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**Borough of Pottstown**

**APPENDIX A4  
CONDITIONAL USES; ACCESSORY USES**

**SECTION A400. Procedure for Conditional Use Application. [Amended by Ord. 2042, 8/13/2007; and by Ord. 2147, 2/8/2016]**

Any application for conditional use as specified in the various parts of this Article shall be considered by Borough Council according to Section 400 of the main ordinance.

1. The Borough shall conduct hearings and make decisions in accordance with the following requirements:
  - A. By advertising a legal notice published once each week for two successive weeks in a newspaper of general circulation. Such notice shall state the location of the building or lot, the general nature of the question involved and the time and place of the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
  - B. By mailing at least one week in advance of the hearing, notice to the owner and to the occupants of every property within 300 feet of the lot in question; provided, the failure to give any such notice to these, other than the owner, shall not be involved in any action taken by Borough Council.
  - C. By posting notice conspicuously on the affected tract of land at least one week in advance of the hearing.
  - D. Borough Council shall schedule a public hearing within 60 days of the application date to consider the proposal and shall render a written decision within 45 days from the conclusion of the last hearing. Notification procedures and time requirements shall be as described in the applicable sections of the Pennsylvania Municipalities Planning Code.
  - E. Borough Council shall consider the comments and recommendations of the Borough and County Planning Commission, other advisors and those present at the public hearing prior to deciding to approve or deny the proposed use and any conditions to be imposed upon approval.
  - F. The time limits in this Section may be waived by the applicant as necessary.
2. All of the standards for conditional uses, where relevant, shall apply to all conditional uses within the Borough and are definitional in character so that the failure to comply with any standard shall be deemed a failure to bring the applicant within that definitional aspect for which a conditional use may be

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granted or, in the discretion of Council, a failure to comply with the standards may be deemed a basis for Council to impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives of the Zoning Ordinance.

3. In addition to any use specific conditional use requirements, Council shall consider the following general issues and site requirements prior to rendering its decision on a conditional use application. The applicant shall establish by a preponderance of evidence that:
  - A. The use is consistent with the Comprehensive Plan.
  - B. The property is suitable for the use desired and the proposed request is consistent with the goals, objectives, and policies established within the Zoning Ordinance.
  - C. The use at the property in question shall not be contrary to the public health, safety, morals, and/or public welfare.
  - D. The capacity of the road system and pedestrian walkway providing access to the property in question has capacity to accommodate the use, and the use shall not detrimentally lower the level of service of the roads and walkways or any portions thereof or any street intersections.
  - E. The interior traffic circulation of the proposed use at the property in question, including, but not limited to, acceleration and deceleration lanes, where required, at the proposed entrances to the location, provides safe and convenient circulation for users, visitors, employees, and emergency vehicles that may require entrance thereon.
  - F. The use provides safe and convenient pedestrian access and internal circulation within the grounds and the facility of the property in question, and particularly for points of access from any building to any parking areas.
  - G. Screening and buffering is provided for between the lands in question and the surrounding residential uses and residentially zoned districts where, in the opinion of Council, the use may require screening and buffering necessary to screen the facility from view and preclude any glare from lighting or noise from being ascertainable beyond the boundaries of the property.
  - H. The use does not present noise, dust, smoke, heat, radiation, hazardous substances, vibration, glare, fumes, odor, or electrical or electronic interference, including Wi-Fi, radio, or television reception, which unreasonably impacts or interferes with the use of adjoining properties and those within the district.

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- I. Where, in the opinion of Council, the use may require supervision and protection, additional security measures will be accounted for by the owner or



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site manager so the use does not create the continuous burden on emergency management services and providers.

- J. Sufficient pickup and disposal of refuse and garbage is provided for, and any exterior waste disposal containers and/or dumpsters are enclosed.
- K. There will be no impermissible increase in surface water runoff and erosion within or at the boundaries of the property as a result of the site improvements.
- L. Any proposed signs and exterior lighting are compatible and in harmony with other properties in the district, with specific reference to glare and traffic safety.
- M. The use is in conformance with all other applicable requirements of this Zoning Ordinance, all municipal ordinances, and all state and federal statutes.

