for auto repair/service are not counted toward the minimum parking required.
- B. Shared parking:
1. Parking spaces required under this Section may be provided cooperatively for 2 or more uses in a development or for 2 or more individual uses as shared, subject to the requirements of this Section.
 2. Off-street parking requirements of a given use may be met with off-site, off-street parking facilities of another use when, and if, all of the following conditions are met:
 - a. The off-site, off-street parking facilities are within 300 feet of the property.
 - b. The parking demands of the individual uses, as determined by the Planning Commission, based upon minimum off-street parking requirements, are such that the total parking demand of all the uses at any one time is less than the total parking stalls required.
 - c. A written agreement between the owners and lessees is executed for a minimum of 10 years and approved by the Planning Commission as provided in this Section. Should the lease expire or otherwise terminate, the use for which the off-site parking was provided shall be considered in violation of its zoning approval, and shall be subject to regulations for nonconforming uses.
 - d. An application for approval of a shared parking plan shall be filed with the Planning Commission by the owner of the land area to be included within the cooperative parking plan, the owner or owners of all structures then existing on such land area, and all parties having a legal interest in such land area and structures. Sufficient evidence to establish the status of Applicants as owners of parties in interest shall be provided. The application shall include plans showing the location of the uses or structures for which off-street parking facilities are required, the location of the off-street parking facilities, and the schedule of times used by those sharing parking in common. In the event the application also requires a subdivision or land development approval, the shared parking agreement shall require approval of the Borough Council.

§ 130-903. Parking Dimensions and Surface Requirements

- A. Off-street parking spaces shall have minimum dimensions as established in Figure 2.
- B. Required off-street parking space(s) and loading zones shall conform to the following: all off-street spaces shall be adequately marked and shall be constructed of an approved all-weather surface to provide safe and convenient access in all seasons. Said all weather surface shall be constructed only of concrete, asphalt, brick, or stone block. The construction of all such off-street loading spaces shall be subject to inspection and approval by the Delmont Borough Engineer, concerning the materials of construction and specification of construction, prior to, during, and after the completion of construction of such off-street loading spaces.
- C. In addition to the other standards of this Section, the following regulations shall apply to parking spaces in the R-1 and R-2 zoning districts: The term "parking space" shall include but is not limited to a parking pad, driveway, and any other area provided for parking a vehicle. Each parking space provided, constructed, or maintained for parking of vehicle(s) pursuant to the provisions of this Chapter shall have a width not greater than 50 percent of the width of the front of the dwelling or building structure located on the lot containing the parking space.

- D. Exclusive of access or maneuvering area, ramps, and other appurtenances, the minimum width of access aisles internal to a parking lot or structure shall be as prescribed in Figure 2. Aisles having 2-way traffic are required to provide a width of 23 feet regardless of angle of parking.

Figure 2- Parking Area Design Standards



| MINIMUM PARKING SPACES AND AISLE DIMENSIONS | | | |
|---|--------|-------------|------------|
| PARKING ANGLE (X) | A | B | C |
| 30° | 11'-0" | 17'-9 1/2" | 18'-0" |
| 45° | 13'-0" | 20'-6" | 12'-9" |
| 60° | 18'-0" | 21'-10" | 10'-4 1/2" |
| 70° | 19'-0" | 21'-10 1/2" | 9'-7" |
| 80° | 25'-0" | 21'-3" | 9'-1 1/2" |
| 90° | 25'-0" | 20'-0" | 9'-0" |

NOTE: THE MAXIMUM PERMISSIBLE SLOPE OF ANY PARKING AREA SHALL BE FIVE (5%) PERCENT.

§ 130-904. Parking Access and Layout

- A. Internal Driveway System. All off-street parking lots with greater than 200 parking spaces shall include a separate internal access drive system, which separates aisle ways that access individual parking spaces from the overall internal access driveway system. The purpose of the internal driveway system is to facilitate pedestrian and vehicular circulation, creating an interconnected circulation network.
- B. Internal driveway systems shall be designed to connect into adjacent non-residential properties, where practical. The Borough may require an easement be placed on the property to allow for future connection to the adjacent properties.
- C. Joint access to abutting parcels shall be provided wherever practical. This will result in the development of shared parking areas at vehicular access points.
- D. All parking areas containing 4 or more parking spaces shall include a turnaround that is designed and located so that vehicles can enter and exit the parking area without backing onto a public right-of-way.
- E. Except as otherwise permitted under a shared parking plan, off-street parking facilities shall be located on the lots on which the use or structure for which they are provided is located.
- F. Vehicular access points along Route 66 shall provide a clear site distance of 150 linear feet in each direction, shall be at least 200 linear feet away from any other vehicle access point measured from center to center of intersections, and shall be at least 200 linear feet from any intersection.
- G. All vehicular turning movements and maneuvering shall take place on site.
- H. Internal driveways through development sites shall be provided to permit on-site access to parking and loading facilities and to permit emergency vehicle access.
- I. Pedestrian walkways will be provided throughout the CBDO zoning district. These walkways shall be parallel to the street, unless an Applicant shows that an alternative system provides safe and convenient circulation. These walkways will be a minimum of 5 feet wide and shall be paved and maintained with a smooth surface of concrete or brick. Pedestrian walkways shall be designed, graded, constructed, surfaced, and maintained to be readily usable by persons with disabilities and compliant with the applicable laws related to universal access.
- J. Pedestrian walkways shall be required within development sites to provide safe and convenient pedestrian access between buildings and to parking areas and transit stops. Sidewalks within development sites shall be differentiated when crossing vehicular lanes by lines, stripping, signalization, and/or different paving materials. They shall be constructed and designed to provide safe passage of pedestrians.
- K. Traffic aisles that do not provide for continuous circulation within the site shall provide for turnaround areas. Turnaround areas shall be a minimum of 25 by 25 feet.
- L. The end of each parking aisle shall have an end cap island of at least 5 feet in width. The end cap island area shall not be used in meeting required minimum parking space or travel aisle dimensions.

§ 130-905. Accessible Parking Requirements

Accessible parking spaces for the physically challenged shall be provided for multifamily and non-residential uses in compliance with the current version of the US Department of Justice Americans With Disabilities Act standards for Accessible Design.

§ 130-906. Parking Ratios

Table 18: Parking Ratios

| RESIDENTIAL | | |
|---|--|---|
| 1 | Bed and Breakfast | 1 space per guest room |
| 2 | Hotels/Motels | 1 space per 1.5 guest rooms, plus 1 space per employee on peak shift |
| 3 | Institutional Living | |
| | Boarding house, dormitories, and fraternity houses with sleeping rooms | 1 space per sleeping room |
| | Group Homes, Personal Care Boarding Homes, Group Care Facilities, and Transitional Dwellings | 1 space per dwelling unit, plus 1 space per employee on peak shift |
| | Correctional Facility | 1 space per 18 beds, plus 1 space per employee on peak shift |
| | Retirement Communities and Assisted Living Facilities | 1 space per 1.5 dwelling units, plus 1 space per employee on peak shift |
| | Nursing Homes, In-Patient Rehabilitation Facilities | 1 space per 3 beds |
| 4 | Mobile Home Park | 2 spaces per dwelling unit |
| 5 | Multifamily Dwelling | 2 spaces per dwelling unit |
| 6 | Planned Residential Development | As determined by the Planned Residential Development |
| 7 | Residential/Non-residential Mixed Use | 2 spaces per dwelling unit Non-residential spaces as determined by non-residential use |
| 8 | Single Family Dwelling | 2 spaces per dwelling unit |
| 9 | Townhouse | 2 spaces per dwelling unit |
| SOCIAL (SOCIAL, INSTITUTIONAL, AND RELIGIOUS) | | |
| 10 | Cemetery | N/A |
| 11 | Entertainment Facilities | |
| | Bowling Alley | 1 space per lane |
| | Drive-In Theater | N/A |
| | Other Entertainment Facilities With Seating | 1 space per 4 seats |
| | Other Entertainment Facilities Without Seating | 1 space per 4 guests at maximum capacity |
| 12 | Health Care, Medical or Treatment | 1 space per employee plus 3 spaces for each examining room or treatment area |
| 13 | Parks and Outdoor Recreation Space | 1 space per 3,000 sq. ft. of gross lot area Trails and trailheads as determined by Borough |

