
ZONING ORDINANCE

BOROUGH OF PALMERTON

CARBON COUNTY, PENNSYLVANIA

Ordinance No. 568

ENACTED BY THE BOROUGH OF PALMERTON BOROUGH COUNCIL

ON OCTOBER 28, 1998, WITH AN EFFECTIVE DATE OF

NOVEMBER 2, 1998.

(Includes amendments from Ordinances 582, 583, and 602)

Developed by the Palmerton Borough Zoning Ordinance Committee

Community Planning and Zoning Consultant

Urban Research and Development Corporation
Bethlehem, Pennsylvania

THIS ORDINANCE WAS PREPARED UNDER THE DIRECTION
OF THE FOLLOWING BOROUGH OF PALMERTON OFFICIALS - 1998

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USING THIS ORDINANCE: AN OVERVIEW

These two pages describe the most efficient way to use this Ordinance. These pages are general descriptions, but are not part of the actual Ordinance.

Start by using the following parts of the Zoning Ordinance:

- ! Turn to the **Table of Contents** and the **Index** (at the end of the document) to find the pages and sections that apply to your particular situation. You may wish to photocopy the Table of Contents to highlight the relevant sections.
- ! Consult the **Zoning Map** at the end of this Zoning Ordinance to determine the zoning district that includes your lot.
- ! Turn to Section 306, the **Table of Permitted Uses By Zoning District**, which indicates the uses permitted in each zoning district. A use is permitted in two ways:
 - a) by right,
 - b) by special exception (the Zoning Hearing Board must approve the use, as described in Article 1), or
 - c) by conditional use (the Borough Council must approve the use, as described in Section 112).
- ! Turn to Section 307, the **Table of Lot and Setback Requirements By Zoning District**. This table states the required minimum size of each lot and the required minimum distance that buildings must be "setback" from streets and other lot lines in each zoning district.
- ! Regularly refer to the **Definitions** in Section 202 to determine the meaning of specific words.

If a lot is already being legally used for a particular purpose and that use is not permitted in the zoning district according to Section 306, that use is called a "**Non-Conforming Use**". In almost all cases, a lawful Non-Conforming Use can continue, can expand within limits, can change to another use within limits, and can be sold. See Section 808 -"Non-Conformities."

Certain specific uses must comply with **additional regulations**. The "principal uses" (which are the primary use of a property) are listed in alphabetical order in Section 402 and the "accessory uses" (which are secondary uses, such as low-intensity "home occupation" businesses in a home) are listed in alphabetical order in Section 403. For example, additional regulations are listed for sheds, garages and other structures typically found on a residential lot under "Residential Accessory Structures" in Section 403.

If your lot may be flood-prone, see the Borough Floodplain Ordinance. The official "Floodplain Maps" show the areas expected to be flooded during the worst flood in an average 100 year period.

Turn to the following sections for regulations concerning parking, signs and buffer yards:

- ! Many uses must provide minimum numbers of off-street **Parking** spaces under Section 601 of this ordinance. The parking standards are listed in a table.
- ! If **Signs** are proposed within public view, Article 7 must be met. This article lists the types, heights and sizes of signs that are permitted.
- ! Certain uses are required to provide an open **Buffer Yard** with **Evergreen Screening** to buffer nearby homes and adjacent residentially zoned land from nuisances. See Section 804.

The following additional considerations should be kept in mind when using this Ordinance:

- ! An applicant may apply to the Borough **Zoning Hearing Board** for a **Zoning Variance** if he/she is not able to comply with a provision of this Zoning Ordinance. An application fee is required to compensate the Borough for legal advertisements and other costs. See Article 1, which includes the standards that must be met under State law in order to be granted a variance. Generally, under the PA. Municipalities Planning Code (PMPC), variances are not intended to be granted unless an applicant proves a legal "Hardship".
- ! If one or more new lots will be created, or existing lot lines will be altered, or one or more new principal non-residential buildings are proposed or other actions will occur that are specified in Section 801 of this Ordinance, then the requirements and approval procedures of the Borough **Subdivision and Land Development Ordinance (SALDO)** will also apply. This is a separate ordinance available at Borough Hall. The Borough may refuse to grant a zoning permit if a required approval under the SALDO has not been granted.
- ! If there will be significant disturbance of the ground (typically 5 acres or more), it will be necessary to use certain measures to control **soil erosion**. In such case, contact the Carbon Conservation District.

Any questions concerning the Zoning Ordinance should be directed to the Borough's **Zoning Officer**. The Zoning Officer also administers applications for permits.

ORDINANCE NO. 568
REPEALING ORDINANCE NO. 351

TITLE; SEVERABILITY; ENACTMENT

1. TITLE OF THIS ORDINANCE

This Ordinance shall be known and cited as the "Palmerston Borough Zoning Ordinance" of 1998.

This New Zoning Ordinance permits, prohibits, regulates and determines the use of land, watercourses and other bodies of water; the size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; 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 areas and structures; and the density of population and intensity of use. The Ordinance further contains provisions for special exceptions and variances to be administered by a Zoning Hearing Board; provisions for administration and enforcement and such other provisions as may be necessary to implement the requirements of the Ordinance pursuant to the authority conferred by the Pennsylvania Municipalities Planning Act, as amended ("PMPC"), the Borough Council of the Borough of Palmerston hereby ordains and enacts the attached New Zoning Ordinance and New Zoning Map.

2. PREFACE

- A. Changing social standards, economics, governmental regulations and political attitudes require periodic revision of the Zoning Ordinance of the Borough of Palmerston. This Zoning Ordinance responds to community, state and national changes during the past 23 years.
- B. Among the purposes of this Ordinance are to: encourage the growth of the tax base of the Borough; minimize parking problems; define accurately the duties and authority of the Zoning Officer, the Zoning Hearing Board, the Planning Commission and the Borough Council; manage difficult issues of the past decade; and improve the quality of life in the Borough.
- C. The Ordinance reflects the joint effort of a Committee of Borough officials and the Planning Commission and Borough Council. Technical assistance was provided by professional consultants and the Staff of the Carbon County Planning Commission.

3. SEVERABILITY. It is hereby declared to be the legislative intent that;

- A. If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated to be invalid or ineffective in the decision. All other provisions of this Ordinance shall continue to be separately and fully effective.
- B. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof regardless of the fact that any one or more sections or parts thereof might have been declared invalid.

4. REPEALER. This Ordinance shall repeal the Borough of Palmerston Zoning Ordinance, as amended, included portions originally adopted on September 4, 1929 and all other amendments, including the comprehensive amendment adopted April 17, 1974. Any other existing ordinances or parts of ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

5. PROCEDURAL DEFECTS IN ENACTMENT. Any allegation that this Ordinance or amendment was enacted in a procedurally defective manner shall be appealed as provided in State law and be filed not later than 30 days after the intended effective date of the Ordinance or amendment.
6. ENACTMENT. Under the authority conferred by the Pennsylvania Municipalities Planning Code, the Borough Council of the Borough of Palmerton hereby enacts and ordains this New Zoning Ordinance this date of October 28, 1998. This Ordinance shall take effect 5 calendar days after the date of adoption.

Date of Planning Commission Public Meeting: September 9, 1998 and October 26, 1998

Date of Borough Council Public Hearing: September 30, 1998 and October 28, 1998

BOROUGH COUNCIL OF THE
BOROUGH OF PALMERTON

President

Attest, Borough Manager

ARTICLE 1
ADMINISTRATION

101. **APPLICABILITY OF THIS ORDINANCE.**

101.A. It shall be a violation of this Ordinance to erect, construct, reconstruct, move, enlarge or structurally alter any sign or other structure or use of land or a structure unless such activity conforms to the regulations of this Ordinance.

1. However, this Ordinance shall not require any change to any structure or use legally existing at the effective date of this Ordinance, or amendment. See also Section 808 entitled "Non-conformities".

101.B. No sign or other structure or land shall be used, constructed, occupied, enlarged, moved or modified except as permitted by this Ordinance. However, structures and uses that lawfully existed at the time of enactment of this Ordinance shall not be required to change.

101.C. Any lawful construction or use begun prior to the enactment of this Ordinance in compliance with municipal laws in effect at such time will be allowed to proceed to completion if accomplished within one year following the effective date of this Ordinance.

101.D. **Exceptions.**

1. The provisions of the Pennsylvania Municipalities Planning Code (PMPC) concerning Public Utilities shall apply.
(Note: As of the adoption date of this Ordinance, Section 619 of such Act generally stated, among other provisions, that zoning regulations: "shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.")
2. This Ordinance shall not apply to uses or structures owned or leased by the Government of the Borough of Palmerton for legitimate public purposes.

101.E. **Municipalities Planning Code Text.** In certain sections of this Ordinance, sections of the Pennsylvania Municipalities Planning Code are referenced or included in a "Note". Such section references and notes are for general information purposes for the public. If the General Assembly amends a section of the Pennsylvania Municipalities Planning Code that is referenced or stated after a "Note," such amendment to State law shall automatically apply in regards to this Ordinance, regardless of whether the unamended wording of the State law is referenced or included in a "Note."

102. **COMMUNITY DEVELOPMENT OBJECTIVES.**

102.A. This Ordinance is based upon the Comprehensive Plan for the Borough of Palmerton dated 1972, and the following major community development objectives, in order to:

1. Encourage new industrial development in appropriate areas readily served by public utilities and transportation without jeopardizing existing and future uses.
2. Provide adequate parking and loading facilities in all areas of the Borough.
3. Provide varied residential housing densities.
4. Protect the environment.
5. Provide community facilities and utilities which are adequate and convenient.
6. Minimize the dangers resulting from fire, flooding, other hazards and vehicular traffic.

7. Provide an efficient and adequate infrastructure.
8. Prevent the creation of non-conforming lots through subdivision or land development and to prevent the creation of lots or developments which are difficult or impossible to serve and maintain with public utilities.
9. Promote, protect, and facilitate the following:
public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, hospital facilities, public grounds and other public requirements.
10. Prevent 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.
11. Serve such other purposes for zoning as are authorized by the State Municipalities Planning Code.
12. Serve the purposes of each district are stated in Section 301.

103. **INTERPRETATION; USES NOT ADDRESSED BY THIS ORDINANCE.**

103.A. Minimum Requirements. The provisions of this Ordinance shall be interpreted as the minimum requirements for the promotion of the health, safety, morals and general welfare. Whenever this Ordinance conflicts with any rule, regulation or ordinance, the greater restriction upon the use of structures or premises, upon the height or bulk of a structure or upon requiring larger open spaces, regardless of its source, shall prevail.

103.B. Uses not Addressed by this Ordinance. Whenever a use is not listed as a permitted by right, conditional use or special exception use by this Ordinance in any district, that use is prohibited in the Borough, except as may be permitted as follows:

1. The applicant may submit an application for consideration of the use by the Zoning Hearing Board.
2. The Zoning Hearing Board may permit such a use if the applicant proves to the satisfaction of the Zoning Hearing Board that the proposed use would clearly:
 - a. be less offensive in impacts and nuisances than permitted uses in that district,
 - b. be compatible with permitted uses in that district,
 - c. be consistent with the purposes of the district,
 - d. meet the criteria as would apply under A special exception uses@ in this Article 1, and
 - e. not be a use that is specifically prohibited in the district.

103.C. Sketches. Sketches in this Ordinance are for illustration only.

103.D. Text and Boundary Interpretation. The Zoning Officer shall literally apply the wording of this Ordinance and the location of District boundaries to particular applications. If the applicant believes that the Zoning Officer has not made a proper determination, and believes a differing interpretation is appropriate, then the applicant may appeal the Zoning Officer's determination to the Zoning Hearing Board, after paying the required fees.

104. **PERMITS.**

104.A. General Procedure.

1. Anyone who wishes to undertake any new construction, expansion or change of the use of a structure or lot shall apply to the Zoning Officer for a Zoning Permit. The application for a Zoning Permit shall be made by completing a Borough-approved form and submitting the required non-refundable filing fee. When the Zoning Permit is approved, the applicant must then pay the required permit fee.
2. After receiving an application, the Zoning Officer will either issue a Zoning Permit or refuse the permit. If the Zoning Officer refuses a permit, he/she will submit to the applicant the reasons for refusal in writing. The applicant may appeal to the Zoning Hearing Board for further consideration.
3. After the applicant has received a Zoning Permit, and after receiving any other needed permits, the applicant may undertake the action allowed by the permits.
4. Upon the completion of the permitted actions, the applicant shall ask the Zoning Officer for an Occupancy Permit where one is required. If the Zoning Officer determines that the applicant's actions have been in accord with his/her various permits, the Zoning Officer will issue an Occupancy Permit.
5. No permit shall be issued for any parcel of land located in a subdivision or land development for which approval is required and has not been secured in accordance with the requirements of the Pennsylvania Municipalities Planning Code (PMPC). See Section 801 of this Ordinance.
6. If any permit is revoked because of non-approved actions, an additional fee will be charged for any reinstatement of the permit.

104.B. Zoning Permit Types. Under the terms of this ordinance, the following types of Zoning Permits may be issued for the following:

1. Permitted by Right Use. A Zoning Permit for a Permitted by Right Use may be issued by the Zoning Officer on his/her own authority. See Section 104.C.
2. Special Exception Use. A Zoning Permit for a Special Exception Use may be issued by the Zoning Officer upon the order of the Zoning Hearing Board after a hearing, and which may require review by the Planning Commission. See Sections 104.C. and 113.
3. Conditional Use. A zoning permit for a conditional use may be issued by the Zoning Officer upon the order of the Borough Council after a review by the Planning Commission. See Sections 104.C. and 112.
4. Temporary Structure or Use. A permit for a temporary use or structure may be issued in compliance with Section 809.
5. Permits issued after Granting of a Variance. The Zoning Officer may issue a permit ordered by the Zoning Hearing Board after a hearing in response to a variance request. See Sections 104.C. and 107.

104.C. Applications Under this Ordinance.