### **SECTION A401. Conditional Uses.**

#### 1. Adult Entertainment Uses

- A. Intent. The Borough of Pottstown has determined that adult entertainment uses frequently have secondary effects which can have a negative impact upon the health, safety and welfare of Borough residents. These situations include difficulties with law enforcement, municipal maintenance, trash, negative effects on business and residential property values, increased crime and prostitution. The Borough of Pottstown considers that limiting the location of adult entertainment uses is a legitimate and reasonable means of addressing the secondary effects of such uses without affecting or suppressing any activities protected by the First Amendment of the United States Constitution.
- B. Development Regulations. All adult entertainment uses shall meet the following conditions:
  - 1. Adult entertainment uses shall not be located in any zoning district, except for the HM Heavy Manufacturing District, where they are permitted as a conditional use.
  - 2. No adult entertainment use shall be located within 500 feet of a church, school, child day care facility, hospital, park, playground, residential use or residential zoning district.
  - 3. No adult entertainment use shall be located within 1,000 feet of another adult entertainment use.

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4. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure containing an adult entertainment use to the nearest property line of the premises of a church, school, child day care facility, hospital or residential use, or to the nearest boundary of a park, playground, or residential zoning district.
5. Adult uses shall be housed in completely enclosed buildings, designed and used in a manner which prevents the viewing of adult use activities or materials from outside the building.
6. No exterior display of products, activities or shows shall be permitted, except for a sign. In addition to the sign requirements contained in Part 7 of this Chapter, a sign for an adult entertainment use shall meet the following requirements:
  - A. The sign shall only identify the name of the establishment and/or its hours of operation

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B. The area of the sign shall not exceed 40 square feet.

7. If any portion of a use meets the definition of adult entertainment use, except for limited sale of adult materials as listed under the adult bookstore definition, then that portion must comply with the requirements of this section.

2. Building Size

No additional regulations

3. Car Wash

No additional regulations

4. (Reserved)<sup>1</sup>

5. Cemeteries

No additional regulations

6. Child-Care Facility

A. General Provisions. The following general provisions apply to each of the three defined types of child day-care facilities. In addition, each type of child day care facility shall comply with the specific individual regulations for each type of facility:

1. Categories Included. The provisions of this section pertain to day care service for children by caregivers in:

a. Family day-care homes

b. Group day-care homes

c. Day-care Centers

subject to Article II, Sections 8A, 8B and 8C, of DPW Social Services Manual Regulations. Day-care service for children shall include out-of-home child-day care service for part of a twenty-four-hour day for children under 16 years of age by caregivers, excluding care provided by relatives. Day-care service for children shall not include babysitting or day care furnished in places of worship during religious services.

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<sup>1</sup> Editor's Note: Former Subsection 4, Cellular Communications, was repealed 6/12/2017 by Ord. 2165.

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2. **Registration and Licensing.** Family day-care homes, as defined in this article, must hold an approved and currently valid DPW registration certificate. Group day-care homes and day-care centers, as defined in this article, must hold an approved and currently valid DPW license. In addition, all child day-care facilities shall comply with all current DPW regulations, including those standards governing adequate indoor space, accessible outdoor play space and any applicable state or local building and firesafety codes.
3. **Municipal Notification.** Each operator of a newly established child day-care facility shall notify the municipality in writing, at least 15 days prior to the initiation of such use, for the purpose of allowing the municipality to establish a record of new land use. Already existing licensed or registered facilities shall be required to notify the municipality of their operation in writing at least 60 days after the enactment of this section. In addition, the operator of any facility must certify compliance with all aspects of this section and all other applicable municipal requirements.
  - a. Family day-care homes must provide proof of an approved DPW registration certificate at the time of initial notification to the municipality, and must show proof of the registration renewal every two years. At such time that a family day-care home wishes to expand its operation to the level of a group day-care home, the operator of the facility shall notify the municipality in writing, at least 15 days prior to the expansion of the use, and provide proof that all requirements for licensure by DPW have been met. The operator must also satisfactorily demonstrate that the facility meets the standards for group day-care homes established in subsection (3), herein.
  - b. Group day care homes and day care centers must provide proof of an approved and currently valid DPW license at the time of initial notification to the municipality, and must provide proof of annual license renewal.
4. **Inspection.** The operator of a family day care home, group day care home or day care center will allow appropriate representatives of the municipality to enter the property at reasonable times to inspect such use for compliance with the requirements of this Section and all other applicable municipal and State ordinances
5. **General Safety.** No portion of a child care facility shall be located within a 300 foot distance from any potentially hazardous land use or activity which could pose a threat to the safety and welfare of the children, staff and other occupants at the facility. Hazardous land uses or activities include, but shall not be limited to, gasoline service

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stations, heavy industrial operations, storage of flammable or high pressure underground pipelines, truck or rail loading areas, etc.