Article IX: Off-Street Parking and Loading

| | | |
|--|---|--|
| 14 | School, Nursery, Day Care (Adult or Child) | |
| | Kindergarten, elementary, and junior high schools | 1 space per employee, plus 1 space for every 8 seats in an auditorium, assembly hall, or on-site sports field that is used outside of regular school hours |
| | High School | 1 space per employee, plus 1 space for every 8 seats in an auditorium, assembly hall, or on-site sports field that is used outside of regular school hours |
| | Business, Trade, or Technical Schools, Colleges, and Universities | 1 space per employee, plus 1 space for every 4 students at maximum capacity |
| | Day Care, Nursery School, or Preschool | 1 space per employee, plus 1 space per 10 students/children at maximum capacity |
| 15 | Social, Cultural or Religious Assembly, Large Scale | |
| | Funeral Parlors and Mortuaries | 1 space per 100 sq. ft. of visitor space |
| | Social Halls, Clubs, and Lodges | 1 space per 300 sq. ft. of gross floor area |
| | All Others | 1 space per 400 sq. ft. of gross floor area |
| 16 | Social, Cultural or Religious Assembly, Small Scale | |
| | Funeral Parlors and Mortuaries | 1 space per 100 sq. ft. of visitor space |
| | Social Halls, Clubs, and Lodges | 1 space per 300 sq. ft. of gross floor area |
| | All Others | As determined by the Borough based on anticipated needs of the use |
| COMMERCIAL (SHOPPING, BUSINESS, OR TRADE) | | |
| 17 | Adult-Oriented Businesses | 1 space per 300 sq. ft. of gross floor area |
| 18 | Artisan Manufacturing and Small Scale Production | 1 per 1,000 sq. ft. of gross floor area |
| 19 | Automobile-Oriented Goods and Services | 1 space per 500 sq. ft. of gross floor area, areas use for display, or temporary storage of cars shall not count towards the parking requirement |

Article IX: Off-Street Parking and Loading

| | | |
|---|--|--|
| 20 | Brewery With Sales | 1 space per 3 seats of gross floor area devoted to sales, plus 1 space per 500 sq. ft. of gross floor area devoted to brewing/manufacturing; the Borough may consider shared parking between the sales and manufacturing areas |
| 21 | Integrated Business or Shopping Centers | As determined by uses included in the center and shared parking agreements |
| 22 | Kennel | 1 space per employee, plus 1 space for every 6 animals at maximum capacity |
| 23 | Office With On Site Services, Large Scale | 1 space per 300 sq. ft. of gross floor area |
| 24 | Office With On Site Services, Small Scale | 1 space per 300 sq. ft. of gross floor area |
| 25 | Office Without On Site Services, Large Scale | 1 space per 600 sq. ft. of gross floor area |
| 26 | Office Without On Site Services, Small Scale | 1 space for every 600 sq. ft. of gross floor area |
| 27 | Restaurant or Bar With Drive Through | 1 space per 3 seats |
| 28 | Restaurant or Bar Without Drive Through | 1 space per 2 seats |
| 29 | Retail Goods and Services, Large Scale | |
| | Personal Services | 1 space per employee on peak shift, plus 1 space per 300 sq. ft. of gross floor area |
| | Retail Sales | 1 space per 200 sq. ft. of gross floor area |
| | Animal Hospital/Veterinarian Office/Care of Household Pets | 1 space per employee, plus 1 space for each examining room or treatment area |
| 30 | Retail Goods and Services, Medium Scale | |
| | Personal Services | 1 space per employee on peak shift, plus 1 space per 300 sq. ft. of gross floor area |
| | Retail Sales | 1 space per 300 sq. ft. of gross floor area |
| | Animal Hospital/Veterinarian Office/Care of Household Pets | 1 space per employee, plus 1 space for each examining room or treatment area |
| 331 | Retail Goods and Services, Small Scale | 1 space per 350 sq. ft. of gross floor area |
| INDUSTRIAL (INDUSTRIAL, MANUFACTURING, INFRASTRUCTURE, STORAGE, AND NATURAL RESOURCES) | | |
| 32 | Agricultural Uses | 1 space per employee at peak shift |

| | | |
|----|--|--|
| 33 | Communications Antennas and Communication Equipment Buildings | 1 space per building |
| 34 | Communications Towers | 1 space |
| 35 | Community Gardens/Farming | N/A |
| 36 | Drilling, Oil and Gas | 1 space per employee at peak shift |
| 37 | Emergency Response or Public-Safety | 1 space per employee at peak shift; this shall not include storage of emergency vehicles |
| 38 | Essential Services | 1 space per on-site employee |
| 39 | Flex/Light Industrial Space | 1 space per employee at peak shift |
| 40 | Forestry | N/A |
| 41 | Heavy Industrial, or Heavy Goods Storage or Handling, Cremation | 1 space per employee at peak shift |
| 42 | Junkyards | 1 space per employee at peak shift |
| 43 | Mineral Extraction | 1 space per employee at peak shift |
| 44 | Micro Cell Towers and Antennas, Distributed Antenna Systems, and Data Collection Units | N/A |
| 45 | Mini Warehouse | 1 space per employee at peak shift |
| 46 | Outdoor Storage, Contractor Yard, Building Material Sales | 1 space per employee at peak shift, plus 1 space per 600 sq. ft. of sales area |
| 47 | Warehousing, Non-retail Storage | 1 space per employee at peak shift |

§ 130-907. Off-Street Loading and Unloading

All new non-residential buildings shall provide required off-street loading berths in accordance with this Article. In all zoning districts, whenever a new construction is proposed, off-street loading berths shall be provided in accordance with the requirements of this Section.

- A. Off-Street Loading Design. For establishments that have nonstandard loading requirements that are smaller or larger than the areas identified below, a delivery plan showing detailed information regarding loading, docks, delivery trucks, and access points shall be provided for Borough Engineer review and approval to demonstrate that deliveries and loading will be accomplished without impacting any public right-of-way.
1. Size. Each loading berth shall be at least 65 feet in length and 12 feet in width with an overhead clearance of 14 feet. The area used for loading berths shall not be used to satisfy parking area requirements and shall not block any driveway used for circulation through the site.