1. All applications shall be made to the Zoning Officer on appropriate Borough forms. Applications shall include a plot plan consisting at least of the dimensions of the lot and property and curb lines, dimensions of side, front and rear yards, dimensions of the ground floor of the building and any projections, the height of the structure, off-street parking facilities, landscaping, the minimum and proposed building setback from lot lines, the distance to adjacent buildings and any other information determined by the Zoning Officer and/or the Zoning Hearing Board to be necessary to evaluate the application.
2. If the applicant alleges that the Zoning Officer has made an error, an appeal should be made directly to the Zoning Hearing Board. All appeals shall be made in writing and shall be fully reviewed.

the facts and state the reasons and the provisions of the ordinance on which the appeal is based. A filing fee shall be required.

104.D. The Zoning Permit.

1. The purpose of the Zoning Permit is to insure compliance with the Zoning Ordinance. No one shall erect, alter or modify any structure, building or part of a building nor alter the use of any land after the adoption of this ordinance until a Zoning Permit has been issued by the Zoning Officer.
2. Zoning Permits shall be issued in duplicate, and a notice of the Building and Zoning Permit shall be posted conspicuously on the premises. No person shall conduct any construction activity of any kind unless this notice is displayed as required by this ordinance. One copy will be forwarded to the County Assessor's Office.
3. The Zoning Permit may be revoked if the application is revealed to be false or misleading or if the work underway differs materially from that described in the application.
4. Expiration of a Zoning Permit. A zoning permit shall expire 6 months after the date of issuance, if work described in any permit has not begun. If work described in any zoning permit has begun within said 6 month period, said permit shall expire in one year, unless the Zoning Officer renews the permit for good cause to expire a total of 2 years after the date of original issuance.
5. No Zoning Permit will be issued for activity contrary to this ordinance except by written permission of the Zoning Hearing Board in cases of Special Use or in the granting of a Variance or in cases of Conditional Use where the Borough Council grants permission.
6. The Borough may issue a separate Zoning Permit. Otherwise, the zoning-related portions of a Building Permit shall be considered to be the "Zoning Permit".

104.E. Occupancy Permit.

1. The purpose of the Occupancy Permit is to insure and certify that the provisions of the Zoning, Building, Plumbing and any other adopted codes of the Borough of Palmerton have been fulfilled. The Occupancy Permit must be granted before the commencement of the use of land and building, or the change in land and building use described in the Zoning Permit. (Note: Prior to the adoption date of this Ordinance, the Borough only required an Occupancy Permit for a new or changed non-residential use.) A fee may be required.
2. A copy of the Occupancy Permit must be posted and kept on the premises and must be available to any Borough Officials. Applications must be made in writing to the Zoning Officer.

104.F. Certification of Non-Conforming Use.

1. The Zoning Officer may identify and register existing non-conforming uses in a manner acceptable by the Borough Council. The owner of a non-conforming premise may secure a letter certifying an existing Non-Conforming Use from the Zoning Officer after providing sufficient written evidence of a legal nonconformity. In case of uncertainty by the Zoning Officer, the certification shall be rejected, and the applicant may then appeal to the Zoning Hearing Board.
2. The certification attests to the owner's right to continue the described non-conforming use.

104.G. Fees. See Section 111.

105. **THE ZONING OFFICER.**

105.A. The Borough Council shall appoint and determine the rate of pay of the Zoning Officer and any assistant Zoning Officer(s).

105.B. The Zoning Officer shall receive and examine all applications required by this Ordinance and shall

respond, issue or refuse permits for permitted by right uses within 30 days of the Borough's receipt of a complete application.

- 105.C. The Zoning Officer shall issue a written notice of alleged violation of this Ordinance to any person, corporation or firm so charged.
- 105.D. The Zoning Officer shall keep records of applications, permits, certificates, variances granted, inspections performed, reports made and notice of orders issued. See also "Certificates of Nonconformity."
- 105.E. The Zoning Officer will make all required inspections and perform all duties assigned by this ordinance.
- 105.F. The Zoning Officer shall administer this Ordinance in accordance with its literal terms. He/She shall not have the power to permit any activities which do not conform to this ordinance.

106. **THE ZONING HEARING BOARD.**

- 106.A. Appointment. The existing Borough Zoning Hearing Board is hereby continued in effect in accordance with the PMPC. Members shall hold no other office within the Borough. The Board shall consist of three regular members, who shall be residents of the Borough and shall be appointed by the Borough Council to serve for 3 year terms as prescribed by the PMPC. Borough Council may also appoint Alternate Members who shall serve as provided in the PMPC. (Note: As of the adoption date of this Ordinance, such provisions were in Sections 903(b) and 906(b) of such Act.) Vacancies in the Board shall be filled by action of the Borough Council, only for the unexpired portion of the term.
- 106.B. Organization of Board. The Board shall elect officers, conduct hearings and take actions as permitted by Article IX of the PMPC. The Board may make rules and forms for its procedures consistent with state law.
- 106.C. Functions of the Board. The Zoning Hearing Board shall be responsible for the following:
1. To hear and decide appeals with regard to the actions of the Zoning Officer.
 2. To hear and decide any requests with regard to fact or provision of the Ordinance.
 3. To hear and decide all requests for variances.
 4. To hear and decide all requests with regard to ASpecial Exceptions@ in accordance with the provisions of this Ordinance.
 5. To hear and decide challenges to the validity of this Ordinance or Zoning Map which are within the jurisdiction of this Board.
 6. To prepare and submit a summary of its activities annually to the Borough Council.
 7. To perform other such duties as may be provided or made necessary by this Ordinance or the State Municipalities Planning Code, as amended.
 8. To interpret zoning boundaries.
 9. To hold hearings after proper notice.
- 106.D. Referral to the Planning Commission. The Zoning Hearing Board shall refer to the Planning Commission all applications for Special Exception Uses, substantive challenges to the Ordinance, and any other application or appeal which the Zoning Hearing Board believes would be appropriate for review by the Planning Commission.
1. The Planning Commission may provide advice to the Board. The Planning Commission should report back to the Zoning Hearing Board within 35 days. Any report of the Planning Commission shall include a written statement.

2. If the Zoning Hearing Board does not receive a report from the Planning Commission within 35 days, or when the Board is required to make a decision under time limits of State law, the Board may proceed to final action.
3. All findings and decisions of the Board shall be made in writing within 45 days after the last hearing before the Board. If the Board does not render a decision within 45 days, the decision will be rendered in favor of the applicant unless he has agreed in writing to an extension of time.
4. The Board shall perform other duties as specified by this Ordinance and the PMPC. These other duties shall include interpretation of district boundaries, the holding of hearings after proper notice and the referral of any pertinent matter to the Planning Commission or Borough Council for review, recommendations and appropriate action.
5. The Board shall keep a full public record and summary of facts in cases within its jurisdiction. The Board also will keep adequate records of its findings and decisions.

106.E. Notice of Hearings. The notice of hearings of the Board shall be given to the public, the applicant, the President of Borough Council, the Zoning Officer, the Chairperson of the Borough Planning Commission, contiguous property owners and any other individual who has made a timely request for such notice. These notices shall be in accordance with definition of "Public Notice" in the Municipalities Planning Code.

1. Additionally, written notice shall be placed conspicuously on the affected tract of land for at least a week prior to the hearing.
2. The notice to the applicant shall be sent by Certified Mail and all other notices shall be sent by ordinary mail.

106.F. Decisions. All findings and decisions of the board shall be made in writing within 45 days after the last hearing before the Board. If the Board does not render a decision within 45 days, the decision will be rendered in favor of the applicant unless he has agreed in writing to an extension of time.

106.G. Records. The Board shall keep a full public record and summary of facts in cases within its jurisdiction. The Board also will keep adequate records of its findings and decisions.

106.H. Persons With Disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Zoning Hearing Board are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.

107. **VARIANCES.**

107.A. **Standards.** The Zoning Hearing Board shall hear requests for Variances to specific requirements of this Ordinance, after the submittal of a proper written application. The Board may grant a Variance where the applicant proves to the Board that the following findings, where relevant, occur:

1. Unique physical circumstances or conditions including irregularity, narrowness, shallowness of lot size or exceptional shape, topography or other physical conditions peculiar to the property exist with regard to the appellants property.
2. The physical condition of the property allows no reasonable method of development in strict conformity to the Zoning Ordinance.
3. The unnecessary hardship because of the physical nature of the property was not created by the appellant.
4. The Variance, if granted, will not alter the essential nature of the vicinity in which the property is located nor will it substantially or permanently impair the use or development of adjacent property. Also the granted Variance will not be detrimental to public welfare.
5. The Variance, if granted, represents the minimum variance which will afford relief and represents the least modification of the regulations in issue.

107.B. **Conditions.** The Zoning Hearing Board may grant a variance with reasonable conditions attached.

108. **AMENDMENTS TO THIS ORDINANCE.**

108.A. **Process.** The Borough Council may amend, supplement, change, modify or repeal this ordinance including the Zoning Map. Before voting on such action, the Council shall hold a public hearing thereon and pursuant to public notice as required by the PMPC.

108.B. **Curative Amendment.** Any landowner or the Borough itself may prepare and propose a Curative Amendment for consideration by the Council in accordance with the PMPC.

108.C. **Planning Commission Review.** In the case of an amendment other than one prepared by the Planning Commission, the Council shall submit each amendment to the Planning Commission at least 30 days prior to the public hearing with regard to the proposed amendment. In all cases the Council shall also submit the proposed amendment to the County Planning Commission at least 30 days prior to the public hearing. These submittals will provide each Planning Commission an opportunity to provide recommendations.

108.D. **Changes After Hearing.** If after any public hearing with regard to an amendment, the proposed amendment is changed substantially, or is further revised, to include land not previously affected by the amendment, then the Council shall hold another public hearing following proper notice before voting on the amendment. At all public hearings, full but reasonable opportunity to be heard shall be given to any citizen and all interested parties.

108.E. **Copy to County.** Within 30 days after enactment, a copy of the amendment shall be forwarded to the County Planning Commission.

109. **ENFORCEMENT, VIOLATIONS AND PENALTIES.**

109.A. Cause of Action. The Borough Council, authorized agents of the Council, landowners and tenants may take actions according to the provisions of PMPC in order to prevent and correct violations of this Ordinance. The Council, or its agents may take action anytime following discovery of the violation. However, landowners and tenants must serve notice to the Council 30 days prior to taking any action.

109.B. Enforcement. Enforcement of this Ordinance shall occur as provided in the PMPC. All applicable provisions of such State law, as amended, are hereby incorporated by reference.

1. Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall be liable for penalties as specified in the PMPC.
2. Prior zoning enforcement activities of the Borough and its agents shall not be adversely affected by the enactment of this Ordinance.
3. Prior to beginning formal enforcement proceedings, the Zoning Officer may (at his/her option) informally: a) notify a person that a violation of this Ordinance may be occurring, b) request compliance with this Ordinance, and/or c) request additional information or the opportunity to inspect the property to determine whether a violation is occurring.
4. Enforcement Notice. If the Borough has reason to believe that a violation of this Ordinance has occurred, the Borough shall begin enforcement proceedings by sending a formal written enforcement notice. This enforcement notice shall be sent to the owner of record of the parcel on which the violation occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel and to any other person designated in writing by the owner. The Enforcement Notice shall include at least the following:
 - a) The name of the owner of record and any other person against whom the Borough intends to take action.
 - b) The location of the property in question.
 - c) The specific violation with a description of requirements which have not been met, with a reference to the applicable section of this ordinance.
 - d) The date before which compliance must be commenced and the date before which the steps of compliance must be completed.
 - e) The statement that the recipient has the right to appeal to the Zoning Hearing Board within a period of 30 days of receipt of the notice by filing a written application and paying fees to the Borough.
 - f) The statement that failure to comply with the Enforcement Notice within the time specified constitutes a violation with the penalties and sanctions clearly described. An appeal to the Zoning Hearing Board may extend the time to comply with the Enforcement Notice.
5. If activity occurs that violates this Ordinance, the Zoning Officer with approval of the Council may institute civil action to stop such unlawful activity and to require the violator to respond within 30 days. The Zoning Officer or his/her designee may also act to prevent occupancy of the structure or land and to prevent any illegal act on the affected premises.
6. Penalties. Any person, partnership or corporation who or which violates the provisions of the Zoning Ordinance, or permits the violation of this Ordinance to occur on his/her property, shall upon being found liable in a civil enforcement proceeding, pay a judgement of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof.

- a. No judgement shall commence or be imposed, levied or be payable until the date of the determination of the violation by the District Justice. If the defendant neither pays nor timely appeals the judgement, the Borough shall enforce the judgement pursuant to the applicable rules of civil procedure.
 - b. 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 violation this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the 5th date following the date of the determination of a violation by a District Justice and thereafter each day that a violation continues shall constitute a separate violation.
 - c. All judgements, costs and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Borough.
7. In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.
 8. Any hearing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

110. **APPEALS.**

- 110.A. Appeals to the Zoning Hearing Board of an action of the Zoning Officer must be filed no later than 30 days after the date of notification by the Zoning Officer to the appellant. The appeal must be in accord with the provisions of PMPC.
- 110.B. Appeals to Court of an action of the Zoning Hearing Board shall be filed a maximum of 30 days after the date a written decision is issued, in accordance with the PMPC.
- 110.C. If any person, other than the Borough, brings legal action because of alleged violations of this ordinance, the plaintiff must serve a copy of the complaint to the Borough Council at least 30 days before the action is begun.

111. **FILING FEES.**

- 111.A. No Zoning permit or hearing application shall be accepted unless the proper filing fee has been paid.
- 111.B. A schedule of filing fees shall be established by a separate resolution of the Borough Council. All fees shall be transmitted to the Borough's General Fund on a monthly basis. Accurate records should be made of all payments.

112. **CONDITIONAL USES.**

- A. Borough Council shall consider the same standards for a conditional use as would be considered by the Zoning Hearing Board for a special exception use, as stated in Section 113, in addition to all other applicable standards.

