

**COALDALE BOROUGH
COALDALE BOROUGH COUNCIL
ORDINANCE NO. 8 OF 2004**

AN ORDINANCE AMENDING THE COALDALE BOROUGH ZONING
ORDINANCE OF JANUARY 24, 1994.

SECTION 1.

Article II, DEFINITION, Section 105-6(B), is hereby amended to include the following terms and definitions:

ADULT USES:

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

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

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

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

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or

perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use".

ANTENNA, COMMERCIAL:

A device used for to collect and/or transmit telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise, which is regulated by the FCC.

ANTENNA SUPPORT STRUCTURE, COMMERCIAL:

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

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two (2) or more adjacent land uses, properties and/or Zoning Districts from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed to represent a fence or stone wall with cork fitting, eight (8) feet in height with two (2) staggered rows of evergreen trees planted in front of the fence or wall with the spacing distance between trees not greater than six (6) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. The type of evergreen trees selected for planting shall be subject to the approval of the Borough Council or the Zoning Hearing Board in cases where the approval sought is under the jurisdiction of either of the aforementioned entities.

CONDITIONAL USE:

A use permitted in a particular zoning district, only upon verification that such use in a specified location will comply with the conditions and standards for the location or operation of such a use as specified in the Zoning Ordinance. Such authorization can only be granted by the Borough Council, preceded by a review and recommendation of the Borough Planning Commission and a public hearing.

CRITICAL AREAS

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

ENVIRONMENTAL IMPACT STATEMENT:

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

EXCAVATION AND EXTRACTION OF MINERALS:

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

HAZARDOUS SUBSTANCES:

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

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

This definition shall be deemed to include radioactive material and medical waste.

HEIGHT OF ANTENNA SUPPORT STRUCTURE, COMMERCIAL:

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

IMPACT ANALYSIS:

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

MEDIATION:

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

MINERALS:

Any aggregate or mass of mineral matter, whether or not coherent. The term shall include but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat, and crude oil and natural gas.

PUBLIC HEARING:

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

PUBLIC NOTICE:

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

SPECIAL EXCEPTION USE:

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

WIRELESS COMMERCIAL COMMUNICATION SITE:

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

SECTION 2.

Article IV, Basic District Regulations, Section 105-13, Schedule I, Regulations Governing the Use of Land is hereby amended to include "Conditional Uses" which shall read as follows:

Conditional Uses	R-1	R-2	C-1	I-1	S-1	S-2
• Adult Uses(as defined in Article 2)					X	
• Any form of land reclamation activities, including but not limited to, previously strip mined land						X
• Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if it involves either of the following:						
a. the initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area, including but not limited to, the excavation of land, grading and/or the backfilling of land not related to the extraction of minerals.			X	X	X	
b. the initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) square feet of gross floor area			X	X		X
• Any use that utilizes and/or stores any Hazardous Substances.						X
• Wireless Commercial Communication Sites						X

SECTION 3.

Article IV, Basic District Regulations, Section 105-16, whose title currently reads as follows:

"Classes 7 through 11: special use."

IS HEREBY AMENDED TO READ:

"Use Classes 7 through 11: Special Exception Uses and Use Class 12: Conditional Uses."

SECTION 4.

Article IV, Basic District Regulations, Section 105-16, which as amended under Section 3 of this Ordinance reads "Use Classes 7 through 11: Special Exception Uses and Use Class 12: Conditional Uses," is hereby amended to Item F which shall read as follows:

F. Use Class 12: Conditional Uses:

- Adult Uses
- Any form of land reclamation activities, including but not limited to, previously strip mined land.
- Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - a. the initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area, including but not limited to, the excavation of land, grading and/or the backfilling of land not related to the extraction of minerals.
 - b. the initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen (15,000) thousand feet of gross floor area.
- Any use that utilizes and/or stores any Hazardous Substances.
- Wireless Commercial Communication Sites.

SECTION 5.

Article IV, Basic District Regulations, Section 105-17, whose title currently reads as follows:

"Regulations governing special uses."

IS HEREBY AMENDED TO READ:

"Regulations governing special exception uses."

SECTION 6.

Article IV, Basic District Regulations, Section 105-17, which as amended under Section 5 of this Ordinance reads "Regulations governing special exception uses," is hereby further amended to change all references to the term special uses to special exception uses.

SECTION 7.

Article IV, Basic District Regulations, Section 105-17, Item B, which currently reads as follows:

- B. Such special uses shall comply with the provisions of this section and may be permitted by the Board subject to any additional conditions and safeguards which

may be warranted by the character of the area in which such uses are proposed or by other special factors.

IS HEREBY AMENDED TO READ:

- B. In additions to the provisions contained within this section, any use classified as a special exception use, shall be governed by the requirements within Article VIII (Special Exception Uses) of this Ordinance and by Article X, Section 1010.2 of this Ordinance.

SECTION 8.

Article VI titled "Enforcement and Administration" is hereby deleted in its entirety.

SECTION 9.

A new Article VI titled "Enforcement and Administration" attached hereto and made a part hereof as Exhibit A, is hereby adopted.

SECTION 10.

Article VII, titled "Amendments," attached hereto and made a part hereof as Exhibit B, is hereby adopted.

SECTION 11.

Article VIII, titled "Special Exception Uses," attached hereto and made a part hereof as Exhibit C, is hereby adopted.

SECTION 11.

Article IX, titled "Conditional Uses," attached hereto and made a part hereof as Exhibit D, is hereby adopted.

SECTION 12.

Article X, titled "Zoning Hearing Board," attached hereto and made a part hereof as Exhibit E, is hereby adopted.

SECTION 13.

Article XI, titled "Appeals," attached hereto and made a part hereof as Exhibit F, is hereby adopted.

SECTION 14.

SEVERABILITY: If any article, section, subsection, paragraph, sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 15.

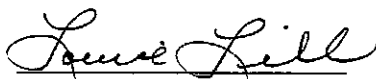
REPEALING PROVISION: All other ordinances, or parts thereof, which are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 16.

EFFECTIVE DATE: This Ordinance shall become effective from the date of its approval and adoption as provided by law.

ENACTED AND ORDAINED BY THE COALDALE BOROUGH COUNCIL, SCHUYLKILL COUNTY, PENNSYLVANIA, THIS 8th DAY OF September, 2004


PRESIDENT OF COUNCIL


ATTEST: BOROUGH SECRETARY