2. Access. Loading berths shall be designed to provide sufficient turnaround area so that vehicles are not required to back onto public streets. The design shall be subject to review and approval by the Borough Engineer. Loading berths shall have direct access to a driveway and shall be maintained free from obstruction.
 3. Location. All loading berths shall be located on the same lot with the principal use they are intended to serve. No loading berth shall be located in a required front yard. Loading berths shall be located at least 30 feet from the nearest point of intersection of any 2 streets.
 4. Screening. Loading berths shall be screened by providing a buffer yard C in accordance with Article IV when facing any residential use or residential zoning district.
 5. Surfacing. All loading berths shall have a paved, concrete, or bituminous surface, graded with positive drainage to dispose of surface water.
 6. Lighting. Any lighting used to illuminate loading berths shall be shielded from any adjoining residential use or residential zoning district and away from any street, road, or highway.
- B. Off-street loading requirements. In all zoning districts, every use which requires the receipt or distribution, by tractor-trailer, of material or merchandise shall provide off-street loading berths in accordance with the following requirements:
1. Commercial or industrial land uses:

Table 19: Berths Required (Commercial or Industrial)

| Gross Floor Area (sq. ft.) | Number of Berths Required |
|----------------------------|---------------------------|
| Under 10,000 | None |
| 10,000 to 19,999 | 1 |
| 20,000 to 39,999 | 2 |
| 40,000 to 65,000 | 3 |
| For each additional 20,000 | 1 additional |

2. Social and multifamily land uses:

Table 20: Berths Required (Social and Multifamily Residential)

| Gross Floor Area (sq. ft.) | Number of Berths Required |
|----------------------------|---------------------------|
| Under 40,000 | None |
| 40,000 to 59,999 | 1 |
| 60,000 to 99,999 | 2 |
| 100,000 to 160,000 | 3 |
| Over 160,000 | 4 |

- C. Any other business that is expected to have deliveries from large vehicles not specifically identified herein may be required to provide loading berths in compliance with this Section at the discretion of the Borough.
- D. In addition to required off-street parking and loading facilities, adequate storage areas for vehicles awaiting loading and unloading shall be provided. Under no circumstances shall vehicles be stored on or block access to a public right-of-way.

Article X: Nonconforming Uses, Structures, and Lots

§ 130-1000. Purpose

The purpose of this Article is to regulate nonconforming uses, nonconforming buildings, structures, and lots. The zoning districts established by this Chapter are designed to guide the future use of the Borough's land by encouraging the development of desirable residential, commercial, and other uses with appropriate groupings of compatible and related uses that promote and protect the public health, safety, and general welfare. The regulations of this Article are intended to restrict further investments that would make nonconformities more permanent in their location in inappropriate districts as well as to afford opportunities for creative use and reuse of those other nonconformities that contribute to the community.

§ 130-1001. Nonconforming Use

- A. Continuation of Nonconforming Use. Any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the regulations contained in this Section. Ordinary repair and maintenance or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed.
- B. Change of nonconforming use to conforming:
 - 1. Whenever any nonconforming use shall have been changed or altered to conform to the provisions of this Chapter or its amendments, then such nonconforming use shall no longer be nonconforming to the extent to which it then conforms to this Chapter or its amendments.
 - 2. The prior nonconforming use shall not be resumed; provided, however, that if a later amendment to this Chapter should make the use as so changed or altered nonconforming with its provisions then such use as changed or altered shall become a new nonconforming use to the extent of such nonconformance or noncompliance.
- C. Expansion or extension of nonconforming use:
 - 1. No nonconforming use may be extended or expanded in any building or structure, or in or on the lot on which it is located, nor may any nonconforming use be moved to a different position upon the lot on which it is located, so as to alter the use or its location which existed at the time that the use became nonconforming.
 - 2. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater lot area than was occupied at the effective date of adoption or amendment of this Chapter, unless the Zoning Hearing Board shall interpret that the enlargement or extension is necessary by the natural expansion and growth of trade of the nonconforming use. For the purposes of determining if an enlargement of expansion of nonconforming use meets this requirement, the Applicant shall file an application for special exception pursuant to the requirements of Article V of this Chapter. The Applicant shall meet all the applicable requirements and criteria of Article V in addition to providing evidence that the enlargement or extension is necessitated by the natural expansion and growth of trade of the nonconforming use.
 - 3. Whenever a use district shall be hereafter changed by a duly adopted amendment to this Chapter, then any existing legal, nonconforming use of such changed district may be continued, and such use may be extended throughout the structure.
- D. Abandonment or discontinuance of nonconforming uses:
 - 1. The lawful use of the land existing at the time this Chapter or any of its amendments was adopted, although such use does not conform to the provisions hereof, may be continued. However, if such nonconforming use is abandoned for a period of 12 months, any future use of said land shall conform to the provisions of this Chapter.

2. Any subsequent use shall conform to the applicable provisions of this Chapter or its amendments and the prior nonconforming use shall not be resumed, unless in accordance with the applicable provisions of this Chapter or its amendments.
- E. Nonconforming Accessory Uses and Structures. No use or structure that is accessory to a principal nonconforming use shall continue after such principal use or structure has been abandoned or removed, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.

§ 130-1002. Nonconforming Buildings or Structures

- A. Continuation. Any nonconforming building or structure, which is devoted to a use that is permitted in the zoning district where it is located, may be continued so long as it remains otherwise lawful, subject to the restrictions in this Section.
- B. Structural Alteration. A lawful nonconforming use of a building or structure existing at the time of the adoption of this Chapter or an amendment hereto may be structurally altered. Such alteration shall not be expand its nonconformity in areas not previously occupied by the nonconforming use unless meeting the requirements of expansion and extension of nonconforming uses as required in this Chapter. No parking, yard, space, or bulk nonconformity may be created or increased.
- C. Changes to nonconforming buildings or structures to conforming:
 1. Whenever any nonconforming building or structure shall have been changed or altered to conform to the provisions of this Chapter or its amendments in effect at the time of such change or alteration, or whenever any amendment to this Chapter shall make such building or structure conforming with the provisions of this Chapter or its amendments, then such building or structure shall remain in conformance with the applicable provisions of this Chapter or its amendments.
 2. If a later amendment to this Chapter should make the building or structure as changed or altered nonconforming with its provisions, then the building or structure as changed or altered will become a nonconforming building or structure to the extent of such nonconformance or noncompliance.
- D. Damage or destruction of nonconforming buildings or structures:
 1. When a building or structure is damaged or destroyed by any means not within the control of the owner, to the extent of 50 percent or more of the cost of replacement of the structure, the structure shall not be restored unless it thereafter conforms to the regulations of the zoning district in which it is located. No parking, yard, space, or bulk nonconformity may be created or increased.
 2. When a structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 49 percent or less of the cost of replacement of the structure repair or restoration of such structure may be made; provided, however, that no parking, yard, space, or bulk nonconformity is newly created or increased.
 3. In no event shall any damage or destruction to such a structure by any means within the control of the owner be repaired or restored, except in accordance with this Section.
- E. Expansion or extension of nonconforming buildings or structures:
 1. No nonconforming building or structure may be extended on the lot on which it is located, nor may any nonconforming building or structure be moved to a different position upon the lot on which it is located, except to a position in conformity with the current Borough ordinances.
 2. Whenever a use district shall be hereafter changed by a duly adopted amendment to this Chapter, then any existing legal, nonconforming structure of such changed district may be continued, and such use may be extended throughout the structure.

3. Structures that are nonconforming on the effective date of this Chapter that already encroach on a required setback can extend that encroachment and not be considered an expansion of the nonconforming structure subject to the following:
 - a. The structure is only extended on a parallel plane of the existing nonconforming encroachment and does not extend any closer to a property line.
 - b. The extension is no more than 25 percent of the length of the side of the existing nonconforming structure on the side of the encroachment.
 - c. A determination is made by the Planning Commission that there is no impact to immediately adjacent property. If any uncertainty exists regarding impacts to immediately adjacent properties, the Planning Commission may refer the request to the Zoning Hearing Board for an interpretation.
- F. Repairs, renovation, and modernization of nonconforming buildings or structures:
1. Repairs, renovations, and modernization of nonconforming buildings or structures, such as renewal or replacement of outer surfaces, windows, addition of soundproofing materials, air conditioning, and repair or replacement of structural parts or members of the building or structure shall be permitted notwithstanding other provisions of this Chapter.
 2. Such repairs, renovations, or modernizations are allowed provided they do not change or alter substantially the physical configuration of the nonconforming building or structure or change its position on the ground.
 3. No increase in the size of or area covered by the nonconforming use or area of the use within the building or structure is allowed except as provided for in this Chapter.
 - a. The areas of nonconforming use within a building or structure may be rearranged in connection with such repairs, renovation, or modernization, if no enlargement or expansion of the nonconforming use occurs.