B. Decision.

1. 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 Council.
2. 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, conclusions based on any provisions of the PA. Municipalities Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in the light of the facts found.
3. Deemed Decision. Where Borough Council fails to make a decision within the time period required above, or fails to hold the required hearing with the time period required by State law, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.
 - a. When a decision has been rendered in favor of the applicant because of the failure of Borough Council to meet or render a decision as required, Borough Council shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the PA. Municipalities Planning Code.
 - b. If Borough Council shall fail to provide such notice, the applicant may do so.
4. 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 the applicant no later than the day following its date.

113. **SPECIAL EXCEPTION USE PROCESS.**

113.A. Purpose. The Special Exception Process is designed to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.

113.B. Special Exception Procedure.

1. Applications shall be made as provided in Section 104.
2. The Zoning Officer should provide a review to the Board regarding the compliance of the application with this Ordinance.
3. The Board shall follow the procedures provided in Section 106.

113.C. Approval of Special Exception Uses. The Zoning Hearing Board shall approve a proposed special exception use if the Board finds adequate evidence that any proposed use will comply with specific requirements of this Ordinance and all of the following standards:

1. Other Laws. The use will not clearly be in conflict with other Borough Ordinances or State or Federal laws or regulations known to the Board.
2. Traffic. The applicant shall show that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion.
3. Safety. The applicant shall show that the use will not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.
4. Storm Water Management. The development will follow adequate, professionally accepted engineering methods to manage storm water.
 - (1) Stormwater shall not be a criteria of a decision under this Ordinance if the application clearly would be subject to a separate engineering review and an approval of storm water management under another ordinance.
5. Neighborhood. The use will not significantly negatively affect the desirable character of an existing residential neighborhood, such as causing substantial amounts of heavy truck traffic to travel through a residential neighborhood, or a significant odor or noise nuisance or very late

night/ early morning hours of operation.

6. Site Planning. The development will involve adequate site design methods, including plant screening, berms, site layout and setbacks as needed to avoid significant negative impacts on adjacent uses.

113.D. Conditions. In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines is necessary to implement the purposes of this Ordinance. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the building permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this ordinance.

ARTICLE 2 DEFINITIONS

201. **GENERAL INTERPRETATION.** For the purposes of this Ordinance words and terms used herein shall be interpreted as follows:
- A. Words in the present tense shall include the future tense.
 - B. The word *person* or *applicant* includes a profit or non-profit corporation, company, partnership, trust or individual.
 - C. The word *used* or *occupied* when applied to any land or building shall also imply *intended*, *arranged* or *designed* to be used or occupied.
 - D. The word *should* means that an action or object is strongly encouraged but is not mandatory.
 - E. The word *lot* is interchangeable with *plot* of land or *parcel*.
 - F. The word *shall* is always mandatory.
 - G. The words *street*, *highways*, and *road* have the same meaning and are used interchangeable.
 - H. The word *sale* shall also include *rental*.
 - I. The singular shall include the plural and vice versa.
 - J. The masculine gender shall include the feminine and neuter and vice versa.
 - K. If a word is not defined in this Ordinance but is defined in the Borough Subdivision and Land Development Ordinance, as amended, the definition in the latter Ordinance shall apply.
 - L. Any word or term not defined in this Ordinance or other Borough Ordinance shall be used according to the definition in the latest edition of Webster's Unabridged Dictionary.
 - M. The words *such as*, *includes*, *including* and *specifically* shall accompany examples which however do not limit a provision to the example provided.
 - N. If a word is defined both in this and another Borough Ordinance, each definition shall apply to its respective ordinance.

202. **DEFINITION OF TERMS.**

Abut. Occurs when areas of lots share a common lot line, but not when lots are entirely separated by a street, alley or railroad. See also *contiguous*.

Access Drive. A privately owned constructed and maintained vehicular access roadway which serves more than one dwelling unit or more than one commercial, institutional or industrial principal use. See also *Driveway*.

Access Point. One combination ingress/egress point or one clearly defined ingress point separated from another clearly defined egress point.

Accessory Building. A subordinate building, the use of which is customarily incidental to the principal building (such as a garage or shed in the rear yard of a dwelling). This subordinate building shall be located on the same lot as the principal building.

Accessory Structure. A structure serving a purpose customarily incidental to the use of the principal building and located on the same lot as the principal building. An accessory building is one type of accessory structure. An accessory structure may also include a private swimming pool or parking area.

Accessory Use. A subordinate use occurring on the same lot as the principal use.

Acre. 43,560 square feet.

Adjacent. See contiguous.

Adult Bookstore. An establishment having a significant or substantial inventory of books, films, magazines, video tapes, novelties or other periodicals which emphasize descriptions of sexual activity or nudity. This inventory shall include but not be limited to, materials that would be illegal for sale to minors under Pennsylvania state law.

Adult Day Care. See ADay Care, AdultA.

Adult Live Entertainment Facility. A use including live entertainment involving persons (which may include waiters, waitresses, dancers, clerks, bartenders, contractors or others) displaying uncovered male or female genitals or nude or almost nude female breasts or engaging in simulated or actual "specified sexual activities" related to some form of monetary compensation paid to a person, company or organization operating the use or to persons involved in such activity.

Adult Movie Theater. A use involving the presentation typically to 3 or more persons at one time in a room of motion pictures, video tapes or similarly reproduced images distinguished or characterized by an emphasis on depiction of "specified sexual activities" for observation by patrons therein and that is related to some form of monetary compensation by the persons viewing such matter.

Adult Use. This term shall include any of the following uses: Adult Bookstore, Adult Movie Theater, Massage Parlor or Adult Live Entertainment Facility/Use.

Agriculture. This shall include the raising of cash crops, animal husbandry and plant nurseries (see definitions of each).

Alley. A public thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation. An official thoroughfare that meets this definition of an alley shall be considered an alley unless it is officially vacated by the Borough.

Alteration. This applies to a building or structure having a change or rearrangement in the structural parts or in existing facilities or an enlargement or clearance, either by extending on a side or by increasing in height, or the moving from one location or position to another. This does not apply to the application of siding or stucco. Structural alterations are any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Animal Hospital. A building used for the treatment, housing or boarding of animals. A ASmall Animal Hospital@ includes treatment facilities for small domestic animals including but not limited to dogs, cats, rabbits, birds or fowl. A ALarge Animal Hospital@ may include treatment facilities for animals including horses, cows and pigs.

Animal Husbandry. The raising and keeping of livestock, poultry, or insects for any commercial purpose or the keeping of any animals for any reason beyond what is allowed under the Section on AKeeping of Pets@. For the purposes of this Ordinance, the Akeeping of livestock@ shall have the same meaning as Aanimal husbandry@. Animal husbandry shall not include a slaughterhouse nor a stockyard used for the housing of animals awaiting slaughter.

Antenna.

- (1) Amateur Radio: A device partially or wholly exterior to a building that is used for receiving and or transmitting electronic signals or shortwave or citizens band frequencies. This includes supporting structures except principal buildings.
- (2) Commercial Radio and TV: A device exterior to a building that is used for transmitting commercial radio and TV signals.
- (3) Telephone: Includes devices for the reception and transmission of telephone signals and which is exterior to a building. This includes cellular telephone towers.
- (4) Television: A device exterior to a building for the reception of TV signals.
- (5) Satellite Dish:
 - (a) Small: A TV receiving device less than three feet in diameter.
 - (b) Large: A TV receiving device more than three feet in diameter.

Apartment. (See ADwelling Types@)

Apartment House. (See ADwelling, Multi-family@)

Applicant. The person or corporation responsible for a particular application for an approval or permit governed by this Ordinance.

Area, Building. The total square footage of areas that are within a building under a permanent roof taken on a horizontal plane at the main grade level of the principal building and all accessory buildings.

Attached Building. (See ABuilding, Attached@)

Auditorium. A commercial area or structure involving indoor or outdoor seating for meeting, live performance or sports events , but not a use that meets the definition of a movie theater, adult cabaret or standard or fast-food restaurants.

Auto, Boat, and/or Mobile/Manufactured Home Sales Facility. A building or area, other than a street, used for the display, sale or rental of new or used motor vehicles, recreation vehicles, boat trailers, farm equipment, motorcycles, trucks, utility trailers or boats in an operable condition or transportable mobile/manufactured homes in a liveable condition. This use may include an auto repair garage or auto service provided that all requirements of such use are observed. This use shall not include a mobile/manufactured home park or a junkyard. Outside storage and display of motor vehicles, boats or manufactured homes shall be a permitted accessory use.

Auto Repair Garage. Buildings and land where major repairs of motor vehicles are conducted. This use may also include retail sales of motor vehicle fuel and auto parts and the storage of vehicles being currently serviced. Major repairs include major mechanical and body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics of an extent greater than normally found in service stations. For the purposes of this Ordinance, this definition will also apply to similar repair of boats and recreational vehicles.

Auto Service Station. Buildings and land areas where motor vehicle fuels, grease, batteries, tires or auto accessories are supplied and dispensed at retail and where minor repairs are conducted. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding or other work involving noise, glare, fumes, smoke, or other characteristics in an extent greater than is customarily incidental to the sale of gasoline. Such use may also include the sale of food and common household products as a clearly accessory use provided that the parking requirements of this Ordinance are honored.

Basement. A story partially below finished grade but having at least one-half of its height, as measured from finished floor to finished ceiling, above the average level of the finished grade where it abuts the exterior walls of the building. A basement shall be considered as one story in the determination of permissible number of stories if more than fifty percent of the exterior of the foundation wall area is above grade.

Bed and Breakfast Inn. A single family detached dwelling and/or its accessory structure which includes the rental of overnight sleeping accommodations and bathroom access for temporary overnight guests, and that meets the maximum number of overnight guests specified in Section 402 for this use, and which does not provide any cooking facilities for actual use by guests, and which only provides meals to overnight guests, employees and residents of the dwelling. This use shall only include a use renting facilities for a maximum of 14 days in any month to any person(s) and shall be restricted to transient visitors to the area. See requirements in Section 402.

Billboard. An off-premise sign with a total sign area greater than fifty square feet (see ASign@).

Block. A tract of land, lot or group of lots whose boundaries include streets, railroad rights-of-way, water courses, bodies of water, boundaries of the Borough, or any combination of the above.

Block or Lot Frontage. That portion of a block or lot which fronts a single street.

Board or Zoning Hearing Board. The Zoning Hearing Board of the Borough of Palmerton.

Boarding House. A residential use in which individual rooms which do not meet the definition of a dwelling are rented for habitation and that does not meet the definition of a hotel, dormitory, motel, life care center, personal care center, bed and breakfast, group home, or nursing home. A college fraternity or sorority house shall be considered a boarding house. A boarding house may either involve or not involve the provision of meals to residents.

Borough. The Borough of Palmerton.

Borough Council or "Council". The Borough Council of the Borough of Palmerton.

Buffer Yard. A strip of land separating a land use from another land use or feature which is free of any principal or accessory building, parking, outdoor storage, or any use other than open space or concrete sidewalks. A buffer yard may be a part of the minimum set-back distance, but may not include an existing or future right-of-way.

Building. Any combination of materials forming a structure which is erected on the ground but not necessarily permanently affixed to the ground. This structure is intended, designed, or arranged for the housing, sheltering, enclosure, or structural support of persons, animals, or property of any kind.

- (1) Attached. A building which has two sidewalls or portions thereof in common with adjacent buildings. Additionally, the end units of a group of townhouses shall be deemed as attached buildings.
- (2) Detached. A building surrounded by open space on all four sides within the same lot.
- (3) Semi-Detached. A building which has one wall or portion thereof in common with an adjacent building.

Building Coverage. The ratio expressed in percentage obtained by dividing the maximum horizontal area in square feet of all principal and accessory buildings on a given lot by the total lot area in square feet. The given lot is that which contains all of the buildings involved.

Building Line or Building Set-Back Line. The line within a property defining the minimum required distance between any structure or building or portions thereof and an adjacent right of way. Such line shall be measured at right angles to the front street right-of-way line which abuts the property upon which said building or structure is located or is proposed to be located and shall be parallel to the front street right-of-way.

Campground. A facility which is used primarily for recreational purposes and involves the use of tents or sites leased to recreational vehicles for transient and seasonal occupancy. Also facility may include tents and cabins used for seasonal occupancy by organized youth groups.

Carport. An open area for the storage of one or more motorized vehicles, camping trailers, or boats in the same manner as a garage. Any carport covered by a permanent roof shall be considered a building. If the permanent roof is attached to the principal building, the carport will be considered part of the principal building.

Cartway. The paved portion of a street or highway designed for vehicular traffic and on-street parking but including the shoulder.

Cash Crop. Agricultural crops that are primarily grown for commercial sale, instead of for consumption by the grower's family or the grower's livestock.

Cellar. (See ABasement@)

Cemetery. Land or buildings used for burial only of deceased humans and/or cremated remains only of humans (See APet Cemetery@).

Certificate of Use and Occupancy. An inspection-based statement signed by the Zoning Officer which certifies that a building, structure, sign, and/or land complies with all Borough Ordinances and regulations. Other governmental agencies may mandate additional requirements. This certificate also states that a building, structure, sign, and/or land may be lawfully utilized for specified use(s).

Cluster Development. A grouping of permitted or special uses in a zoning district situated amongst open spaces which compensate for reduced lot sizes.

Commercial District. Districts designated on Zoning Map as ACD@, "CF" or "PD."

Commercial Use. This activity includes retail sales, personal services, auto sales, auto repair and garage work, general office procedures, and uses of similar nature. The sale of goods or services from a vehicle or trailer on a lot shall also be considered to be a commercial use.

Commission. The Planning Commission of the Borough of Palmerton.

Comprehensive Plan. The Palmerton Borough Comprehensive Plan.

