

# ZONING ORDINANCE

## FRANKLIN BOROUGH

1994

PREPARED BY  
CAMBRIA COUNTY PLANNING COMMISSION  
P.O. BOX 89  
EBENSBURG PENNSYLVANIA

"This project was financed (in part) by a grant from the Federal Department of HUD, under the administration of the Commonwealth of Pennsylvania, Department of Community Affairs."

The following is a certified copy  
of the Proposed Zoning Ordinance  
for Franklin Borough.

Attested by:

Date: 8/25/94

James M. Gustkey  
Franklin Borough Secretary

# MUNICIPAL ZONING ORDINANCE

## TABLE OF CONTENTS

	<u>Page</u>
<u>TITLE PAGE</u>	
<u>TABLE OF CONTENTS</u>	i
<u>ADOPTION PAGE</u>	iii
<u>ARTICLE I - PRELIMINARY PROVISIONS</u>	
Section 101 Enacting Clause	I-1
Section 102 Short Title	I-1
Section 103 Effective Date	I-1
Section 104 Validity and Conflict	I-1
Section 105 Purpose and Community Development Objectives	I-1
<u>ARTICLE II - RULES AND DEFINITION</u>	
Section 201 Rules	II-1
Section 202 Definitions	II-1
<u>ARTICLE III - ESTABLISHMENT OF DISTRICTS</u>	
Section 301 Establishment of Districts and Zoning District Map	III-1
Section 302 Interpretation of District Boundaries	III-2
<u>ARTICLE IV - GENERAL PROVISIONS</u>	
Section 401 Conformance and Permits	IV-1
Section 402 Construction or Alteration	IV-1
Section 403 Yards	IV-1
Section 404 Substandard Dwellings	IV-1
Section 405 Uses Requiring Site Plan and/or Site Plan Approval	IV-1
Section 406 Public Utility Lines	IV-3
Section 407 Lots of Record Not Meeting Lot Area Requirements	IV-3
Section 408 Fences and Enclosure Walls	IV-3

ARTICLE V - PROVISIONS GOVERNING ZONING DISTRICTS

Section 501	R-1 Single Family Residential	<u>V-1</u>
Section 502	R-2 Multi-Family Residential	<u>V-6</u>
Section 503	C Commercial District	<u>V-10</u>
Section 504	I Industrial District	<u>V-16</u>
Section 505	FP Floodplain District	<u>V-20</u>
Section 506	S Conservancy District	<u>V-25</u>

ARTICLE VI - SIGNS

Section 601	General Provisions	<u>VI-1</u>
Section 602	Provisions for R Districts	<u>VI-2</u>
Section 603	Provisions for C Districts	<u>VI-3</u>
Section 604	Provisions for I Districts	<u>VI-6</u>

ARTICLE VII - SUPPLEMENTARY PROVISIONS

Section 701	Parking and Loading Facilities	<u>VII-1</u>
Section 702	Swimming Pools	<u>VII-8</u>
Section 703	Storm Water Management	<u>VII-9</u>
Section 704	Satellite Dishes, Antennas	<u>VII-12</u>

ARTICLE ~~VIII~~ - SPECIAL EXCEPTIONS

Section 801	General Procedures	<u>VIII-1</u>
Section 802	Rooming House Requirements	<u>VIII-2</u>
Section 803	Motel and Restaurant Requirements	<u>VIII-2</u>
Section 804	Mobile Home Park Requirements	<u>VIII-2</u>
Section 805	Storage Yard Requirements	<u>VIII-5</u>
Section 806	Home Occupation Requirements	<u>VIII-6</u>
Section 807	Junk Yard Requirements	<u>VIII-6</u>
Section 808	Car Wash Requirements	<u>VIII-7</u>
Section 809	Day Care Requirements	<u>VIII-7</u>

ARTICLE IX - NON-CONFORMING USES AND BUILDINGS

Section 901	Continuance	<u>IX-1</u>
Section 902	Discontinuance of Use	<u>IX-1</u>
Section 903	Alterations	<u>IX-1</u>
Section 904	Provisions for Reconstruction	<u>IX-2</u>

ARTICLE X - ADMINISTRATION AND ENFORCEMENT

Section 1001	Zoning Officer	<u>X-1</u>
Section 1002	Building Permit	<u>X-3</u>
Section 1003	Certificate of Use and Occupancy	<u>X-4</u>
Section 1004	Schedule of Fees	<u>X-5</u>
Section 1005	Remedies	<u>X-5</u>