§ 130-1003. Nonconforming Lots of Record

- A. In any district in which single-family dwellings are a use by right, notwithstanding the regulations imposed by any other provisions of this Chapter, a single-family dwelling, which complies with the yard, space, and bulk requirements of the district in which it is located may be erected on a nonconforming lot adjacent to an improved street. Nothing in the requirements of this Chapter relating to lot area per dwelling unit shall be held to prohibit the erection of a single-family dwelling unit upon a lot having less than the required street frontage or the area of which is less than that prescribed as the lot area per dwelling unit, provided that such lot, at the time of the passage of this Chapter, was held under separate ownership from any adjoining lots or provided that, at the time of the passage of this Chapter, a recorded plan of lots or subdivision of property shows such lot to be a separate and distinct numbered lot.
- B. In any district in which single-family dwellings are not permitted, a nonconforming lot of record may be used for any use by right in the district in which it is located if land development approval is granted in accordance with the provisions of this Chapter.

§ 130-1004. Registration of Non-Conformity

In the course of administering and enforcing this Chapter and reviewing applications for zoning certificates, temporary use permits, or variances, the Zoning Officer may register nonconforming uses, nonconforming structures, and nonconforming lots as they become known through the application and enforcement process. Registration and proof of nonconforming uses, structures, and lots shall be the burden of the property owner.

Article XI: Enforcement, Violations, and Remedies

§ 130-1100. Enforcement

If it appears to Delmont Borough that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Article.

- A. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- B. The enforcement notice shall state at least the following:
 - 1. The name of the owner of record and any other person against whom the Borough of Delmont intends to take action.
 - 2. The location of the property in violation.
 - 3. The specific violation with a description of the requirements, which have not been met, citing in each instance the applicable provisions of this Chapter.
 - 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - 5. That the recipient of the notice has the right to appeal within 30 days of the mailing date of the notice in accordance with procedures set forth in this Chapter.
 - 6. That failure to comply with the notice within the time specified, unless extended by appeal, constitutes a violation, and upon being found liable therefore in a civil enforcement proceeding, shall pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Borough.

§ 130-1101. Causes of Action

- A. In case any building, structure, landscaping, sign, or land is or is proposed to be erected, constructed, reconstructed, altered, repaired, converted, maintained, or used in violation of this Chapter, Delmont Borough or any aggrieved owner or tenant of real property who shows that his property or person will be substantially effected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structured, landscaping, sign, or land or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon Delmont Borough, by certified mail, at least 30 days prior to the time the action is to begin by serving a copy of the complaint on the Borough Council of Delmont Borough. No such action may be maintained unless such notice has been given.
- B. Jurisdiction. Magisterial district judges shall have initial jurisdiction over proceedings brought under this Article.

§ 130-1102. Remedies; Violations and Penalties

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by Delmont Borough, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by Delmont Borough as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by

the District Justice. If the defendant neither pays nor appeals the judgment, Delmont Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership, or corporation violating this Chapter to have believed that there was no violation, in which event there shall be deemed to have been only one such violation until the 5th day following the date of the determination of a violation by the District Justice; and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid to Delmont Borough.

- B. The Court of Common Pleas of Westmoreland County, upon petition, may grant an order or stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Article shall be construed or interpreted to grant to any person or entity other than Delmont Borough the right to commence any action for enforcement pursuant to this Article.

Article XII: Roles and Responsibilities

§ 130-1200. Duties of Borough Council

- A. Borough Council shall have the duties of considering and adopting or rejecting proposed amendments or the repeal of this Chapter, as provided by law; and of establishing a schedule of fees and charges. Under no circumstances shall the duties of the Borough Council include hearing and deciding questions of enforcement that may arise.
- B. Appoint the members of the Planning Commission, the Zoning Hearing Board, and the Zoning Officer.
- C. Receive and consider the recommendations of the Planning Commission on matters the Planning Commission reviews pursuant to this Chapter.
- D. Ask for recommendations of the Planning Commission on the adoption or amendment of this Chapter if such recommendations are not prepared by the Planning Commission. In accordance with § 303(a) of the MPC, Borough Council must ask for recommendations from the Planning Commission for proposed actions related to:
 - 1. The location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pier head or watercourse;
 - 2. The location, erection, demolition, removal, or sale of any public structure located within the Borough;
 - 3. The adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provisions for planned residential development, or capital improvements program: or
 - 4. The construction, extension or abandonment of any water line, sewer line or sewage treatment facility.
- E. Advertise and host a public hearing before adopting a zoning ordinance or any amendment thereto.
- F. May remove members of the Planning Commission, the Zoning Hearing Board, or the Zoning Officer from their positions upon just cause and after a formal hearing.
- G. Establish fees for the issuance of land development, building, occupancy and sign permits. In accordance with §617.3(e) of the MPC, the Borough Council may also prescribe fees for conditional use applications, landowner curative amendments, municipal curative amendments, and for hearings before the Zoning Hearing Board.
- H. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
 - 1. All applications pursuant to § 508 of the MPC, for approval of subdivisions or land developments under Part V of the MPC.
 - 2. Applications for conditional use under the express provisions of this Chapter.
 - 3. Applications for curative amendment to this Chapter or pursuant to § 609.1 and 916.1(a) of the MPC.
 - 4. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in § 609 of the MPC.
 - 5. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management as enabled by the MPC.
 - 6. Applications for approvals of planned residential development.

§ 130-1201. Duties of Zoning Officer

- A. The day-to-day administrative procedures provided for in this Chapter are the responsibility of the Zoning Officer. The Zoning Officer's duties generally involve receiving, reviewing, and issuing building and zoning permits and certificates of occupancy, maintaining records of applications and permits, performing inspections to determine compliance with this Chapter, notifying persons violating this Chapter, keeping this Chapter and map up-to-date, and accepting applications for and presenting facts at hearings before the Zoning Hearing Board. The Borough Council may amend the duties of the Zoning Officer as deemed necessary for the health, safety, and welfare of the residents. The Zoning Officer must administer this Chapter by its literal terms; the Zoning Officer shall not have any discretionary power and can neither waive nor tighten any requirement of the Chapter. The Zoning Officer is required to meet qualifications established by the Borough and the MPC and must be able to demonstrate a working knowledge of the municipal zoning. The Zoning Officer may also serve as the Building Inspector.
- B. Permits and Certificates. Before issuing the zoning permit, building permit, or certificate of occupancy referred to in Article VII, the Zoning Officer shall assure that the proposed construction or use is in conformity with the provisions of this Chapter, as well as other applicable ordinances of the Borough.
- C. Application for Special Exception. Any Applicant for a building permit or certificate of occupancy for a structure or use, which is permitted in the district as a special exception shall be informed by the Zoning Officer of the rules and procedures of the Zoning Hearing Board relating to such applications.
- D. Other duties of the Zoning Officer are to:
 - 1. Act on behalf of the Borough in any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, demolition, maintenance, or use of any building or structure, to restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
 - 2. Revoke by order any building permit, zoning permit, or certificate of occupancy issued under a mistake of fact or contrary to the law or the provisions of this Chapter.
 - 3. Record and file all applications and plans for permits and the action taken thereon. All applications, plans, and documents shall be a public record.
 - 4. Maintain the Zoning Ordinance Map showing the current zoning districts for all the land within the Borough. Upon request, the Zoning Officer shall make determination of any Zoning Ordinance Map district boundary question. Such determination may be appealed to the Zoning Hearing Board.
 - 5. Upon the request of the Borough Council, Planning Commission, or Zoning Hearing Board, present facts, records, or information to assist them in making decisions.
 - 6. Provide testimony at hearings of the Zoning Hearing Board, if requested.
 - 7. Conduct inspections and surveys as prescribed by the Borough Council or Borough regulations to determine compliance or noncompliance with the terms of this Chapter.