Conditional Use. A use allowed by the Borough Council pursuant to public notice and hearing and recommendation by the Planning Commission of the Borough of Palmerton and further pursuant to the expressed standards and criteria set for the in the Zoning Ordinance. When allowing a Conditional Use, the Borough may attach such reasonable conditions and safeguards in addition to those expressed in the Zoning Ordinance as necessary to implement the purposes of the district and this Ordinance.

Construction. This activity includes the placing of materials in permanent position and fastening them in a temporary or permanent position. Construction also includes the demolition of a pre-existing building provided that further construction progresses in a diligent manner.

Contiguous. Occurs when areas share a common lot line and/or when lots are entirely separated by a street, alley, railroad or waterway.

Convenience Store. (See also AMini Mart@) A business which primarily sells routine household goods, groceries, and prepared ready-to-eat foods to the general public. This business is not primarily a restaurant and has a sales area less than 5,000 square feet.

Conversion. A change or adaptation of land or structure for a different use, occupancy, or purpose.

Crematorium. A facility involving the incineration of human corpses, animals and pets.

Cul-de-Sac Street. A street that is terminated on one end by a Borough-approved turnaround.

Curative Amendment. A proposed zoning amendment made to the Borough Council by any landowner who desires to challenge on substantive grounds the validity of an ordinance which prohibits or restricts the use or development of land in which he/she has an interest.

Day. Calendar day.

Day Care, Adult. A use providing supervised care and assistance primarily to persons who are over age 60 and/or mentally retarded and/or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimers disease, mental abilities or mental retardation. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care, Child. A use involving the supervised care of children under age 12 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school" or "Head Start" programs. See also the definition of "day care, adult."

(1) The following three types of day care are permitted without regulation by this Ordinance: 1) care of children by their own "relatives", 2) care of children within a place of worship during regularly scheduled religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are "relatives" of the care giver.

- (2) Family Day Care Home (or "Child Day Care as an Accessory Use"). A type of "day care" use that: 1) is accessory to and occurs within a dwelling unit, and 2) provides care for 4 to 6 children at one time who are not relatives of the primary care giver. See Section 403.
- (3) Group Day Care Home. A type of "day care" use that: 1) provides care for between 7 and 12 children at one time who are not relatives of the primary care giver, 2) provides care within a dwelling unit, and 3) is registered with the applicable State agency.*
- (4) Child Day Care Center. A type of "day care" use that: 1) provides care for 7 or more children at any one time who are not relatives of the primary care giver, 2) does not meet the definition of a Group Day Care Home, and 3) is registered with the applicable State agency.* See Section 402.

* Note: As of 1998 such agency was the PA. Department of Public Welfare.

Deck. An unroofed platform which is intended for seating, dining, or recreation. This platform may or may not have railings.

Decision. The final judgement, opinion, determination, or conclusion of a question or an issue.

D.E.P. The Pennsylvania Department of Environmental Protection or its successor.

Determination. An action by an officer, body, or agency charged with the administration of any land-use ordinance.

Developer. Any landowner or agent thereof who makes a subdivision of land or creates a land development.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. This term also includes any activities defined as A land development@ according to the Palmerton Borough Subdivision and Land Development Ordinance.

District. A portion of the Borough of Palmerton within which certain uniform regulations and requirements or combinations thereof apply according to the provisions of this Ordinance.

Dormitory. A building arranged or used for lodging 6 or more persons and having common toilet and bathroom facilities for not more than 20 persons.

Dump. Any area used for solid waste disposal that does not operate under a valid solid waste permit issued by Pennsylvania DEP and is not a permitted junkyard according to this Ordinance.

Dwelling. A building designed or used as living quarters. The term Adwelling@ shall not include boarding house, hotel, motel, hospital, nursing home, fraternity, sorority house, or any group residence. A dwelling may include a building which meets the definition of a A modular home@. This Ordinance categorizes dwellings according to the following types:

- (1) Apartments. Three or more dwelling units within a building that do not meet the definition of a "Twin Dwelling" or "Rowhouse." For example, three or more dwelling units separated by horizontal floors and not vertical walls would be "Apartments." The individual dwelling units may be leased or sold for condominium ownership.

- (2) Condominium. A type of apartment, townhouse or other dwelling that involved real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, that was created under Pennsylvania law on condominiums that was in effect at the time of creation. To insure adequate provision for maintenance of roads and shared facilities, development of condominium or conversion of an existing development into condominiums shall always be treated as a Subdivision and Land Development.
- (3) Mid-Rise Apartments. Three or more dwelling units within a building that is higher than 35 feet or 3 1/2 stories, and less than 6 stories.
- (4) Modular Home (or ASectional Home@). A type of dwelling that meets a definition of single-family detached dwelling, twin dwelling, townhouse, or apartment that is insubstantial part but not wholly, produced in sections off the site. The modular home is then assembled and completed on the site. This shall not include any dwelling that meets the definition of mobile/manufactured home, nor shall it include any dwelling that does not rest on a permanent foundation, nor any dwelling intended to be able to be moved once assembled to a different site, nor any dwelling that would not fully comply with any and all applicable buildings codes. A modular home also shall not include a building that includes only one substantial piece prior to delivery on the site.
- (5) Single Family Detached Dwelling. A dwelling unit accommodating a single family and having two side yards. The term ASingle Family Detached Dwelling@ shall be deemed to include a single family detached factory-built AModular Home@ placed on a permanent perimeter foundation and a mobile/manufactured home.
- (a) Mobile/Manufactured Home. A type of single family detached dwelling that is: a) transportable, b) designed for permanent placement, c) contained in one unit or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, and d) arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations. This home is constructed so that it may be used with or without a permanent foundation.

Mobile/Manufactured Homes shall be constructed in accordance with the Safety and Construction Standards of the U.S. Department of Housing and Urban Development. The term AMobile/Manufactured Home@ shall not be deemed to include ARecreation Vehicle@, nor a AModular Home@ placed on a permanent perimeter foundation, nor a structure of less than 300 square feet floor area. The terms Amobile home@ and Amanufactured home@ have the same meaning.

- (6) Twin Dwelling (Single Family Semi-Detached). One dwelling unit accommodating one family that is attached to and completely separated by a vertical, unpierced fire-resistant wall from only one other dwelling unit. This use is commonly known as one-half of a duplex. Each unit may be on a separate lot.
- (7) Townhouse (Single Family Attached). A one-family dwelling unit that is attached to two or more dwelling units or that is attached to a dwelling unit which is in turn attached to two or more dwelling units. Each dwelling unit shall be completely separated from each other by vertical fire-resistant walls. Each dwelling unit shall have its own outside access. Side yards shall be adjacent to each end unit. Townhouses are also commonly known as Arow houses@.
- (8) Two-Family Detached Dwelling. Two dwelling units in a building that do not meet the definition of a Twin Dwelling or Townhouse. This term would, for example, include one dwelling unit on a first floor and a second dwelling unit on a second floor.

dwelling sketches

Dwelling Unit. One dwelling occupied by only one family and a minimum of two persons who clearly function as domestic employees (see AFamily@). Each dwelling unit shall have its own sanitary, sleeping, and cooking facilities. Also each dwelling unit shall have separate access to the outside or to a common hallway or to a balcony that connects to outside access at ground level.

Efficiency Unit. A small dwelling unit contained within a structure usually containing only one room. The living, sleeping, eating, kitchen, and storage sections of the unit are usually screened from each other and there is a separate bathroom.

Engineer, Borough. The Professional Engineer employed, retained or designated by Borough Council as the Borough Engineer.

Essential Services. Gas lines, water lines, cable television lines, telephone lines, electricity lines, steam lines, storm drain lines, sewage lines, or any other public or private utility serving the common good.

Family. One or more persons living in a single dwelling unit and functioning as a common household unit. A family shall include a maximum of 4 persons who are not "related" to each other (see definition in this Section). See the "Group Home" provisions of Section 402, which may allow a greater number of unrelated persons in certain circumstances. A "Treatment Center" shall not be considered a "Family" or a "Group Home." For a use involving greater numbers of unrelated persons, see "Boarding House."

Fees. A charge established by Resolution of Borough Council for services and permits.

- (1) Filing Fee. The charge for application review which is payable upon the submission of application.
- (2) Permit Fee. The charge for the receipt of approved permit, less any filing fee payment. The charge is due upon receipt of permit.
- (3) Extension Fee. A charge for extending the time of validity of a permit.
- (4) Reinstatement Fee. The charge for the renewal of a permit which has been revoked because of non-compliance with permit specifications.
- (5) Hearing Fee. The charge for appearance before the Zoning Hearing Board to request any special exceptions, a variance, or to present an appeal.

Fence. A man-made barrier placed or arranged as a line of demarcation between lots or to enclose a lot or portion thereof and is constructed of wood, wire mesh, chain-link metal or chain-link aluminum, and/or plastic inserts. On the other hand, man-made barriers constructed principally of other materials, including but not limited to brick, concrete, or cinder-block, shall be considered a Awall@. The term Afence@ does not include barriers of landscaped materials such as hedges. Commonly known and acceptable fence types shall include chain link, privacy, split rail and picket.

Fence, Security. A vertical enclosure that:

- (a) is constructed to prohibit the passage of a sphere larger than 4 inches in diameter through an opening or under the fence (Note: for chain link, smaller openings are recommended to deter climbing);
- (b) is designed to withstand a horizontal concentrated load of 200 pounds applied on a one square foot area at any point of the fence;

- (c) is of durable construction with a durable foundation around posts; and
- (d) is maintained in good condition.

(Note: Aluminum alloy or vinyl ornamental fences, vinyl coated chain link fences, or cedar or treated wood fences are recommended to provide an attractive appearance while minimizing maintenance.

Floor Area. The gross floor area of the building or buildings when dimensions are measured from the exterior faces of exterior walls and from the center line of walls shared with adjacent buildings.

Garage, Private or Household. An enclosed building for the storage of one or more motor vehicles, trailers, and/or boats. No business, occupations, or service shall be conducted in a private garage that is accessory to a residence except as permitted by the Home Occupation section of this Ordinance.

Garage Sale. The accessory use of any lot for the occasional sale or auction of only common household goods, furniture, and items of a similar nature.

Gasoline Service Station. A building or area used primarily for the sale of gasoline or any other motor vehicle fuel which may or may not include facilities for lubricating, washing, the sale of accessories and otherwise servicing motor vehicles but not including body repair and painting. A business or industry dispensing fuel for its own use will not be deemed a gasoline service station.

Glare. A sensation of brightness within visual field which causes annoyance, discomfort, or loss in visual performance or visibility.

Grade. The mean curb level and/or the finished ground elevation adjacent to the building.

Group Home. The use of any lawful dwelling unit which meets all of the following criteria:

- (1) Involves the care of the maximum number of persons permitted by the "group home" standards of Section 402, and meets all other standards of such section.
- (2) Involves unrelated persons functioning as a common household unit.
- (3) Involves providing non-routine support services and oversight to persons who need such assistance in order to avoid being placed within an institution.
 - (a) If the use involves a higher number of unrelated persons than would be permitted under the term "Family", then the applicant shall prove to the satisfaction of the zoning officer the residents have a physical disability, old age, mental retardation/developmental disability, or another "handicap" as defined by applicable Federal law.
- (4) Does not meet the definition of a "treatment center."
- (5) Does not involve the housing or treatment of persons who: a) could reasonably be considered a threat to the physical safety of others, and/or b) were previously convicted of a sexual felony committed against a minor.

Hazardous Waste. Waste which poses a significant potential for causing adverse public health or environmental impacts if handled, stored, transported, treated, or disposed in a manner customarily accepted for ordinary solid waste. This also includes wastes subject to special State or Federal licensing or regulation including but not limited by the Pennsylvania Solid Waste Management Act.

Hedge. A mostly continuous row of shrubbery intended to form a barrier with a height over 4 feet.

Height, Structure or Building. The vertical distance measured from the average elevation of the proposed surrounding ground level to the highest point of the structure. In the case of a sign, the highest point shall include the supporting structure.

Heliport. An airport whose use is limited to helicopters. This Ordinance is not intended to regulate the emergency landing of helicopters for the transport of seriously ill or injured patients.

Home Occupation. A routine, accessory and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building that:

- (1) is conducted primarily by a permanent resident of the dwelling;
- (2) meets the requirements for a "home occupation" in Section 404;
- (3) only includes uses that are clearly incidental and secondary to the principal residential use; and
- (4) does not include any retail or wholesale sales on the premises (other than over the phone and through the mail) nor any industrial use (other than custom crafts and sewing).
- (5) See list of prohibited home occupations in Section 404. A home occupation shall comply with the limitations on parking of commercial vehicles that is stated in Section 404.D. under "Residential Accessory Structure." Only one home occupation shall be permitted per dwelling unit.

Note: A dwelling which only receives business mail or involves telephone or electronic communications at the address and does not involve the conduct of any other non-residential use shall not, by itself, require a permit under this Ordinance for such activity.

Home Occupation, Moderate Scale. A use that: a) meets the definition and standards for a home occupation, b) only involves a maximum of one person working on-site at one time who does not reside within the dwelling, and c) does not meet the definition of a Small Scale Home Occupation as listed below.

Home Occupation, Small Scale. A use meeting the definition and standards for a "home occupation" and which also complies with all of the following standards:

- (1) meets the standards for a "small scale home occupation" as stated in Section 404;
- (2) primarily involves the operator visiting clients at their home or business or using the mail, telephone or electronic communications, as opposed to having customers routinely visit the home occupation; and
- (3) is limited to only the following types of activities:
 - (a) office-type work (such as writing, editing, drafting, tax preparation and computer use),
 - (b) clerical work (such as typing, stenography, addressing and sending mail),
 - (c) custom sewing and fabric and basket crafts,
 - (d) creation of visual arts (such as painting, sculpture or wood carving),
 - (e) sales and surveys over the telephone,
 - (f) repairs to computers and computer peripherals, and
 - (g) activities an applicant proves to the satisfaction of the Zoning Officer are closely similar to the above activities.

Hospice. A building dedicated to the care of terminally ill patients.