6. Hours of Outside Play. Outside play shall be limited to the hours between 8:00 a.m. and sunset, as defined by the National Weather Service.
7. Outdoor Play Area. An outdoor play area, as required by DPW regulations, shall be provided for any proposed child day care facility.
  - a. On-Site Outdoor Play Area. An on-site outdoor structured play area or areas of high outdoor activity shall be located in yard areas which provide adequate separation, safety and protection from adjoining uses, properties and roadways. Whenever possible, the on-site outdoor play area shall not be located in the front yard. The outdoor play area should be located immediately adjacent to the child care facility.
  - b. Off-Site Outdoor Play Area. In accordance with DPW standards, a child day care facility may utilize off-site play areas in lieu of or as a supplement to an on-site play area. These standards permit the use of off-site play areas which are located within a 1/2 mile distance of the facility, measured from the property line of the facility. When the use of an off-site play area is proposed, the applicant shall inform the municipality about the means of transportation that will be used to access the off-site play area. For reasons of safety, when children will be walked to an off-site play area, the route to the off-site play area shall not involve the crossing of avenues or state roads (as defined by Pottstown's Subdivision Ordinance). Pedestrian access on sidewalks or improved walkways shall be required.
8. Altering Exterior of Residential Structures. Any addition or improvement to an existing residential structure or property for purposes of child day care shall preserve its residential character. The scale, bulk, height and roof pitch of any addition and the building materials used shall be compatible with the existing structure. Any improvements to the structure shall be in compliance with all other applicable municipal regulations relating to building and/or zoning permits.
9. Traffic Impact Study. Any proposed child day care facility which will generate 100 or more new trips during the morning or evening peak hour shall be required to conduct a traffic impact study
  - a. Objective. The purpose of the traffic impact study is to provide the local Planning Commission and governing body with adequate information and data to properly assess:

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- (a) The impact of the proposed facility on the surrounding road and street network, as well as on streets and roads providing immediate access to the proposed development.
  - b. The need for capital improvements to the existing transportation network which will be needed to accommodate the additional traffic generated by the proposed facility.
  - c. Traffic and/or pedestrian safety issues which may arise from the proposed facility.
- B. Family Day Care Homes. Any proposed family day care home shall comply with the following standards in addition to the general provisions for all types of child day care facilities in subsection 1 above.
- 1. Development Standards. The following standards shall apply to all proposed family day care homes:
    - a. Drop-Off Area. One on-site drop-off space for clients shall be provided. An existing driveway or common parking lot space may be used as the drop-off area if it can be demonstrated that there is sufficient space available in the driveway that is not otherwise occupied or committed to safely accommodate a parked vehicle. If a driveway is used for the drop-off area and the proposed use fronts an arterial or major collector street, an onsite turn around area shall be provided so that vehicles can exit the site driving forward. In cases where the existing driveway cannot function as a drop-off area, an on-site drop-off space shall be provided. The drop-off area shall conform to the municipal dimensional standards for residential parking spaces.
      - 1. In cases where the drop-off area cannot be accommodate on the site, the applicant shall demonstrate that there is on-street parking or some other available parking area located within 250 feet of the property line of the proposed facility.
      - 2. The required drop-off area may be waived by the municipality if the applicant can demonstrate that the clients of the family day care home will walk to the facility, thereby eliminating the need for the additional parking space.
    - b. Fencing. If there are unsafe areas, such as open drainage ditches, wells, holes, heavy street traffic, etc., in or near to an outdoor play area, there shall be fencing to restrict children from these areas. Natural or physical barriers, such as hedge

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rows, walls or dense vegetation may be used in place of fencing so long as such barriers functionally restrict children from unsafe areas.