§ 130-1202. Duties of Building Inspector

- A. The Building Inspector shall enforce this Chapter by issuing building permits and occupancy permits for only such structures and uses that comply with the provisions of this Chapter. The Building Inspector shall conduct all inspections necessary to determine compliance with the Chapter and shall maintain records thereof.
- B. The Building Inspector shall be responsible for:

1. Maintaining all of the records of this Chapter including, but not limited to, all maps, amendments, and variances, nonconforming uses, appeals, and applications thereof and hearing thereon.
 2. Collecting fees, which shall accompany applications for building and occupancy permits and variances.
 3. Receiving, filling, and forwarding to the Borough Council and the Planning Commission for action all applications for amendments to this Chapter.
 4. Receiving, filing, and forwarding to the Zoning Hearing Board all applications for variances and appeals in accordance with the provisions of this Chapter.
- C. The Building Inspector may also serve as the Zoning Officer.

§ 130-1203. Duties of Planning Commission

- A. The Planning Commission shall at the request of the Borough Council have the power and shall be required to:
1. Prepare the comprehensive plan for the development of the Borough as set forth in this act, and present it for the consideration of the Borough Council.
 2. Maintain and keep on file records of its action. All records and files of the Planning Commission shall be in the possession of the Borough Council.
- B. The Planning Commission at the request of Borough Council may:
1. Make recommendations to the Borough Council concerning the adoption or amendment of a Zoning Ordinance Map.
 2. Prepare and present to the Borough Council a zoning ordinance, and make recommendations to the Borough Council on proposed amendments as set forth in this act.
 3. Prepare, recommend, and present subdivision and land development and planned residential development regulations for the consideration of Borough Council.
 4. Prepare and present to Borough Council a building code and a housing code and make recommendations concerning proposed amendments thereto following review and approval by the Pennsylvania Department of Labor and Industry.
 5. Review and present recommendation to the Borough Council on conditional uses applications.
 6. Complete other actions, including to but not limited to the review and recommendation on conditional use application to the Borough Council, or make such studies as may be necessary to fulfill the duties and obligations imposed by this Chapter.
 7. Prepare and present to Borough Council an environmental study. Submit to the Borough Council a recommended capital improvements program.
 8. Promote public interest in, and understanding of, the Comprehensive Plan and planning.
 9. Make recommendations to individuals, governmental, civic, and private agencies as to the effectiveness of such agencies' proposals.
 10. Hold public hearings and meetings.
 11. Present testimony before any board.
 12. Require from other departments or agencies of the Borough such available information as relates to the work of the Planning Commission.
 13. In the performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.

14. Prepare and present to the Borough Council a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the Borough.
 15. Review the zoning ordinance, subdivision and land development ordinance, zoning ordinance map, provisions for planned residential development, and regulations governing the development of land no less frequently than it reviews the comprehensive plan.
- C. Provide recommendations for proposed actions related to:
1. The location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pier head or watercourse;
 2. The location, erection, demolition, removal, or sale of any public structure located within the Borough;
 3. The adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance, or provisions for planned residential development, or capital improvements program; or
 4. The construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

§ 130-1204. Planning Commission Administration and Procedure

- A. Continuance of Commission. There shall be in and for the Borough of Delmont a Planning Commission, as previously created by Borough Ordinance pursuant to Act 247.
- B. Appointment, Term, and Vacancy. The Planning Commission of the Borough of Delmont shall consist of 5 members, all of whom shall be full-time residents of the Borough, appointed by Borough Council in the manner prescribed by the MPC. The term of each member shall be for 4 years; not more than 2 shall expire during any calendar year. The Chairman of the Planning Commission shall promptly notify the Borough Council concerning vacancies in the Planning Commission for any reason, and Borough Council shall fill the vacancy only for the unexpired term. Such appointments shall be made within a period of 60 days after such vacancy occurs.
- C. Meetings. The Planning Commission shall meet as required and as deemed necessary.
- D. Conduct of Business. The Planning Commission shall elect its own Chairman and Vice Chairman, and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Planning Commission may make and alter bylaws, rules, and regulations to govern its procedures consistent with the ordinances of Borough of Delmont and the laws of the State.
- E. The Borough Council may employ administrative and technical services to aid in carrying out the provisions of the MPC either as consultants on particular matters or as regular employees of the Borough of Delmont.
- F. The Planning Commission may, with consent of the Borough Council, accept and utilize any funds, personnel, or other assistance made available by Westmoreland County, the State or the Federal government or any of their agencies, or from private sources.
- G. Any member of the Planning Commission once qualified and appointed may be removed from office for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Any appointment to fill a vacancy created by removal shall be only for the unexpired term.
- H. The Borough Council may appoint by resolution at least one but no more than 3 residents of the Borough to serve as alternate members of the Planning Commission. The term of office of an alternate member shall be 4 years. When seated pursuant to the provisions of MPC Section 207, an alternate shall be entitled to participate in all proceedings and discussions of the Commission to the same and full extent as provided by law for Commission members, including, specifically, the right to cast

a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall not serve as a member of the Zoning Hearing Board or as a Zoning Officer. Any alternate may participate in any proceeding or discussion of the Commission but shall not be entitled to vote as a member of the Commission nor be reimbursed pursuant to §202 of the MPC unless designated as a voting alternate member pursuant to §207 of the MPC.

§ 130-1205. Duties of Zoning Hearing Board

- A. Zoning Hearing Board. The Borough Council shall appoint a Zoning Hearing Board in accordance with the provisions of the § 901 of the MPC. The Zoning Hearing Board shall have the following powers:
1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Officer in the enforcement of this Chapter.
 2. To hear and decide all variances to the terms of this Chapter the Zoning Hearing Board is required to act under provisions of this Chapter including approval of the expansion, extension or enlargement of nonconforming uses only as provided for in this Chapter and/or as otherwise prescribed within § 909.1 of the MPC.
 3. To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter would result in an unnecessary hardship, and so that the spirit of the this Chapter shall be observed and substantial justice done.
 4. To hear and decide substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to § 609.1 and § 916.1(a)(2) of the MPC.
 5. To hear and decide appeals from a determination by a municipal engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
 6. To hear and decide appeals from the Zoning Officer's determination under § 916.2 of the MPC.
 7. To hear and decide 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 stormwater management insofar as the same relate to development not involving Article V or VII applications prescribed within the MPC.
 8. To hear and decide applications for special exceptions under this Chapter pursuant to § 912.1 of the MPC.
- B. In exercising the above mentioned powers, such Zoning Hearing Board may, in conformity with the provisions of this Part, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made. Notice of such decision shall forthwith be given to all parties in interest and shall be filed immediately with the Zoning Officer.

§ 130-1206. Zoning Hearing Board Administration and Procedure

- A. The membership of the Zoning Hearing Board shall consist of 3 residents of Borough of Delmont appointed by Borough Council. Their terms of office shall be 3 years and shall be so fixed that the term of one member shall expire each year. The Board shall promptly notify Borough Council of any vacancies that occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in Borough of Delmont nor shall any member be an employee of the Borough.
- B. Meetings of the Zoning Hearing Board shall be held at the call of the Chairman and at such other times as the Board may determine as per its rules and procedures. All meetings of the Board shall be open to the public. The Board shall keep minutes

of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the permanent records of the Board and shall be a public record.