Hospital. A use involving the diagnosis, treatment or other medical care of humans that includes, but is not limited to, care requiring stays overnight. A medical care use that does not involve any stays overnight shall be considered a "Medical Office." A hospital may involve care and rehabilitation for medical, dental or mental health, but shall not primarily include housing or treatment of the criminally insane or persons actively serving an official sentence after being convicted of a felony. A hospital may also involve medical research and training for health care professionals.

Hotel. A building or buildings which include rental rooms for transient persons primarily for stays of less

than thirty days. Facilities primarily used for stays exceeding thirty days shall be considered to be a boarding house. The term *Ahotel@* is synonymous with the term *Amotel@* in this Ordinance, but does not include *ABed and Breakfast@*.

Impervious Surface. Any area covered by a structure, paving, stone or man-made material which has a coefficient of runoff of 0.8 or greater as determined by the Borough Engineer.

Industrial District. The I/C and I Districts, as designated on the Zoning Map.

Industrial Use. A use which includes manufacturing, distribution, warehousing, and other operations not primarily residential or commercial in nature.

Junk. Any or all discarded material or articles including scrap metal, furniture, appliances, inoperable motor vehicles, inoperable aircraft, glass, industrial waste, abandoned and inoperable machinery, equipment, containers, portions of structures and used building materials. The term *Ajunk@* does not include organic solid waste, grass clippings, leaves, tree limbs, or solid waste stored in completely enclosed and sanitary containers awaiting routine collection.

Junk Vehicle. A motor vehicle, recreational vehicle, trailer, truck, or chassis or body of such vehicle which is demolished beyond repair or is described by at least two of the following conditions:

- (1) No display of a license plate with a current registration sticker.
- (2) No display of a valid State inspection sticker.
- (3) Inability to immediately operate on a public street.

Junkyard. A lot, land, or structure or part thereof used for the collection, storage, dismantling, processing, and/or sale of any of the following:

- (1) Junk, scrap metal, and/or discarded material that is not required by the State to be disposed in a sanitary landfill or other State-approved solid waste disposal facility.
- (2) Two or more junk vehicles that are partly or fully visible from an exterior lot line, dwelling, or public street. Vehicles allowed to be stored within the specific requirements of an auto repair garage or auto service station do not fall into this category.
- (3) One or more boats which do not have current registration and not currently in seaworthy condition.
- (4) One more mobile or manufactured homes that are not in a habitable condition.

Note: A completely enclosed building containing junk is considered a warehouse.

Kennel. A facility for keeping of more than four dogs or more than six cats that are older than six months. A non-profit animal shelter is also classified as a *Akennel@*.

Land Development. Any of the following activities shall be considered to be a Land development@:

- (1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (a) A group of two or more residential or non-residential principal buildings, whether proposed initially or cumulatively, or a single non-residential principal building on a lot, or lots regardless of the number of occupants or tenure.
- OR
- (b) The division or allocation of land or space whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- (2) A subdivision of land.
- (3) The conversion of an existing single family detached dwelling or twin dwelling unit into a total of 4 or more dwelling units.

Landowner. The owner of a legal or equitable interest in land, the holder of an option or contract to purchase land, the lessee who possesses the rights of a landowner, any person having a proprietary interest in land, a person possessing notarized powers of attorney allowing him/her to act in the capacity of a landowner or the partnership of several individuals or corporations.

Leaf Composting. The collection and processing of vegetative material in order to allow biological decomposition under controlled anaerobic or aerobic conditions which produce a humus-like product.

Life Care Center. (See APersonal Care Center@) A residential facility used exclusively for persons 55 and older or who are disabled and which includes a nursing home and limited support facilities required by these persons.

Lighting.

- (1) Diffused. Lighting which passes through a translucent cover or shade.
- (2) Direct or Flood. A form of lighting wherein the source is visible and the light is shone directly onto a parking, storage, or recreational area or onto a building.
- (3) Indirect. A form of lighting wherein the light source is entirely hidden and the light is projected directly at a wall or sign from a distance of forty feet or less.

Line, Street. The dividing line between the existing street right-of-way and a lot.

Lot. Land occupied or to be occupied by one or more principal buildings and accessory buildings in addition to such open spaces as required by this Ordinance. This land shall have not less than the minimum area and width as required by this Ordinance and shall have its principal frontage on a street or approved accessway.

Lot, Corner. A lot which has two public streets adjacent to its lot lines, and such streets intersect adjacent to the lot.

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

Lot, Reverse Frontage. Lot which fronts on one public street but provides vehicular access solely from another public street at the rear of the lot.

Lot, Through. A lot having frontage on two approximately parallel streets.

Lot Area. The horizontal land area contained within the lot lines of a lot (measured in acres or square feet). Lot Area shall not include the following:

- (1) Areas within street rights-of-way, or
- (2) Areas that are currently or will be dedicated as common open space.

Lot Depth. The average horizontal distance between the front and the rear lot lines, measured in the general direction of the side lot lines.

Lot Lines. The property lines bounding the lot. Wherever a property line borders a public street, the lot line shall be considered to be the existing street right-of-way.

- (1) Front Lot Line (Street Line). A lot line separating the lot from the existing or proposed (whichever is greater) street right-of-way.
- (2) Rear Lot Line. A lot line opposite and most distant from the front lot line. (A three-sided lot has no rear lot line).
- (3) Side Lot Line. Any lot line other than a front or rear lot line. A Side street lot line@ is a side lot line separating a lot from a street.

Lot Width. The minimum distance between side lot lines measured at the minimum building front setback line.

Massage Parlor. An establishment where lawful massages are provided for a fee by personnel who receive some form of monetary compensation and who are not State-licensed massage therapists or State-licensed health care professionals, and which occurs in private rooms.

Medical Office or Clinic. A facility for the treatment and examination of patients by State-licensed physicians and dentists. No overnight patients will be accommodated in this facility. The facility will provide testing of tissue, blood, or other human materials for medical and dental purposes.

Membership Club. A facility used by a recreational, civic, social, fraternal, religious, political, or labor association of persons for meetings and routine social affairs which are limited to members and occasional guests and do not include the general public. The facility may not include an outdoor target range, boarding house, tavern, restaurant, or auditorium unless these uses are permitted within the applicable zoning district.

Mineral Extraction. The removal from the subsurface or surface of land of bulk minerals by means of mechanical excavation. A Mineral Extraction@ includes, but is not limited to the excavation necessary for the recovery of sand, gravel, topsoil, limestone, sandstone, coal, clay, shale, and iron ore. However, the routine removal of and replacement of topsoil during construction is not considered to be A Mineral Extraction@.

Mini-Mart. A facility which combines the activities of a A Gasoline Service Station@ and a convenience store.

Mobile/Manufactured Home. (See ADwelling@)

Mobile/Manufactured Home Park. A parcel of land under single ownership which has been planned and improved for the placement of two or more mobile/manufactured homes for non-transient residential use. The individual manufactured homes may be separately owned. A development of mobile/manufactured homes that is subdivided into individual lots shall be regulated in the same manner as a subdivision of site-built homes.

Modular Home. (See ADwelling@)

Municipalities Planning Code or APMPC@. The Pennsylvania Municipalities Planning Code, Act 247 of

1968, as amended.

Nonconforming Lot. A lot which does not exhibit the minimum lot width or area specifications required in the zoning district where the lot is located, but which lot was lawfully established prior to the effective date of this Ordinance or permitted by the granting of a variance by the Zoning Hearing Board.

Nonconforming Structure. A structure or part of a structure whose design does not comply with the provisions of this Ordinance, as amended, but which structure lawfully existed prior to the enactment of this Ordinance. Such structures include signs.

Nonconforming Use. An activity involving land or a structure which does not comply with the provisions of this Ordinance as amended, but which use was lawfully in existence prior to the enactment of this Ordinance or amendment.

Nursery. See Plant Nursery.

Nursing Home. A facility licensed by the State for the housing and intermediate or skilled nursing care of four or more persons.

Office. A facility used for administrative, clerical, financial, governmental, professional, or similar activities. This facility is not used for retail or industrial activities.

Official Map. The Official Map of the Borough of Palmerton as may be adopted and revised by the Borough Council in accordance with the PMPC.

Official Zoning Map. The map as adopted by the Borough Council which designates the location and boundaries of zoning districts.

Open Area. Land which is not covered by a roof or building.

Open Space (Common). Land and/or water area within a tract which is not occupied by streets, existing or proposed street rights-of-way, buildings, or off-street parking and is intended for active or passive recreation by residents or the general public. Common open space shall not include any area needed to meet a requirement for an individual lot nor any area deeded over to an individual property owner for his own use. Common open spaces shall require a procedure for perpetual maintenance and shall be restricted by deed with regard to the construction of any buildings other than accessory recreational structures. Common open space shall not include any land with right-of-ways eventually intended for overhead electrical transmission lines of 35 kilovolts or greater capacity.

Ordinance, This. The "Palmerton Borough Zoning Ordinance," as amended.

PA. Pennsylvania.

Parking. Off-street parking for motor vehicles. See Article 6.

Patio. A surfaced area or courtyard designed for outdoor living purposes as an accessory use to a structure which shall be completely unenclosed except for any side which may adjoin a structure or for any fences, walls, shrubs, or hedges. Outdoor areas enclosed by a roof or stationary awning shall be considered to be a structure.

Paved Area. Areas covered by gravel and/or impervious surfaces other than those associated with buildings and concrete public sidewalks.

PennDOT. The Pennsylvania Department of Transportation or its successor and its subparts.

Permit. A document issued by the proper Borough authority authorizing the applicant to undertake specified activities. The types of permits are:

- (1) Zoning. A permit which indicates that a proposed use, building, or structure is in accordance with the Borough of Palmerton Zoning Ordinance and authorizes the applicant to proceed with said use, building, or structure with simultaneous conformance with all other applicable laws and regulations.
- (2) Construction. A permit which indicates that the proposed construction, alteration, or reconstruction of a structure is in accordance with the provisions of the Borough's Building Code as amended.
- (3) Occupancy. A permit issued upon the completion of the construction of a structure, or the change in use of a structure or parcel of land, or the re-occupancy of a structure or land which indicates that the premises comply to the best knowledge of the Zoning Officer with the provisions of the Zoning Ordinance and other relevant Borough ordinances. This permit is also known as a Certificate of Use and Occupancy.

Permitted by Right Use. Uses which do not require approval by the Zoning Hearing Board or the Borough Council. A non-conforming use shall not be considered a permitted use.

Personal Care Center. A residential facility which provides support services to persons usually over age 60 or who are disabled and is licensed as a Personal Care Center by the Commonwealth of Pennsylvania.

Personal Service. Service not involving retail or wholesale sales which is oriented to the needs of the general public and includes the activities of barber, beauty, shoe repair, and appliance repair shops. Massage parlors are not included.

Pet Cemetery. Land or buildings used for burial only of deceased small animal pets.

Picnic Grove. An area of open space and pavilions that is not publicly owned and which is customarily rented for picnics and outdoor recreation.

Places of Worship. Buildings, synagogues, churches, retreat houses, monasteries, seminaries, and shrines used primarily for religious and/or spiritual worship and are operated for non-profit and non-commercial purposes.

Planning Commission. The Planning Commission of the Borough of Palmerton.

Plant Nursery. A commercial use including the raising of trees, plants, shrubs, or flowers for sale, but not including lumbering activities. Christmas trees may also be sold.

PMPC. The Pennsylvania Municipalities Planning Code, originally adopted as Act 247 of 1968, as amended, or its successor legislation.

Porch. An extension of a building intended for pedestrian use, and which is not structurally enclosed, but which may be covered by a roof.

Principal Building. The building in which the principal use of a lot is located. Any building attached to the principal building shall be considered part of the principal building.

Principal Use. The dominant use on a lot as opposed to a secondary, accessory use.

Profession. Medicine, osteopathy, chiropractic, dentistry, public accounting, architecture, law, professional engineering, surveying, optometry, ordained ministry, landscape architect, insurance sales, real estate sales, accounting, law, and closely similar recognized professions. The following characteristics shall be used to classify additional occupations as a "profession":

- (1) Mandatory educational preparation and training.
- (2) Mandatory continuing education.
- (3) A formal association or society associated with the profession.
- (4) Public recognition of the activity as a profession.

The Zoning Hearing Board shall review any request to expand this list of definitions and shall use the above four criteria in the review process.

Professional Offices. The offices of a person conducting a "profession."

Public Notice. Notice as required by Section 107 of the Pennsylvania Municipalities Planning Code, as amended. (Note: As of the adoption date of this Ordinance, such definition stated: "Notice published once each week for two successive weeks in a newspaper of general circulation within the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.")

Recreation.

- (1) Public. Provided on land and in facilities owned by a governmental agency or the Borough and is available to the general public.
- (2) Private or Commercial. Provided only to members, guests, or specific groups and is principally commercial in nature.

Recreational Vehicle. A vehicle which transports a person primarily for recreational purposes and may serve as a mobile, temporary dwelling. This vehicle may be self-propelled, towed, or carried by another vehicle. The term Recreational Vehicle applies to watercraft longer than 12 feet, motor homes, travel trailers, all terrain vehicles, and snowmobiles.

Recreation Vehicle Storage Area. An open area used for the storage of two or more recreational vehicles. Retail sales or major repair work are only allowed if permitted in the zoning district.

Recycling Collection Center. A facility used for the collection of household materials for recycling but is not used for processing other than the sorting and weighing of materials.

Related or Relative. Persons who are related by blood, marriage, adoption or formal foster relationship to

result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law or first cousin. This term specifically shall not include relationships such as second, third or more distant cousins. See definition of "Dwelling Unit."

Residential Accessory Building, Structure or Use. A use or structure that is clearly accessory, customary and incidental to a principal residential use on a lot, including the following uses and uses that are very similar in nature: Garage (household), Carport, Tennis Court, Garage Sale, Basketball Backboard, Household Swimming Pool, Gazebo, Storage Shed, Greenhouse, Children's Playhouse, Children's Play Equipment or a permitted Apartment for Care of Relative. For skateboard ramps, see Residential Accessory Structure Standards in Section 403. No business shall be conducted in a household garage or storage shed that is accessory to a dwelling, except as may be allowed as a home occupation.