2. The following standards shall apply to family day care homes:
  - a. The applicant shall demonstrate that the children in the family day care home can safely, quickly and easily vacate the premises in case of emergency.
  - b. The hours of operation shall be limited to the hours between 6:30 a.m. and 8:00 p.m.
  - c. The applicant shall demonstrate that the current lease or homeowners' covenants for the apartment contains no clause which prohibits the proposed use.
  - d. The applicant shall provide the name and address of adjacent apartment dwellers to allow the municipality to notify such individuals of the proposed use. Adjacent apartments shall be considered all apartments located within 10 feet from any wall, floor or ceiling of the proposed use.
3. Group Day Care Homes. Any proposed group day care home shall comply with the following standards in addition to the general provisions for all types of child day care facilities in subsection 1 above:
  - a. Minimum Distance Between Facilities.
    1. Neighborhood Residential District Traditional Town Neighborhood District
      - a. In order to avoid a concentration of individual group day care homes in residential neighborhoods, group day care homes shall be located a minimum of 300 feet from each other as measured from the respective property lines. This dispersion requirement shall not apply in cases where a proposed group day care home is located within 300 feet of a school facility or church which provides child care services.
    2. The above requirement may be waived if the applicant provides a petition signed by 2/3 of the residents within 300 feet of the proposed facility, stating that the residents do not object to the proposed use.

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b. Drop-Off Area.

1. A drop-off area shall be provided with sufficient area to allow the temporary parking of two vehicles. An existing driveway or common parking lot spaces may be used as the drop-off area if it can be demonstrated that there is sufficient space available in the driveway that is not otherwise occupied or committed to safely accommodate two parked vehicles. If a driveway is used for the drop-off area and the proposed use fronts an avenue or state road as defined in Pottstown's Subdivision Ordinance, an on-site turn around area shall be provided so that vehicles can exit the site driving forward. In cases where the existing driveway cannot function as a dropoff area, two new on-site drop-off spaces shall be provided. The drop-off area shall conform to the municipal dimensional standards for residential parking spaces.
2. In cases where the on-site drop-off area cannot be accommodated, the applicant shall demonstrate that there is on-street parking or some other available parking area located within 250 feet of the property line of the proposed facility.
3. Fencing of Outdoor Play Area. In order to physically contain the activity of children in the outdoor play area, a minimum four feet high fence shall be erected along the perimeter of the outdoor play area. When applicable, the fence shall be located along property lines. Fencing may be substituted by natural barriers such as hedge rows, walls, dense vegetation, etc., if it can be demonstrated that such barriers can effectively contain the activity of the children.

4. Day Care Centers. Any proposed day care center shall comply with the following standards in addition to the general provisions for all types of child day care facilities in subsection (1) above.

a. Minimum Distance Between Facilities.

1. Neighborhood Residential District Traditional Town Neighborhood District
  1. In order to avoid a concentration of individual group day care homes in residential neighborhoods, group day care homes shall be located a minimum of 300 feet from each other as measured from the respective property lines. This dispersion

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requirement shall not apply in cases where a proposed group day care home is located within 300 feet of a school facility or church which provides child care services.

2. The above requirement may be waived if the applicant provides a petition signed by 2/3 of the residents within 300 feet of the proposed facility, stating that the residents do not object to the proposed use.

### b. Drop-Off Area.

1. Number of Drop-Off Spaces. A minimum of one safe drop-off space shall be provided for each 20 children that the facility is licensed to accommodate.

2. Drop-Off Area Location and Design.

- a. Whenever possible, the drop-off area shall be located immediately adjacent to the facility. The drop-off area should be designed in such a way that pedestrians do not cross vehicular traffic lanes in any parking area or driveway. The drop-off area may be designed either as a part of the on-site parking area or the required drop-off spaces may be designed as a party of driveway providing direct access to the facility.

- b. When the drop-off area is incorporated into the on-site parking area, the parking spaces nearest to the facility shall be designated as drop-off spaces. When the drop-off area is incorporated into a driveway, the drop-off spaces shall be located within a vehicle turnout area 12 feet in width exclusive of the driveway through traffic lane(s).