- C. The Board shall conduct hearings and make decisions in accordance with the requirements and provisions under § 908, Hearings, of the MPC. Public notice shall be given and written notice shall be given to the Applicant, the Zoning Officer and such other persons who have registered a name and address for this purpose with the Zoning Hearing Board.
- D. Parties to proceedings may utilize mediation as an aid in completing such proceedings as per the provisions of § 908.1. Mediation option, of the MPC.
- E. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearings on its behalf and the parties may waive further action by the Board as provided by law. The Board shall adopt rules consistent with this Chapter and the laws of the State. Such rules shall include, but not be limited to, the manner of filing appeals and the manner of filing applications for special exceptions and variances. The Borough Secretary or his or her representative shall serve as Secretary to the Zoning Hearing Board.
- F. Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council, which appointed the member, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- G. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council and as per the provisions of § 907 of the MPC.

§ 130-1207. Appeals to Court

The provisions for appeals to court that are stated in the MPC, as amended, shall apply.

Article XIII: Planned Residential Developments

§ 130-1300. Purposes

- A. The purposes of this Article are:
1. To ensure that the provisions of this Chapter which are concerned with the uniform treatment of dwelling type, bulk, density and open space within each zoning district shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of this Chapter.
 2. To encourage innovations in residential/commercial development and renewal so that the growing demand for housing may be met by greater variety in type, design and layout of dwellings and by the conservation and more efficient use of open space ancillary to said dwellings.
 3. To provide greater opportunities for better housing and recreation for all who are or will be residents of the Borough.
 4. To encourage more flexible land development that will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wooded areas, steeply sloped areas and areas of unusual beauty or importance to the natural ecosystem.
 5. In aid of these purposes, to provide a procedure which can relate the type, design and layout of planned developments to the particular site and the particular demands existing at the time of development in a manner consistent with the preservation of the property values within existing residential areas and to assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious and fair administrative standards and procedures.
- B. Development under this Article shall be based upon the general zoning requirements set forth in this Chapter as a beginning point for development. The requirements may be amended or modified based upon competent and recognized developmental concepts and be subject to approval by the Borough of Delmont based on its own discretion.

§ 130-1301. Application

No application for tentative approval of planned development shall be considered or approved unless the following conditions are met:

- A. This Article shall be applicable when a development consists of a contiguous area of at least 2 parcels or more; or more than one acre; or the sequential development of 2 or more parcels within a 3-year period.
- B. The development will be served by municipal water supply and municipal sewage disposal systems, which shall be constructed at the beginning of development of any plan. In lieu of a municipal sewage connection, collection, and treatment system, the developer may provide a private system approved by DEP and acceptable for dedication to the appropriate municipal sewer authority.
- C. The proposed development is found to be generally consistent with the community development objectives set forth in this Chapter; and architecturally designed to conform and complement the neighboring communities.

§ 130-1302. Development standards

- A. Permitted Uses. A planned residential development may include residential uses, with dwelling units in single-family detached, semidetached or townhouse dwellings, garden apartments, or any combination thereof; and to the extent they are designed and intended primarily to serve the residents of the planned residential development, recreational and ancillary commercial and institutional uses are allowed.
- B. Density:

1. The maximum allowable average gross residential density for planned residential developments shall be 5 dwelling units per acre of land, except that higher densities may be allowed in accordance with the bonus provisions contained in this Section. In no event shall the average gross residential density exceed 7 dwelling units per acre under the bonus provisions.
 2. No more ancillary commercial development shall be allowed than expert market analysis shows will be needed to serve the resident population of the planned residential development.
 3. Not less than 20 percent of the total area of the planned residential development shall be designated as and devoted to common open space.
- C. Density Bonus. For additional percentages of land placed in permanent common open space above 20 percent, the permissible average gross residential density may be increased by the Borough above the permissible basic average gross residential density, up to 7 units per acre maximum, as specified in other applicable Sections of this Chapter.
- D. Design, bulk, and location standards:
1. Site design:
 - a) All housing shall be designed with regard to the topography and natural features of the sites. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed buildings shall be taken into account. (No structure shall have a maximum dimension greater than 250 feet. No townhouse construction shall exceed 7 units per building.)
 - b) All housing shall be sited to enhance privacy and ensure natural light for all principal rooms. Minimum distance between the nearest points of any exterior building walls shall not be less than 30 feet, except that for residential buildings, exterior end walls not exceeding 2 stories in height with no opening therein shall not be less than 15 feet apart.
 - c) Variations in setbacks shall be provided where necessary to create a more pleasing layout.
 - d) Housing and other facilities near the periphery of the planned residential development shall be designed to be harmonious with neighboring areas.
 - e) No structure shall be within 20 feet of the right-of-way of access roads.
 - f) No structure shall be less than 50 feet from the property lines of the development and a planting strip of at least 20 feet shall be provided along all property lines at the periphery of the development where necessary to protect the privacy of neighboring residents.
 - g) No accessory structure and no facility for off-street parking shall be located in any required setback area or required yard area.
 - h) Total building coverage shall not exceed 25 percent of the total site area.
 - i) No multifamily dwelling shall exceed 3 stories or 35 feet in height.
 2. Tree conservation and erosion control:
 - a) Existing trees shall be preserved wherever possible. The protection of trees of 2-inch caliper or over shall be a factor in determining the location of open space, buildings, underground services, walks, paved areas, playgrounds, parking areas and finished grade levels.
 - b) The development shall be designed and programmed to minimize earthmoving, erosion, tree clearance and the destruction of natural amenities.
 - c) Seeding, sodding, and other planting shall be applied to stabilize topsoil on steep slopes.
 - d) Erosion control measures such as minimizing the area of exposed soil, mulching, building silt catch basins, and planting temporary ground cover shall be instituted as necessary.
 3. Streets:
 - a) The street system shall be designed to relate harmoniously with land uses and adjacent streets and to minimize through traffic in residential areas.
 - b) Full compliance with the Borough Subdivision and Land Development Ordinance.
 - c) Cul-de-sac streets shall have a paved turning circle of sufficient width to facilitate snow removal and to permit easy access for fire-fighting equipment and delivery trucks. The minimum radius shall be 33 feet to the outside curb and the maximum length shall be 800 feet.

- d) All streets shall conform to the standards set forth in the subdivision regulations and Borough street/road regulations as to grades, dimension, drainage, parking and all other aspects unless explicitly permitted by the Borough to vary from these standards.
- 4. Parking:
 - a) There shall be 1.3 off-street parking spaces, measuring 9 feet by 19 feet, for each dwelling unit, with aisles at least 20 feet wide. Multifamily dwellings shall provide ½ parking space per dwelling unit for guest parking.
 - b) There shall be one off-street parking space 9 feet by 19 feet for each 100 square feet of ancillary commercial space. Institutions shall have one space for every 6 seats in the largest meeting room.
 - c) Parking areas shall be arranged to prevent through traffic to other parking areas.
 - d) Parking areas shall be screened from adjacent structures, access roads, and traffic arteries, by hedges, dense planting, earth berms, changes in grade, or walls.
 - e) No more than 7 parking spaces shall be permitted in a continuous row without being interrupted by approved landscaping.
 - f) No more than 60 parking spaces shall be accommodated in any single parking area.
 - g) All streets shall be surfaced and any off-street loading area shall be described by the Applicant.
- 5. Lighting. All off-street parking shall be adequately lighted by the developer. All such lighting shall be arranged to direct light away from adjoining residences.
- 6. Storm Drainage. The storm sewage system for a planned residential development shall be designed to minimize erosion and flooding, using as desirable, catch basins, silt traps, and design of road ways to minimize runoff. Drainage ditches or channels shall have a minimum gradient of 1 percent.
- 7. Landscaping:
 - a) All parking areas shall be landscaped with planting strips utilizing a one-and-one-half-inch caliper tree for every 5 cars.
 - b) Shade trees shall be provided along all streets. No less than one-and-one-half-inch caliper trees shall be planted for each 33-foot section of collector streets on each side of the said street. This Subsection's requirements for the caliper of a tree may be increased and the feet between the trees may be decreased or increased by the Borough Council.
- 8. Street signs and street lighting:
 - a) All streets and areas of high pedestrian use shall be adequately lighted by the developer.
 - b) The character, size, and shape of all outdoor signs shall be in conformity with the - provisions of this Chapter, as amended, or other applicable Borough ordinances.
- 9. Supplemental nonresidential facilities:
 - a) Shopping areas and recreational facilities within a planned residential development shall be located so as not to interfere with nearby residential areas.
 - b) Refuse stations shall be designed with suitable screening and located where convenient for trash removal and not offensive to nearby residential areas.
 - c) Adequate lighting shall be provided for outdoor areas used after dark. Appropriate lighting fixtures shall be provided for walkways, to identify steps, ramps, and signs. Lighting shall be designed so as not to shine directly into nearby residences.
 - d) Monuments of concrete or metal shall be set at the intersection of all lines forming angles in the boundary of the planned residential development.
- 10. Utilities. All utilities shall be underground if deemed feasible by the official review agency.
- E. Development in Stages. A developer may construct a planned residential development in stages if the following criteria are met:
 - 1. The application for tentative approval covers the entire planned residential development and shows the location and approximate time of construction for each stage, in addition to other information required by this article.
 - 2. At least 15 percent of the dwelling units in the plan given tentative approval are included in the first stage.
 - 3. At least 33 percent of the dwelling units in any stage are rented or sold before any commercial development shown in that stage shall be completed.