Residential District. The R-1, R-2 and R-3 districts.

Residential Lot Lines. The boundary of a lot occupied by or approved for a primarily residential use.

Restaurant.

- (1) Standard. A facility which serves ready to consume food or drink for compensation and in which waiters and waitresses serve the patrons who are sitting. If sales of alcoholic beverages constitute a majority of the total trade, then the facility is classified as a Tavern. If a substantial portion of the total trade results from entertainment admission charges and if the facility has a capacity for more than 300 persons, the requirements for an auditorium must be met.
- (2) Fast Food. A facility which serves ready to consume food and drink, but does not meet the definition of a standard restaurant primarily because of no table service. The same requirements with regard to the sale of alcoholic beverages and entertainment in standard restaurants also applies to fast food restaurants.

Retail Store. A facility where merchandise is sold or rented to the public but does not include motor vehicles, boats, adult books, and movies. A manufacturing facility, tavern, car wash, auto service station, auto service garage, convenience store, and restaurant are not considered as retail stores. See also SIC Codes in Appendix B.

Retirement Village. A residential development limited exclusively to persons aged 55 or older and their spouses.

Right-of-Way. Land reserved for the public or others as a street or other purpose. Unless otherwise stated, Right-of-way shall mean existing right-of-way.

Satellite Antenna. (See Antenna)

School, Public or Private/Primary or Secondary. An educational institution primarily for students between the ages of five and eighteen and which provides State-required or State-funded educational programs.

Screening. A year-round vegetative material of sufficient height and density to buffer incompatible uses from each other. See Section 804.

Self Storage Development. A building or group of buildings divided into individual access units which are rented or leased for the storage of personal and small business property.

Setback Lines.

- (1) The line within a lot defining the required minimum distance between any structure to be erected or use to be developed and the adjacent right-of-way or exterior lot line (when the property does not abut a right-of-way). Such line shall be measured at right angles from the front street right-of-way line which abuts the property and shall be parallel to the right-of-way.
- (2) Building setbacks shall be measured from the foundation, exterior wall, or other component of the structure which is closest to the right-of-way line or lot line from which the setback is being measured.
- (3) Setback distances apply both to accessory and principal structures.
- (4) In regard to private streets, the setback shall be measured from the right-of-way of such a street. If no right-of-way exists, the right-of-way shall be measured from the edge of the cartway.

Sewage Disposal System. A system permitted by local, State, and Federal law which collects, treats, and disposes sewage.

Sewage Disposal System Types.

- (1) Public Sewer Service. A service which uses a central, publicly-owned and operated sewage treatment plant.
- (2) On-Lot Sewer Service. A service which uses an on-lot septic system or a cluster community system. The service must meet local, State, and Federal standards.

Shed. An accessory structure whose dimensions are not greater than 100 square feet in area and do not exceed eight feet in height at the eaves. The structure may only be used for storage and not the housing of animals.

Shopping Center. A facility combining four or more retail stores, offices, or personal service establishments.

Sight Distance Triangle. A dimension of space, as required by Section 804.B., which must be kept free of visual obstruction.

Sign. A device for visual communication to the public. A sign may include letters, words, a display, a banner, a flag, a device or other representation which is visible from an exterior lot line.

- (1) Sign Definitions. The following definitions shall be used in determining whether signs meet the measurement and type requirements of this Article:
 - (a) Building Face. The vertical area of a particular side of a building, but not including the area of any slanted roof.
 - (b) Freestanding Sign. A sign which is self-supporting upon the ground or which is primarily supported by poles attached to the ground and not primarily supported by a building.
 - (c) Height of Sign. The vertical distance measured from the average ground level surrounding a sign to the highest point of the sign and its supporting structure. Religious symbols, when not accompanied by lettering, shall not be restricted by the sign heights of this Article when attached to a tower or spire of a place of worship.
 - (d) Illuminated Sign, Internally. A sign illuminated by light from within the sign rather than a source adjacent to or outside of the sign. A sign within a display case with lights only shining onto the front of the sign shall be considered to be "externally" illuminated.

- (e) Off-Premise Sign. A sign which directs attention to an object, product, service, place, activity, person, institution, organization or business that is primarily offered or located at a location other than the lot upon which the sign is located. This includes signs commonly called "billboards".
- (f) Projecting Sign. A sign that extends more than 2 feet beyond the face of a building, such as a sign that projects over a sidewalk.
- (g) Wall Sign. A sign primarily supported by or painted on a wall of a building and which does not project more than 2 feet from such wall.
- (h) Window Sign. A sign which is readily visible and can be at least partially read from an exterior lot line and which is attached to a window or transparent door or that can be read through a window or transparent door.

Single Family Detached Dwelling. (See ADwelling)

Single Family Semi-Detached Dwelling. (See ADwelling@)

Single Family Cluster Development. A housing area designed as a single entity for a number of single-family detached dwellings.

Site Plan. A map showing existing and proposed features on a lot, to determine compliance with this Ordinance. See Section 810.

Site Plan Review. Review of a site plan by the Planning Commission or the Zoning Hearing Board.

Slaughter House. A facility which involves the killing of animals for the production of food or other commercial product. A commercial stockyard used for the storage or transfer of animals on the way to slaughter shall also be considered a slaughter house. A butcher shop is not considered to be a slaughter house.

Slope. The change in altitude divided by the distance between any two measured altitudes and expressed in percent.

Solicitor. The appointed legal counsel for the Borough of Palmerton or the Zoning Hearing Board.

Solid Waste.

- (1) Any garbage, refuse, sewage sludge, discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, public, household, commercial or mining activities; but not including substances legally disposed into the air or water according to a Federal pollution discharge permit.
- (2) For the purposes of this Ordinance, the following wholly natural and biodegradable materials shall be considered clean fill waste unless the materials would otherwise be disposed in such a manner that a public health and safety hazard is created: portions of trees and shrubs, leaves, mulch, grass clippings, rocks, brick, cinder block, and concrete. Brick, cinder block, and concrete may be described as Ajunk@ if not properly disposed or stored.
- (3) For the purpose of this Ordinance, residual waste resulting from mineral extraction shall not be considered to be solid waste.

Solid Waste Disposal Facility.

- (1) Land and structures where solid waste is processed, incinerated, or disposed. This facility shall only have the following processing units, each of which must appropriate State permits: sanitary landfill, solid waste transfer station, solid waste sorting and/or recycling center, leaf composting, or solid waste-to-energy incinerator.
- (2) The following uses for the purposes of this Ordinance shall not be considered a solid waste disposal facility: junkyard, recycling collection center, leaf composting, clean fill or sludge application.

Solid Waste Landfill. A type of solid waste disposal area wherein solid waste is deposited on land and then is compacted. Then the waste is covered with compacted soil. The operation requires a State permit.

Specified Sexual Activities. One or more of the following:

- (1) Visible human genitals.
- (2) Acts of human masturbation, sexual intercourse, oral sex or sodomy.
- (3) Fondling or other erotic touching of human genitals. See definition of "Adult Use."

Special Exception. A use for which the Zoning Hearing Board may grant permission following a public hearing and fact finding consistent with this Ordinance, provided that the use complies with the conditions and standards required by this Ordinance.

Stable, Non-Household. Any facility containing more than two horses or ponies, and may be a commercial or private riding club. The housing of one or two horses or ponies shall be considered an accessory use according to the section Keeping of Pets.

State. The Commonwealth of Pennsylvania and its agencies.

Steep Slope Area. Land areas having slopes of fifteen percent or greater.

Story and Half Story. The space between floor level and the ceiling next above it is considered a full story when its height exceeds six feet. When the story height is less than six feet, the space will be considered a half story except as provided in the definition of Basement.

Street. A public or private thoroughfare which affords principal means of access to abutting properties. The term street does not include Alley or Driveway.

- (1) Arterial Street. Designed for high volumes and moderate speed traffic, with an emphasis on carrying through-traffic and providing access to abutting nonresidential uses.
- (2) Collector Street. Designed to carry a moderate volume of traffic to carry traffic from local streets to arterial streets.
- (3) Local Street. Designed primarily to provide access to the abutting properties and to carry this traffic to collector streets.

Street Center Line. The center of the existing street right-of-way or when the right-of-way is indeterminate, the center will be the center of the cartway.

Structure. Any man-made object which is stationary but not necessarily affixed to a location on or in land or on water. Examples of structures include: signs, stadiums, platforms, communications towers, walkways, steps, porches, raised decks, covered decks, swimming pools, storage sheds, carports, garages, and buildings used for the sale of agricultural products.

Subdivision. See Borough Subdivision and Land Development Ordinance.

Swimming Pool. Any body of water or receptacle for water having a surface area of more than eighty square feet and/or a depth at any point greater than two feet and is used for swimming or bathing. The pool may be in or above the ground.

Tavern. A place where the sale of alcoholic beverages and their service constitutes a substantial portion of the total trade. Food may be served also.

Temporary or Seasonal Occupancy. The use of any premises or structure for living and/or sleeping purposes for one hundred or less days in any calendar year.

Temporary Structure. A structure which is not to be used on a given site for more than one year.

Theater. A building or part of a building devoted to the showing of moving pictures or the performing arts as a principal use. This term does not include adult movie theater or outdoor drive-in theater.

Theater, Outdoor Drive-In. An open lot or portion thereof with appropriate facilities devoted primarily to the showing of moving pictures or to the performing arts to patrons seated in automobiles or on outdoor seats.

Tire Storage, Bulk. The storage of more than 100 tires on a lot except for the manufacture or wholesale or retail sales of new tires.

Tourist Home. A building containing one or more dwelling units or rooms for the rooming and/or boarding of from three to twenty persons for compensation. Occupants would normally stay for less than three months of the year.

Townhouse. (See ADwelling Types@)

Tract. (See Subdivision Ordinance)

Trade School. A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons of ages 4 to 19. Examples of a trade school include a dancing school, a martial arts school, and a ceramics school.

Treatment Center. A use (other than a prison or a permitted accessory use in a "hospital") providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays of less than 1 year and who need such facilities because of:

- (1) criminal rehabilitation, such as a criminal half-way house or a treatment/housing center for persons convicted of driving under the influence of alcohol,
- (2) addiction to alcohol and/or a controlled substance, or
- (3) a type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others. See Section 402.A.35.

Truck Terminal. A facility wherein a variety of materials are loaded primarily from tractor-trailer trucks to

other tractor-trailer trucks, and which involves materials owned by numerous companies. A facility which distributes packages weighing an average seventy pounds or less is not considered a truck terminal.

Two-Family Detached Dwelling. See ADwelling@

Usable Open Space. See AOpen Space@

Use. Any purpose for which land or a building is designed, arranged, or for which it is intended. AUse@ also refers to any activity, occupation, business or operation conducted in a building or structure or on a lot.

Variance. The granting of permission by the Zoning Hearing Board to use or alter land or structures in a manner not permitted by this Ordinance so that unnecessary hardship is not inflicted upon the applicant. Variances shall be granted only as permitted by the Municipalities Planning Code.

Veterinary Office. (See AAnimal Hospital@)

Wall. (See AFence@)

Warehouse. A building or group of buildings primarily used for the indoor storage, transfer, and distribution of products and materials. The term Awarehouse@ does not include retail uses or a truck terminal.

Water System. A facility designed to transport water from a source to users in compliance with State and Federal laws.

- (1) Public Water Service. Service by a central water system that is owned and operated by a Municipal Authority or a water company with a service area defined by the State Public Utility Commission and which transmits water from a common source to more than twenty dwellings or principal uses.
- (2) On-Lot or Non-Public Water Service. Service by a water system that does not meet the definition of a Apublic water service@. Usually this involves an individual well serving an individual lot, but may also include a common well.

Wetlands. An area of land and/or water meeting one or more definitions of a Awetland@ under Federal and/or Pennsylvania law and/or regulations.

Wholesale. Sales that primarily involve transactions with other businesses and not the general public.

Wildlife Sanctuary. A non-commercial preservation of land for providing wildlife habitats, forests, or scenic natural features that involve no buildings other than a nature education and/or study center and customary maintenance buildings.

Yard. An area that is not covered by roofs or buildings and that is on the same lot with a building or structure. A building shall not extend into the required minimum front, side, or rear yard for that type of building.

- (1) Front Yard. An open space extending the full width of the lot measured parallel to the existing street right-of-way.
- (2) Rear Yard. An open space extending the full width of the lot measured parallel to the rear lot line.
- (3) Side Yard. An open space extending from the front yard to the rear yard measured parallel to the nearest side lot line.
- (4) The front yard shall be on the side(s) which face a public street.

Year. 365 days.

Palmerton Borough Zoning Ordinance

Zoning Map. The official Zoning Map of the Borough of Palmerton.

Zoning Officer. The administrative officer charged with the duty of enforcing the provisions of the Zoning Ordinance or his/her officially designated agent.

Zoning Ordinance. The "Palmerton Borough Zoning Ordinance" as amended.

ARTICLE 3
ESTABLISHMENT OF ZONING DISTRICTS

301. DESIGNATION AND PURPOSES OF DISTRICTS.

301.A. For the purpose of this Ordinance, the Borough of Palmerton is hereby divided into the following types of zoning districts:

R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Residential/Light Commercial
CD	Commercial Downtown
CF	Commercial Fringe
PD	Planned Development
I/C	Industrial/Commercial
I	Industrial

301.B. For the purposes of this Ordinance, the zoning districts named in Section A shall be of the number, size, shape, and location as shown on the Official Zoning Map.

301.C. Any use of the abbreviation listed in Section A shall mean the district named beside the abbreviation.

301.D. The Floodplain area as defined by the Borough Floodplain Ordinance shall overlay the underlying districts.