3. Miscellaneous.

1. Fencing of Outdoor Play Area. In order to physically contain the activity of children in the outside play area, a minimum four feet high fence shall be erected along the perimeter of the outside play area. When applicable, the fence may be located along property lines. Natural barriers such as hedge rows, dense vegetation, etc., may be substituted for fencing if it can be demonstrated that such barriers can effectively contain the activity of the children.

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2. Play Equipment Setback. Play equipment in designated onsite play areas shall be located at least 10 feet from an abutting property line.
3. The proposed day care center shall not be detrimental to the use, development, peaceful enjoyment and economic value of the surrounding properties or the neighborhood.
4. The proposed day care center shall be compatible with the existing character of the neighborhood.

7. Churches

No additional regulations.

8. Convenience Store with Gasoline Dispensing Center

No additional regulations.

9. Drive-through Windows as an Accessory Use

No additional regulations.

10. Dwelling, Attached Single Family

No additional regulations.

11. Dwelling, apartments (in building with a minimum of 2,400 square feet on the first floor)

There are no additional regulations.

12. Dwelling, single family attached

There are no additional regulations.

13. Golf Course

There are no additional regulations.

14. Kennels, Commercial (With or without accompanying veterinary practice)

There are no additional regulations.

15. Mobile Home Park

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In the Highway Business district subject to the following conditions:

- A. The proposed development shall be designed as a unified project and shall be owned and operated as a single management and maintenance unit.
- B. Each application to establish a mobile home park shall be accompanied by a plan that shall show:
  - 1. The location, boundaries, dimensions, and ownership of the land to be included in the area for which the application is made and the owners of adjoining properties.
  - 2. The location and arrangement of all spaces or areas to be provided for the mobile homes and all other proposed buildings or uses.
  - 3. The location and capacity of all areas to be used for parking, loading and unloading, streets, automobile access, or any other form of automobile or pedestrian circulation.
  - 4. Provisions for sewage and waste disposal.
  - 5. Sufficient information in all instances to enable the Board to review the overall layout of the proposed use and determine its compliance with the requirements of this Part or any other ordinance or regulation of the Borough relating to mobile homes.
- C. Each mobile home lot or space shall be not less than 4,000 square feet in area, exclusive of any street or other tract area, and the gross density shall be not more than six mobile homes per acre. Each space shall be defined clearly.
- D. No mobile home or other building shall be located closer than 20 feet from an internal street or 25 feet from another mobile home (including additions, carports, or storage sheds).
- E. A planting strip of evergreen trees and/or shrubs, not less than 15 feet in width, shall be placed along any public street or mobile home boundary line. Along each boundary that abuts either a residential district or a property devoted to residential use, such planting strip shall be sufficient in height and density to constitute an effective screen.
- F. All areas of mobile home tract not covered by buildings or paving shall be landscaped appropriately in accordance with an approved landscaping plan. Natural features such as trees and streams shall be preserved wherever practicable.
- G. Each mobile home shall be provided with a foundation designed and constructed in accordance with the requirements of the Borough.

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- H. All parking bays or areas, loading and unloading areas, streets, and other facilities for circulation shall be arranged for proper and safe vehicular and pedestrian circulation within the tract and shall be paved with an acceptable hard surface.
  - I. In order to encourage an attractive building arrangement, variations in the placement and orientation of mobile homes shall be encouraged.
  - J. The proposed development shall be served by public sewer and water facilities.
  - K. Provision shall be made for the recreational requirements of residents thereof. Recreational areas shall be of such dimensions and in such locations that they are suitable for the intended purpose.
  - L. Adequate provision shall be made for the disposal of refuse, subject to approval by Borough health and sanitation officials.
  - M. All areas shall be graded and drained to the satisfaction of the Borough Engineer to the extent necessary to prevent erosion, dust, and the flow of excessive water across streets or onto adjacent properties. Arrangements satisfactory to the Borough shall be made for the lighting of internal streets and public areas and for safety and fire protection.
  - N. No business enterprise, other than an office for the leasing of mobile home lots or spaces, shall be conducted upon land utilized as a mobile home park, unless authorized specifically by Borough Council and in conjunction with a service, management, or recreational purpose clearly accessory to the mobile home park and for the benefit of residents thereof.
16. Neighborhood Automobile Service Station.
- There are no additional regulations.
17. Parking Garage.
- There are no additional regulations.
18. Parking Lot.
- There are no additional regulations.
19. Parks.
- A. Applicant shall demonstrate that the scale, location and intended use of the park will not adversely affect the surrounding neighborhood.