4. The second and subsequent stages are completed consistent with the tentatively approved plan and are of such size and location that they constitute economically sound units of development. In no event shall such stages contain less than 15 percent of the dwelling units receiving tentative approval.
 5. Gross residential density may be slightly varied from stage to stage; however, it shall be necessary to allocate open space to early stages to avoid exceeding maximum gross residential densities. The developer shall be required to grant an open space easement or covenant to the Borough specifying the amount and, if necessary, the location of open space.
 6. Provision of a sufficient financial security shall be submitted as part of the tentative approval application.
- F. Standards for location and management of open space:
1. Open Space. The open space shall be located to be consistent with the objectives set forth in the application for planned residential development. It shall be designed as a contiguous area to the residential area and have direct access for the residents and preserved natural features. Developed recreational uses shall be provided in addition to leaving the land in its natural state where possible. They may include, but are not limited to, tot lots for children, picnic areas with benches and cooking facilities, horseshoe pitching areas, a lake or swimming pool, boating facilities, tennis courts, hiking trails and foot paths and other such urban-type recreational facilities. The exact facilities to be provided, their location, quantity, and quality shall be subject to approval by the Borough Council.
 2. Ownership. There shall be provisions that ensure that the open space land shall continue as such and be properly maintained.
 - a) The developer shall either:
 - i. Dedicate such land to public use if the Borough or another public agency has indicated in writing that it will accept such dedication,
 - ii. Retain ownership and responsibility for maintenance of such open space land; or
 - iii. Provide for and establish one or more organizations for the ownership and maintenance of all common open space.
 - b) In the case of F(2)(a)(iii) above, each organization shall be a nonprofit homeowners' corporation, unless the developer demonstrates that a community open space trust is a more appropriate form of organization, are completed consistent with the tentatively approved plan and are of such size and location that they constitute economically sound units of development. In no event shall such stages contain less than 15 percent of the dwelling units receiving tentative approval.
 3. Homeowners' association/open space trust. If a homeowners' association or open space trust is formed, it shall be governed according to the following regulations:
 - a) The organization is organized by the developer and operating with financial subsidization by the developer, if necessary, before the sale of any lots within the development.
 - b) Membership in the organization is mandatory for all purchasers of homes therein and their successors.
 - c) The organization shall be responsible for maintenance, insurance, and taxes on common open space.
 - d) The members of the organization shall share equitably the cost of maintaining and developing common space, in accordance with procedures established by them.
 - e) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.
 - f) In the event that the organization established to own and maintain a common open space or any successor organization shall at any time after establishment of the planned residential development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Borough may serve written notice upon such organization or upon the residents and owners of the planned residential development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original

- notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the planned residential development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Borough shall (upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space) call a public hearing upon notice to such organization or to the residents and owners of the planned residential development, to be held by the Borough, at which hearing such organization or the residents and owners of the planned residential development shall show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough shall determine that such organization is ready and able to maintain said common open space in a reasonable condition or if the Borough shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding years and subject to a similar hearing and determination in each year thereafter as determined by the Borough. The decision of the Borough in any such case shall constitute a final administrative decision subject to judicial review.
- g) The cost of such maintenance by the Borough under Subsection F(3)(f) above shall be assessed ratably and annually against the properties within the planned residential development that have a right of enjoyment of the common open space and shall become a tax lien on said properties. Said assessments or charges shall be subordinate in lien to the lien of any mortgage or mortgages on the property which is subject to such assessments or charges, regardless of when said mortgage or mortgages were created or when such assessments or charges accrued; provided that such subordination shall apply only to assessments or charges that have become payable prior to the passing of title under foreclosure of such mortgage or mortgages and the transferee shall not be liable for payment of any assessments or charges accruing prior to said foreclosure, but nothing herein shall be held to affect the rights herein given to enforce the collection of such assessments or charges accruing after sale under foreclosure of such mortgage or mortgages; and provided, further, that such charges accruing after sale shall also be subordinate in lien to the lien of any further mortgage or mortgages which are placed on property subject to such assessment or charges, with the intent that no such charges shall at any time be prior in lien of any mortgage or mortgages whatsoever on such property. The Borough, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of lien in the office of the Prothonotary of the County upon the properties affected by such lien within the planned residential development.
 - h) In accordance with Article VII, Section 706(1) of Act 247, the provisions of the development plan relating to the use, bulk and location of buildings and structures and the intensity of use or the density of residential units shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough, without limitation on any powers of regulation otherwise granted the Borough by law. The development plan shall specify those of its provisions that shall run in favor of and be enforceable by residents of the planned residential development and, in addition, the manner in which such residents may modify, remove, or release such rights.

§ 130-1303. Development Standards for Planned Commercial Developments

Any planned development for commercial purposes shall comply with all standards previously set forth in other articles of this Chapter as the articles and Sections shall apply; however, all procedural aspects shall comply with the procedures found in this article.

§ 130-1304. Application for Tentative Approval

All procedures for the approval or disapproval of a development plan shall be consistent with the following provisions:

- A. The application for tentative approval shall be executed by or on behalf of the landowner and filed with the Borough Secretary. An initial deposit in an amount to be set by Borough Council from time-to-time by Resolution shall be paid upon filing of the application to be applied against such expenses, and additional deposits shall be made from time to time as requested by the Borough to be applied against the expenses of processing the application, not to exceed actual expenses incurred by the Borough.
- B. The application for tentative approval shall include documentation illustrating compliance with all of the standards for the particular type of planned development set forth in this Chapter; and where necessary, the official review agency shall order such documentation to aid them in their review.
- C. Required documentation shall include, but not be limited to, documents illustrating the following:
 - 1. The location, size and topography of the area involved and adjoining areas; and the nature of the landowner's interest in the planned development.
 - 2. The proposed use areas and the net residential and commercial density of each proposed land use.
 - 3. The location, function, size, ownership, and manner of maintenance of the common open space.
 - 4. The use and the approximate height, bulk and location of buildings and other structures.
 - 5. Information showing the feasibility of proposals for sanitary sewage and stormwater disposition.
 - 6. Utility systems.
 - 7. The substance of covenants, grant of easements, or other restrictions to be imposed upon the use of land, buildings and structures, including proposed grants and/or easements for public utilities.
 - 8. The provision for parking of vehicles and location, rights-of-way and road way widths of proposed streets and public ways.
 - 9. In the case of plans which call for development in stages, a schedule showing the time within which applications for final approval of all parts of the planned development are intended to be filed and which shall be updated annually on the anniversary of submission for final approval.
 - 10. The application shall indicate compliance with the provisions set forth herein, governing the requirements for final approval.
 - 11. The required modifications needed in the Borough land use regulations otherwise applicable to the subject property.
- D. Application for tentative approval shall include, but not be limited to, the following documents:
 - 1. Plans at one inch equals 200 feet of existing natural features of the land, including topography, vegetation, drainage, and soils.
 - 2. A site plan showing approximate locations of buildings, roads, parking areas at one inch equals 100 feet.
 - 3. A plan at one inch equals 100 feet delineating common open space indicating size, nature of facilities, structures, if any, and uses.
 - 4. A plan at one inch equals 100 feet delineating approximate locations, street types, rights-of-way, and road way widths.
 - 5. Site plan illustrating phasing, including a time schedule for all on-site and off-site improvements to be dedicated for public use, which may be modified from time to time by the Borough Council.
 - 6. A plan illustrating connection to public utilities, streets and rights-of-way accompanied by documentation as to the impact of the proposed development on said public utilities, streets, and rights-of-way.
 - 7. A plan illustrating the relation of the proposed planned development to the Borough.
- E. Said application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the planned development would be in the public interest and would be consistent with the community development objectives set forth in this Chapter.
- F. One copy of every application for tentative approval received by the Borough Secretary shall be promptly forwarded to the Borough Planning Commission, County Planning Commission, and to the municipal sewer and water authorities and DEP, for study and recommendation as required by the MPC. The Borough of Delmont Planning Commission and the Westmoreland County Planning Commission shall review and report upon the application within 30 days of such referral. One copy of the report

from the respective Planning Commissions shall be furnished to the landowner not less than 5 days before the appointed time of the public hearing provided for in § 130-47 of this article.

- G. The landowner, Borough Council, the Borough of Delmont's Planning Commission/Committee and the Westmoreland County Planning Commission may consult informally concerning the proposed planned development prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the official Borough or County review agency or of the planning agencies shall be binding upon the Borough of Delmont.
- H. The application for tentative and final approval of a development plan for a planned residential or commercial development prescribed in this article shall be in lieu of all other procedures or approvals otherwise required pursuant to the Borough Land Development and Subdivision Ordinance and this Chapter.

§ 130-1305. Public Hearings

- A. Within 60 days after the filing of an application for tentative approval of a planned development pursuant to this article, a public hearing pursuant to public notice on said application shall be held by the Borough Council in the manner prescribed in this Chapter for the enactment of an amendment. The Chairman or, in his absence, the Acting Chairman of the Borough Council or its designated agency may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
- B. A verbatim stenographic record of the hearing shall be caused to be made by the Borough Council whenever such records are requested by any party to the proceedings 3 days prior to said hearing; the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for exclusion clearly noted in the record.
- C. The governing body may continue the hearing from time to time and may refer the matter back to the Planning Commission for a report; provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

§ 130-1306. Findings

- A. The Borough Council, within 60 days following conclusion of the public hearing provided for in this article, shall, by official written communication to the landowner, either:
 - 1. Grant tentative approval of the development plan as submitted;
 - 2. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - 3. Deny tentative approval to the development plan.
- B. Failure to act within said period shall be deemed a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the Borough Council, notify said Borough Council of his refusal to accept said conditions, in which case, the governing body shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the governing body of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.
- C. The grant or denial of tentative approval by official written communication shall include not only conclusions, but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial; and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:
 - 1. In those respects in which the development plan is or is not consistent with the community development objectives of the Borough for the development of the community;
 - 2. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use and the reasons why such departures are or are not

deemed to be in the public interest;

3. The purpose, location and amount of the common open space in the planned development, the reliability of the proposals for maintenance and conservation of the common open space as related to the proposed density and type of residential development;
 4. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation and visual enjoyment;
 5. The relationship, beneficial or adverse, of the proposed planned development to the neighborhood in which it is proposed to be established; and
 6. In the case of a development plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents/occupants of the planned development in the integrity of the development plan.
- D. In the event a developmental plan is granted tentative approval, with or without conditions, the Borough Council may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provided for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than 3 months and, in case of developments over a period of years, the time between applications for final approval of each part, the time between applications for final approval of each part of a plan shall be not less than 12 months.
- E. Notice. The official written communication provided for in § 130-47 of this article shall be certified by the Secretary of the Borough Council and shall be filed in his/her office and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the Zoning Ordinance Map.

§ 130-1307. Status of Plan after Tentative Approval

- A. Tentative approval of a development plan shall not qualify as a plat of the planned development for recording, nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Borough pending an application or applications for final approval, without the consent of the landowner, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.
- B. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Borough Council and the Borough Planning Commission, in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time and the same shall be noted on the Zoning Ordinance Map and in the records of the Secretary or Clerk of the Borough.

§ 130-1308. Application for Final Approval

- A. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, a Section thereof. Said application shall be made to the official review agency and within the time or times specified by the official written communication granting tentative approval. If the application for final approval complies with the tentatively approved development plan, a public hearing need not be held.

- B. The application for final approval shall show satisfactory evidence of having complied with all provisions of this article and any additional conditions imposed by Borough Council. In addition, satisfactory evidence of the developer posting of bonds to cover the cost of installation of streets and utilities, in favor of the Borough, shall be shown. Drawings shall be a minimum of 18 inches by 22 ½ inches or in multiples of this size, with match lines.
- C. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof and as required by the article and the official written communication of tentative approval, the Borough shall, within 30 days of such filing, grant the development plan final approval.
- D. In the event the development plan as submitted contains variations from the development plan given tentative approval, the Borough Council may refuse to grant final approval and shall, within 30 days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest.
 - 1. In the event of such refusal, the landowner may either:
 - a) Re-file his application for final approval without the variations objected; or
 - b) File a written request with the Borough Council that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate action he may do so at any time within which he shall be entitled to apply for final approval or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance; or
 - c) In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan.
 - 2. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner and the hearing shall be conducted in the manner prescribed in this article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the Borough Council shall, by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this article, be in the form and contain the findings required for an application for tentative approval set forth in this article.
- E. A development plan or any part thereof that has been given final approval shall be so certified by the Borough Council and shall be filed of record forthwith in the Office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion within a reasonable time of said planned development or of that part thereof, as the case be, that has been finally approved, no modification of the provisions of said development plan or part thereof, as finally approved, shall be made except with the consent of the landowner.
- F. In the event that a development plan or a Section thereof is given final approval and thereafter the landowner shall abandon such plan or the Section thereof that has been finally approved and shall so notify the Borough Council in writing, or in the event the landowner shall fail to commence and carry out the planned development within such reasonable period of time as may be granted, no development or further development shall take place on the property included in the development plan until after said property is re-subdivided and is reclassified by enactment of an amendment to this Chapter. For the purpose of this Article, any development given final approval and not commenced or continued for one year will be deemed abandoned.

§ 130-1309. Administration and Review

- A. Administration of the Planned Residential Development and all matters pertaining to plan review, prior to final approval, shall be the responsibility of the Delmont Borough Council or its duly authorized agents.
- B. Upon application of the landowner showing compliance with the requirements of final approval, the Zoning Officer shall issue permits for construction pursuant to the plan or any Section thereof.
- C. The provisions of this Chapter, as amended, governing remedies, and enforcement of penalties shall be fully applicable to the plan as finally approved insofar as the provisions thereof are consistent with the provisions of this article and the conditions

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of final approval. The Zoning Officer shall monitor and review the progress and status and construction of the plan as per this article and render monthly reports thereon to the Planning Commission and the Borough Council in order to assure compliance with the provisions of this article and the conditions of final approval.