301.E. Purposes. In addition to the overall objectives of this Ordinance, the following districts are intended to serve the following major objectives:

R-1 Low Density Residential District - To primarily provide for single family detached dwellings on individual lots, at a low density. To also offer opportunities for cemeteries, and associated funeral services on large tracts that allow substantial setbacks from homes.

R-2 Medium Density Residential District - To provide for a variety of housing types, including singles, twins and rowhouses, at a medium density. To also provide opportunities for expansion of health care centers, in a manner compatible with nearby neighborhoods.

R-3 Residential/Light Commercial District - To provide for a full variety of housing types. To also provide for carefully controlled light commercial uses within areas that have a mixed commercial-residential character.

CD Commercial Downtown District - To encourage uses compatible with a traditional downtown area, particularly emphasizing small to medium-sized businesses that encourage pedestrian traffic. To avoid heavy "auto-related" commercial uses, such as auto sales and car washes, that are likely to cause demolition and loss of the downtown's historic pedestrian-friendly character. To also provide for a mix of residential uses.

CF Commercial Fringe District - To provide for a full variety of commercial uses in locations

outside of the Downtown. To also provide for commercial uses that require larger areas of land than are available in the Downtown.

PD Planned Development District - To encourage carefully planned and compatible development of at least 5 acres of undeveloped land. To offer flexible standards and a wide variety of uses, provided that the perimeter of the development and the road system are closely coordinated with neighboring properties. To promote uses that will expand the tax base of the Borough. To avoid scattered isolated residential uses that will preclude unified development of the land. To make sure that all development has access to an improved public street prior to construction. To allow for commercial, light industrial and residential development.

I/C Industrial/Commercial District - To encourage a wide variety of industrial and commercial uses on large tracts of land. To require heavier uses to be setback substantial distances from residential uses.

I Industrial District - To provide for an area of industrial development separated from the residential areas of the community, where a variety of industrial uses and intense commercial uses are encouraged. To provide a sufficiently wide range of uses to fund the environmental cleanup of lands and the demolition of outdated buildings.

302. **APPLICATION OF DISTRICT REGULATIONS.**

- 302.A. Unless otherwise provided by law or specifically in this Ordinance, no land or building or structure shall be used or occupied except for a use specifically listed in this Ordinance as permitted in the zoning district within which the land, building, or structure is located.
- 302.B. The Borough's Floodplain Ordinance, where applicable, supersedes this Ordinance, except where the provisions of this Ordinance are more restrictive.
- 302.C. The regulations of this Ordinance shall apply uniformly to each class or kind to structure or land except as provided by this Ordinance.
- 302.D. No building, structure, or land shall hereafter be erected, used, constructed, reconstructed, moved, or structurally altered and no building, structure or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations herein specified for the use and district in which the building, structure, or land is located.
- 302.E. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

1. Subdivision of Existing Twin Dwellings on One Lot. If two side-by-side twin dwelling units lawfully exist prior to the adoption of this Ordinance, and the two units are located on a single lot, the two dwelling units may be subdivided to result in one dwelling on one lot. Such subdivision shall be permitted without creating a need for zoning variances for lot width, lot area, yards or lot coverage. However, a minimum lot width of 20 feet shall be maintained across each entire lot.
2. Subdivision of Two Principal Buildings on One Lot. If two side-by-side principal buildings lawfully exist prior to the adoption of this Ordinance, and such buildings are located on a single lot, the lot may be subdivided to result in one principal building on each lot. Such subdivision shall be permitted without creating a need for zoning variances for lot width, lot area, yards or lot coverage. However, a minimum lot width of 20 feet shall be maintained across each entire lot.
3. Subdivision of Two Principal Uses on One Lot. If two principal uses lawfully exist in one building with the uses separated by a vertical wall, prior to the adoption of this Ordinance, and such uses are located on a single lot, the lot may be subdivided to result in one principal use on each lot. Such subdivision shall be permitted without creating a need for zoning variances for lot width, lot area, yards or lot coverage. However, a minimum lot width of 20 feet shall be maintained across each entire lot.

302.F. Any territory which may hereafter be annexed to the Borough shall be classified as the R-1 District, unless or until such land is officially classified by Borough Council as an amendment to this Ordinance.

302.G. No more than one principal use shall be permitted on a lot unless specifically permitted by this Ordinance.

303. **ZONING MAP.**

303.A. A map entitled "Borough of Palmerton Zoning Map" accompanies this Ordinance and is declared a part of this Ordinance.

303.B. The Official Zoning Map shall be identified by the signature of the President of the Borough Council attested by the Borough Manager. The map shall bear the adoption date of this Ordinance and the words "Official Zoning Map".

303.C. Changes of any nature to the Official Zoning Map shall only be made in conformity with the amendment procedures set forth in this Ordinance. All changes should be noted by date and brief description of the nature of the change.

303.D. Regardless of the existence of copies of the Official Map which may be published, the Official Zoning Map located in the Borough Office shall be the final authority on boundaries and districts.

303.E. Replacement of Official Zoning Map.

1. If the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of changes or additions, the Borough Council may by Resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.
2. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map. However, no correction shall include an amendment of the

Map unless the amendment has been duly advertised and adopted.

3. Unless the prior official Zoning Map has been lost or totally destroyed, this prior Map or any part should be preserved together with all available records pertaining to its adoption and amendment.
4. The Borough's Floodplain documents and maps as amended are hereby included in this Ordinance by reference.

304. **DISTRICT BOUNDARIES.** Where uncertainty exists as to boundaries of any district as shown on the Official Zoning Map, the following rules shall apply:

304.A. District boundary lines are intended to follow or be parallel to the center line of street right-of-ways, streams and railroads. Boundaries will also follow lot lines which existed at the time of the adoption of this Ordinance unless the district boundary lines are fixed by dimensions as shown on the Zoning Map.

304.B. In land not subdivided or wherever a district boundary divides a lot, the location of such boundary unless indicated by dimensions shall be determined by the use of the scale appearing on the maps.

304.C. The Zoning Hearing Board shall determine the location of any district boundary if any uncertainty exists.

304.D. Where a district boundary divides a lot held in single and separate ownership at the effective date of this Ordinance, the regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district for a distance of not more than 20 feet beyond the district boundary line.

305. **SETBACKS ACROSS MUNICIPAL BOUNDARIES.**

305.A. Intent. The intent of this Section is to promote compatible land uses across municipal boundaries.

305.B. This Ordinance requires additional setbacks and the provision of buffer yards when certain uses would abut an existing dwelling or a residential zoning district.

305.C. These same additional setback and buffer yard provisions shall be provided by uses proposed within Palmerton Borough regardless of whether such abutting existing dwelling or principally residential zoning district is located in an abutting municipality and/or in Palmerton.

306. **TABLE OF PERMITTED USES BY DISTRICT.**

306.A. For the purposes of this Section 306, the following abbreviations shall have the following meanings:

P	=	Permitted by right (zoning decision by Zoning Officer)
SE	=	Special exception use (zoning decision by Zoning Hearing Board)
C	=	Conditional use (zoning decision by Borough Council)
N	=	Not Permitted in the district
(S. 402)	=	See Additional Requirements in Section 402
(S. 403)	=	See Additional Requirements in Section 403

306.B. Unless otherwise provided by law or specifically stated in this Ordinance (including Section 103.B.), any

land or structure shall only be used or occupied for a use specifically listed in this Ordinance as permitted in the zoning district where the land or structure is located. Such uses shall only be permitted if the use complies with all other requirements of this Ordinance.

1. **See Section 103.B. which generally provides a process for approval of a use that is not listed - based upon similarity to permitted uses and other criteria. Except as provided in such Section 103.B., any other principal use that is not specifically listed as P or SE in the applicable district in this table is prohibited in that district.**
2. For temporary uses, see Section 104.B.
3. The listing of business land uses in this table is intended to generally follow the 1987 Standard Industrial Classification (SIC) system developed by the U.S. Department of Commerce. This listing is provided as an Appendix to aid in determining whether a proposed use would be within a certain category, such as AGlass and Glass Products Manufacture@.

Section 306.B. - Table of Permitted Uses by District

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD	I
4. RESIDENTIAL USES								
Single Family Detached Dwelling (any manufactured home shall also meet S. 402)	P	P	P	N	P	N	P*	N
Twin Dwelling, side-by-side, with each dwelling unit on its own lot	P**	P	P	N	P	N	P*	N
Townhouse/Rowhouse (S. 402)	P**	P	P	N	P	N	P*	N
Apartments (S. 402) or Two-Family Detached Dwellings (not including conversion of a one family dwelling into additional numbers of dwelling units)	N	SE	SE	P	P	N	P*	N
Manufactured/Mobile Home Park (S. 402)	N	N	N	N	N	N	C*	N
Boarding or Rooming House (S. 402)	N	N	N	SE	P	P	N	N
Group Home within a lawful existing dwelling unit, not including a Treatment Center (S. 402)	SE	SE	SE	N	N	N	P*	N
Conversion of an Existing Building into 1 or More Dwelling Units (S. 402)	N	N	SE	SE	SE	N	N	N
One Dwelling Unit within a Permitted Principal Non-Residential Building	N	N	P	P	P	N	N	N
5. COMMERCIAL USES								
Adult Bookstore, Adult Movie Theater, Adult Live Entertainment Use (S. 402)	N	N	N	N	N	N	N	C
After Hours Club - prohibited by State Act 219 of 1990	N	N	N	N	N	N	N	N
Auto Repair Garage or Service Station (S. 402)	N	N	N	N	P	SE	C*	N
Auto, Boat or Mobile/Manufactured Home Sales (S. 402)	N	N	N	N	P	P	C*	N
Bakery	N	N	P	P	P	P	P*	N
Bed and Breakfast Use (S. 402)	N	SE	P	P	P	P	P	N
Beverage Distributor, which may include retail and/or wholesale sales	N	N	N	P	P	P	P*	N
Campground (S. 402)	N	N	N	N	P	P	P*	N
Car Wash (S. 402)	N	N	N	N	P	P	P*	N
Commercial Indoor Recreation (S. 402) (includes bowling alley, roller or ice skating, batting practice and closely similar uses)	N	N	N	P	P	P	P*	N
Commercial Outdoor Recreation (including miniature golf course, golf driving range, amusement park, boating, fishing, and closely similar uses)	N	N	N	P	P	P	P*	N
Communications Tower/Antenna, Commercial (S. 402) See also provisions within residential districts in Section 402.	N	N	N	P	P	P	P	P

P = Permitted by right (zoning decision by Zoning Officer)
 SE = Special exception use (decision by Zoning Hearing Board)
 C = Conditional Use (zoning decision by Borough Council) N = Not Permitted
(S. 402) = See Additional Requirements in Section 402 (S. 403) = See Additional Requirements in Section 403
 * Provided the use is within a "Planned Development" approved as a conditional use under Section 308.
 ** Limited to a tract with an existing lot area of 1 acre or greater.

Palmerton Borough Zoning Ordinance

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I
5. COMMERCIAL USES (Cont.)								
Construction Company, Tradesperson's Headquarters/ Storage or Landscape Contractor (see also as Home Occupation) (SIC 15 to 17)	N	N	P**	P	P	P	P*	N
Convenience Store	N	N	SE***	P	P	P	P*	N
Crafts or Artisan's Studio (see also as Home Occupation)	N	N	N	P	P	P	P*	N
Custom Printing, Photocopying, Faxing, Mailing or Courier Service	N	N	P	P	P	P*	N	
Exercise Club	N	N	N	P	P	P	P	SE
Financial Institution (S. 402), with or without drive-thru	N	N	N	P	P	P	P*	N
Flea Market/Commercial Auction House	N	N	N	P	P	P	P*	N
Funeral Home (S. 402), not including a crematorium	N	N	P	P	P	P	P*	N
Greenhouse or Garden Center	N	N	N	P	P	P	P*	N
Kennel (S. 402)	N	N	N	SE	P	N	N	
Laundromat	N	N	P	P	P	P*	N	
Laundry, Commercial or Industrial	N	N	N	N	P	P	P*	P
Lumber Yard	N	N	N	P	P	P	P*	N
Massage Parlor (S. 402)	N	N	N	N	N	N	N	C
Motel or Hotel (S. 402)	N	N	N	P	P	P	P*	N
Office (see also "Hospital")	N	N	P	P	P	P	P*	P
Personal Services (includes tailoring, custom dress- making, haircutting/styling, drycleaning, shoe repair, tanning salon, certified massage therapy and closely similar uses) (See also as accessory use in this table)	N	N	P	P	P	P	P*	N
Repair Service, Household Appliance	N	N	P	P	P	P	P*	P
Restaurant with drive-thru service and/or that primarily involves delivery of ready-to-eat food (S. 402)	N	N	N	SE	P	P	P*	N
Restaurant, other than above	N	N	N	P	P	P	P*	N
Retail Store (not including commercial uses not individually in this table)	N	N	P***	P	P	P	P*	N
Target Range (S. 402)	N	N	N	N	N	SE	N	P
Tattoo Parlor or Body Piercing Establishment	N	N	N	N	SE	N	N	N
Tavern which may include a State-licensed micro- brewery	N	N	N	P	P	P	P*	N
Theater, Indoor, other than an Adult Use	N	N	N	P	P	P	P*	SE
Trade/ Hobby School	N	N	N	P	P	P	P*	SE
Veterinarian Office (S. 402)	N	N	N	P	P	P	P*	N
Wholesale Sales - see under Industrial Uses								

P = Permitted by right (zoning decision by Zoning Officer)

SE = Special exception use (decision by Zoning Hearing Board)

C = Conditional Use (zoning decision by Borough Council) N = Not Permitted

(S. 402) = See Additional Requirements in Section 402 (S. 403) = See Additional Requirements in Section 403

* Provided the use is within a "Planned Development" approved as a conditional use under Section 308.