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- B. Hours of operation shall be limited to 7 a.m. to 8 p.m. unless extended by Borough Council.
  - C. The Borough may require a traffic study and a parking study to ensure the proposed development will not adversely impact pedestrian, bicycle, and automobile traffic in the neighborhood within 1,000 feet of the property. Any required parking lot shall meet the standards in Article 6.
  - D. All lighting shall be shielded and reflected away from adjacent properties and streets to prevent glare on adjoining properties.
  - E. The applicant shall submit a litter control plan as part of the application.
20. Recreational Rental Facilities.
- A. Although there is no minimum lot size, the site shall be sufficient to accommodate any proposed facilities.
  - B. The site shall be developed so as to preserve its natural character, particularly preserving natural vegetation.
  - C. Use of the site shall conform to the floodplain overlay district, Section A339.
21. Restaurants (Park District).
- A. The size, design, hours of operation, and parking facilities of any restaurant within the Park District shall be determined by Borough Council to compliment the most enjoyable, efficient, and environmentally sound use of the Park District.
22. School.
- There are no additional regulations.
23. Social Club.
- There are no additional regulations.
24. Solid Waste Facility
- A. Operational parts of said facility shall be located at least 500 feet away from any residential or business zoning district and from the Schuylkill River or Manatawny Creek.
  - B. The capacity of the facility shall be limited to 40 tons received per day.

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- C. All storage, loading, unloading, processing, reduction, transfer, recycling, or conversion to energy of solid waste shall be conducted within enclosed structures.
  - D. The operational parts of buildings and enclosed structures shall have a minimum of openings to the exterior. All entries shall be provided with doors. Doors used for the passage of solid waste hauling vehicles shall be open only at times required for such passage.
  - E. All operational parts of the solid waste facility not enclosed in buildings shall be fenced with a fence at least six feet high. Fence fabric shall have openings not larger than one and one-half inch by one and one-half inch (1 1/2" x 1 1/2") mesh.
  - F. All operational parts of the solid waste facility shall be graded in such a manner as to prevent surface drainage from flowing to non-operational parts of the facility and from flowing to any adjacent property or street and all outdoor operational parts of the solid waste facility shall be surfaced with an impervious, dust free surface capable of being washed down. The entire site shall be kept clean and free from debris, litter, residual liquids, ash, or dust at all times.
  - G. No operational parts of the solid waste facility, including outdoor areas, shall be located within a designated floodway.
  - H. No operational parts, including outdoor areas, located within a floodplain, shall be less than one and one-fifth (1 1/5') feet above the floodplain.
  - I. All solid waste facilities shall provide adequate space and means for cleaning, washing, and rinsing of solid waste hauling vehicles.
  - J. All solid waste hauling vehicles must be cleaned, washed, and rinsed before leaving the facility. Tires, wheels, and undercarriages of vehicles shall be kept free of solid waste and residue liquids
  - K. All development plans shall be reviewed for impact upon the Borough's storm drainage system and sanitary treatment facilities. The Borough may require prior treatment of liquid wastes prior to any disposal into drainage or sanitary systems.
  - L. All non-operational parts of solid waste facilities shall be subject to the regulations of the HM zoning district
  - M. The facility shall be operated by a municipal entity.
25. Theater or Other Indoor Entertainment (excluding Adult Entertainment).

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- A. The application shall submit such evidence as required by Borough Council to assure that nearby residential areas will be protected from noise and other potentially adverse impacts of the proposed facility.
  - B. The Borough shall require a traffic study and a parking study to ensure the proposed development will not adversely impact pedestrian, bicycle, and automobile traffic in the neighborhood within 1,000 feet of the property.
  - C. Hours of operation shall be limited to 9 a.m. to 12 p.m. unless extended by Borough Council.
26. Utility Company Operational Facility.

There are no additional regulations.

### **SECTION A402. Accessory Uses.**

There are no additional regulations.