** With no outdoor storage of materials visible from a street or dwelling.

*** With no sales of gasoline, propane or similar fuel, and with no hours open to the public between 10 p.m. and 7 a.m.

Palmerton Borough Zoning Ordinance

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I
<u>6. INDUSTRIAL USES</u>								
Asphalt Plant	N	N	N	N	N	SE****	N	SE****
Building Supplies and Building Materials, Wholesale Sales of (SIC 5031)	N	N	N	P	P	P	P*	P
Distribution as a principal use (other than (other Trucking Company Terminal)	N	N	N	N	N	P	N	P
Finishing of Previously Prepared Resin, Vinyl, Polymer or Rubber Products	N	N	N	N	N	P	P*	P
Industrial Equipment Sales, Rental and Service, other than vehicles primarily intended to be operated on public streets	N	N	N	N	P	P	P*	P
Junk - outdoor storage, display or processing of, other than within an approved junkyard or solid waste disposal area	N	N	N	N	N	N	N	N
Junk Yard (S. 402)	N	N	N	N	N	N	N	SE
Liquid Fuel Storage for off-site distribution and use, other than: auto service station, propane distributor, pre-packaged sales or fuel tanks for company vehicles	N	N	N	N	N	N	N	SE
Manufacture and/or bulk processing of the following, provided manufacturing occurs only indoors:								
- Apparel, Textiles, Shoes and Apparel Accessories (SIC 22 and 23)	N	N	N	P	P	P	P*	P
- Cement, Gypsum, Concrete or Plaster Products (SIC 327)	N	N	N	N	N	SE	SE*	P
- Ceramics Products (other than Crafts Studio)	N	N	N	N	N	P	P*	P
- Chemicals, Bulk Manufacture or Bulk Storage of Highly Hazardous or Toxic Chemicals (certain uses within SIC 28)	N	N	N	N	N	N	N	SE
- Chemical Products that are not highly hazardous or toxic (other than Pharmaceuticals) (certain uses within SIC 28)	N	N	N	N	N	SE	N	SE
- Electrical and Electronic Machines, Supplies and Equipment (SIC 36)	N	N	N	P	P	P	P*	P
- Fabricated Metal Products (except Ammunition or Explosives) (SIC 34, other than 348)	N	N	N	N	N	P	P*	P

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- P = Permitted by right (zoning decision by Zoning Officer)
 - SE = Special exception use (decision by Zoning Hearing Board)
 - C = Conditional Use (zoning decision by Borough Council)
 - (S. 402) = See Additional Requirements in Section 402
 - (S. 403) = See Additional Requirements in Section 403
 - N = Not Permitted

"SIC" numbers are for information purposes to assist in determining whether a specific use is permitted. See the list of SIC codes in the Appendix.

- * Provided the use is within a "Planned Development" approved as a conditional use under Section 308.
- **** Provided all such manufacturing facilities are setback a minimum of 200 feet from any existing dwelling.

Palmerton Borough Zoning Ordinance

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I
6. INDUSTRIAL USES (cont.)								
Manufacture and/or bulk processing of the following, provided that manufacturing occurs only indoors: (cont.)								
- Food and Beverage Products, at an industrial scale as opposed to a clearly retail scale (not including uses listed individually in this table) (SIC 20)	N	N	P	P	P	P*	P	
- Furniture and Wood Products (not including raw paper pulp) (SIC 24 and 25)	N	N	N	SE	P	P	P*	P
- Glass and Glass Products (other than crafts studio) (SIC 321 to 323)	N	N	N	N	P	P	P*	P
- Incineration, Reduction, Distillation, Storage or Dumping of Slaughterhouse Refuse, Rancid Fats, Garbage, Bones, Dead Animals or Offal (other than within an approved solid waste facility)	N	N	N	N	N	N	N	N
- Leather, Clay and Pottery Products (other than Custom Crafts) (SIC 31, 325, 326)	N	N	N	N	P	P	P*	P
- Machinery (SIC 35)	N	N	N	N	N	P	P*	P
- Manufactured or Modular Housing	N	N	N	N	N	P	P*	P
- Metal Products, Primary (SIC 33)	N	N	N	N	N	P	SE*	P
- Microelectronic Components	N	N	N	P	P	P	P*	P
- Miscellaneous Manufacturing as defined by SIC 39, including toys, jewelry, musical instruments, signs, writing implements, sporting goods	N	N	N	N	P	P*	P	
- Paper and Cardboard Products (not including manufacture of raw paper pulp) (SIC 26)	N	N	N	N	P	P	P*	P
- Paper - Raw Pulp (SIC 261)	N	N	N	N	N	N	N	N
- Paving or Roofing Materials, other than bulk manufacture of asphalt	N	N	N	N	N	P	SE*	P
- Pharmaceuticals (SIC 283)	N	N	N	N	P	P	P*	P
- Plastics, Polymers, Resins or Vinyl	N	N	N	N	N	P	P*	P
- Precision Instruments, Photographic, Medical, and Optical Goods and Watches (SIC 38)	N	N	N	P	P	P	P*	P
- Products from Previously Manufactured Materials, such as glass, leather, plastics, cellophane, textiles, rubber or synthetic rubber	N	N	N	P	P	P	P*	P
- Rubber, Natural or Synthetic (SIC 2822 and 30)	N	N	N	N	P	SE*	P	
- Soaps, Detergents, Paints, Varnishes or Enamels (SIC 284 & 285)	N	N	N	N	P	SE*	P	
- Transportation Equipment (SIC 37)	N	N	N	N	N	P	P*	P

- P = Permitted by right (zoning decision by Zoning Officer)
- SE = Special exception use (decision by Zoning Hearing Board)
- C = Conditional Use (zoning decision by Borough Council) N = Not Permitted
- (S. 402) = See Additional Requirements in Section 402**
- (S. 403) = See Additional Requirements in Section 403**

* Provided the use is within a "Planned Development" approved as a conditional use under Section 308.

Palmerton Borough Zoning Ordinance

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I
6. INDUSTRIAL USES (cont.)								
Mineral Extraction (S. 402) and related processing, stockpiling and storage (SIC 10 through 14)	N	N	N	N	N	C	N	C
Packaging	N	N	N	P	P	P	P*	P
Package Delivery Services Distribution Center	N	N	N	P	P	P	P*	P
Photo Processing, Bulk	N	N	P	P	P	P*	P	
Printing or Bookbinding (SIC 27)	N	N	N	P	P	P	P*	P
Recycling Collection Center (S. 402)	N	N	N	SE	P	P	P*	P
Recycling Center, Bulk (other than a solid waste disposal or transfer facility)	N	N	N	N	N	P	SE*	P
Research and Development, Engineering or Testing Facility or Laboratory	N	N	N	N	SE	P	P*	P
Sawmill/ Planing Mill	N	N	N	N	N	P	P*	P
Self-Storage Development (S. 402)	N	N	N	N	P	P	N	P
Slaughterhouse or Stockyard (S. 402)	N	N	N	N	N	SE	N	SE
Solid Waste Transfer Facility, Solid Waste-to-Energy Plant or Solid Waste Landfill (S. 402)	N	N	N	N	N	SE	N	SE
Trucking Company Terminal (S. 402)	N	N	N	N	N	P	N	P
Warehousing as a Principal Use (S.402) (warehousing is also permitted as an accessory use to a permitted principal business on the same lot) (SIC 42)	N	N	SE**	P	P	P	P*	P
Welding	N	N	N	N	N	P	P*	P
Wholesale Sales (SIC 50 and 51)	N	N	N	P	P	P	P*	P
7. INSTITUTIONAL USES								
Cemetery (see Crematorium below)	P	P	P	N	N	N	P	N
College or University - Educational and Support Buildings	N	N	P	P	P	P*	N	
Community Center or Library	N	P	P	P	P	P	P	N
Crematorium, which shall be limited to within a cemetery, and shall have a minimum lot area of 5 acres and is setback a minimum of 200 feet from all lotlines	SE	N	N	N	N	N	N	N
Cultural Center or Non-Profit Museum	N	SE	P	P	P	P	P	N
Day Care Center, Adult (S. 402)	N	N	SE	P	P	P	P	N
Day Care Center, Child (S. 402) (See also as an accessory use)	N	N	SE	P	P	P	P	N

- P = Permitted by right (zoning decision by Zoning Officer)
- SE = Special exception use (decision by Zoning Hearing Board)
- C = Conditional Use (zoning decision by Borough Council) N = Not Permitted
- (S. 402) = See Additional Requirements in Section 402**
- (S. 403) = See Additional Requirements in Section 403**

* Provided the use is within a "Planned Development" approved as a conditional use under Section 308.
 ** Limited to warehousing that is accessory to lawful uses within the R-3 district or an immediately adjacent zoning district.

Palmerton Borough Zoning Ordinance

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I
<u>7. INSTITUTIONAL USES (cont.)</u>								
Hospital (S. 402), which may include accessory medical offices	N	P	N	P	P	P	P*	N
Membership Club, other than an "After Hours Club" or "Tavern"	N	SE	SE	P	P	P	P*	N
Nursing Home or Personal Care Home (S. 402)	N	SE	P	P	P	P	N	
Place of Worship (S. 402)	SE	SE	SE	P	P	P	P	N
School, Public or Private, Primary or Secondary (S.402)	P	P	P	P	P	P	P	N
Treatment Center (S. 402)	N	N	N	N	N	SE	P	N
<u>8. PUBLIC/SEMI-PUBLIC</u>								
Borough-Owned Uses (See Section 101.D.)	P	P	P	P	P	P	P	P
Government Facility, other than: offices, Borough-Owned Uses, public schools and other uses listed separately anywhere in this Section 306	N	N	N	P	P	P	P	P
Emergency Services Station, which may include a supporting social club building or facility	N	SE	SE	P	P	P	P	N
Publicly-Owned Recreation	P	P	P	P	P	P	P	N
Public Utility Facility (See also Section 101.D)	N	N	N	SE	P	P	P	N
Swimming Pool, Non-household (S. 402)	SE	N	N	P	P	P	P	N
U.S. Postal Service Facility, which may include a leased facility	N	N	P	P	P	P	P	SE
<u>9. ACCESSORY USES</u>								
See list of additional permitted uses in Section 306.C., such as "Residential Accessory Structure or Use"								
See Additional Requirements in Section 403 for Specific Accessory Uses.								
Day Care Center accessory to and on the same lot as an existing lawful Place of Worship, with a minimum lot area of 12,000 square feet	P	P	P	P	P	P	P	N
Day Care, Child (see S. 403):								
- Group Day Care Home	N	N	P	P	P	N	P	N
- Family Day Care Home		P	P	P	P	N	P	N
Home Occupation, Moderate-Scale (S. 404)	N	SE	SE	P	P	P	P	N
Home Occupation, Small-Scale (S. 404)	P	P	P	P	P	P	P	N

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- SE = Special exception use (decision by Zoning Hearing Board)
- C = Conditional Use (zoning decision by Borough Council)
- N = Not Permitted
- (S. 402) = See Additional Requirements in Section 402
- (S. 403) = See Additional Requirements in Section 403
- (S. 404) = See Additional Requirements in Section 404
- * Provided the use is within a "Planned Development" approved as a conditional use under Section 308.

TYPE OF USE (See definitions in Article 2)	ZONING DISTRICTS							
	R-1	R-2	R-3	CD	CF	I/C	PD*	I

Palmerton Borough Zoning Ordinance

10. MISCELLANEOUS USES

Parking Lot as the Principal Use of a Lot	N	SE	SE	P	P	P	P	P
Raising of Livestock (S. 402)	N	N	N	N	N	SE	P	N
Raising of Mushrooms (S. 402)	N	N	N	N	N	SE	P	N
Crop Farming, other than Mushrooms	P	P	P	P	P	P	P	N
All Uses that will be unable to comply with the performance standards of this ordinance, especially including the "Environmental Protection" requirements of Article V	N	N	N	N	N	N	N	N

- P = Permitted by right (zoning decision by Zoning Officer)
- SE = Special exception use (decision by Zoning Hearing Board)
- C = Conditional Use (zoning decision by Borough Council)
- N = Not Permitted

(S. 402) = See Additional Requirements in Section 402

(S. 403) = See Additional Requirements in Section 403

* Provided the use is within a "Planned Development" approved as a conditional use under Section 308.

306. C. Permitted Accessory Uses in All Districts. An accessory use of a dwelling is only permitted if such use is customarily incidental to the residential use and is specifically permitted by this Ordinance. The following are permitted by right as accessory uses to a lawful principal use in all districts, within the requirements of Section 403 and all other requirements of this Ordinance:

1. Adult or Child Day Care as an accessory use, including care of a maximum of 3 persons
2. Standard Antennae, including antennae used by contractors to communicate with their own vehicles*
3. Fence* or Wall*
4. Garage, Household
5. Garage Sale*
6. Keeping of Pets*
7. Parking or Loading, Off-Street, only to serve a use that is permitted in that district
8. Recreational Facilities, non-commercial, limited to use by: residents of a development or students at a primary or secondary school or center for the care and treatment of youth, and their occasional invited guests
9. Residential accessory structure (see definition in Article 2) *
10. Signs, as permitted by Article 7
11. Swimming Pool, Household *
12. Such other accessory use or structure that the applicant proves to the satisfaction of the Zoning Officer is clearly customary and incidental to a permitted by right, special exception or conditional principal use.

* See standard for each in Section 403.

306.D. Permitted Accessory Uses to Business and Institutional Uses. The following are permitted by right accessory uses only to a permitted by right, special exception or conditional commercial, industrial or institutional use, provided that all requirements of this Ordinance are met:

1. Amusement machines, coin or token operated as accessory uses
2. Outdoor or indoor food, beverage and toy machines, coin operated*
3. Outdoor or indoor newspaper sales machines, coin operated*
4. Outdoor or indoor telephones, coin operated*
* Such uses completely inside an enclosed principal building are permitted by right accessory uses to any use.
5. Storage of fuels for on-site use or to fuel company vehicles
6. The following accessory uses, provided that the use is clearly limited to employees, patients, residents and families of employees of the use and their occasional invited guests:
 - a. Internal cafeteria without drive-thru service,
 - b. Day care center or
 - c. Noncommercial recreational facilities.