Section 1006 Penalties

X-6

ARTICLE XI - ZONING HEARING BOARD

Section 1101 Creation, Organization and Expenditures

XI-1

Section 1102 Functions

XI-2

Section 1103 Mediation Option

XI-5

Section 1104 Hearings

XI-6

Section 1105 Jurisdiction

XI-10

ARTICLE XII - AMENDMENTS

Section 1201 Amendments and Changes

XII-1

Section 1202 Landowner Curative Amendments

XII-6

Section 1203 Municipal Curative Amendments

XII-7

Section 1204 Fees

XII-8

ARTICLE XIII - REPEALER

Section 1301 Repealing Clause

XIII-1

ORDINANCE NO. 764

Enacting Ordinance Number 764, approved  
OCTOBER 12, 1994, entitled the Franklin  
Borough Zoning Ordinance, providing for Community  
Development Objectives, Rules and Definitions,  
Establishment of Districts, General Provisions,  
Provisions Governing Residential Districts, Provisions  
Governing Commercial Districts, Provisions Governing  
Industrial Districts, Provisions Governing Floodplain  
Districts, Provisions Governing Conservancy Districts,  
Signs, Supplementary Provisions, Special Exceptions,  
Non-Conforming Uses and Buildings, Administration and  
Enforcement, Zoning Hearing Board, Amendments, and  
Repealer.

BOROUGH OF FRANKLIN

\_\_\_\_\_  
President of Council

ATTEST

\_\_\_\_\_  
Secretary

## ARTICLE I

### PRELIMINARY PROVISIONS

#### SECTION 101 ENACTING CLAUSE

Be it ordained and enacted by the Franklin Borough Council assembled, and it is hereby ordained and enacted by the authority of the same, that from and after the passage and approval of this Ordinance the several classes of districts specified herein shall be established and the following regulations shall be in full force and effect.

#### SECTION 102 SHORT TITLE

This Ordinance shall be known as the Franklin Borough Zoning Ordinance, and the map referred to herein and made a part of this Ordinance shall be known as the Franklin Borough Zoning District Map.

#### SECTION 103 EFFECTIVE DATE

The effective date of this Ordinance shall be ten days after the advertisement of this Ordinance by the Municipality under the PA Municipalities Planning Code.

#### SECTION 104 VALIDITY AND CONFLICT

Should any section or provision of this Ordinance be declared invalid, the same shall not affect the validity of the Ordinance as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this Ordinance is found to be in conflict with a provision of any building or housing code, or in any applicable health regulations, or in any other Ordinance of the Municipality existing on the effective date of this Ordinance, or in any regulation issued under the authority of such code or Ordinance, the provisions which established the higher standard for the protection of health, safety and welfare shall prevail.

#### SECTION 105 PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES

The purpose of this Zoning Ordinance shall be designed:

1. To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of

population; emergency management preparedness and operations; airports and national defense facilities; the provisions of adequate light and air; access to incident solar energy; police protection; vehicle parking and loading space; transportation; water; sewerage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation; loss of health, life or property from fire, flood, panic or other dangers.
3. To provide for the use of land within the Municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, and mobile homes and mobile home parks.
4. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and non-residential uses.
5. To facilitate the development of the Municipality to fulfill the goals and objectives of the Franklin Borough Comprehensive Plan dated December, 1993, in developing the Municipality primarily as a residential area with the preservation of natural beauty, and dispersed supplemental non-residential development.



## ARTICLE II

### RULES AND DEFINITIONS

#### SECTION 201 RULES

The following rules of construction shall apply to this Ordinance:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future, words in the singular number shall include the plural, and the plural the singular unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and/or "occupied for."

#### SECTION 202 DEFINITIONS

Accessory Building of Accessory Use: A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory use includes, but is not limited to, the following:

Children's playhouse, garden house, or private greenhouse.

Civil Defense shelter serving not more than two (2) families.

Garage, shed, or building for domestic storage.

Storage of merchandise normally carried in stock on the same lot with any commercial use unless such storage is excluded by the district regulations.

Parking of boats, boat trailers, and travel trailers and recreational vehicles not used as a dwelling on the premises, provided said equipment is parked within the set back lines required of an accessory structure.

Private garage

Small Utility sheds not exceeding 160 square feet (10 feet high) may be placed on any residential lot with a minimum set back of 5 feet from all property lines. Accessory buildings larger than 160 square feet must comply with all set backs.

Private swimming pools (see Section 702) appurtenant to an allowed use on the same lot when meeting the width requirements of the district for principal buildings and when the swimming pool or the property on which it is located is adequately fenced to prevent free access of small children.

Off-street motor vehicle parking area; loading and unloading facility.

Fence (Section 408); signs (Article VI).

Alley: A service way at least fifteen (15) feet wide, providing a secondary public means of access to abutting properties.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another, or any change in use from that of one zoning district classification to another.

Alterations, Structural: Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

Apartment: A room or suite of rooms in a multiple-family structure which is used as a single housekeeping unit, and which contains complete kitchen, bath, and toilet facilities, permanently installed.

Apartment Building: A building used by three (3) or more families living independently of each other and containing dwelling units.

Automobile Repair, Major: Engine rebuilding or major reconditioning of work or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting of vehicles.

Automobile Repair, Minor: Incidental repairs; replacement of parts; motor service to automobiles; state inspection; but not including any operation specified under Automobile Repair, Major, above.

Basement: A story partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is five (5) feet or more or if the basement is used for business or dwelling purposes.

Billboard: Structure, building wall, or other outdoor surface used to display lettered, pictorial, sculptured, or other matter which directs attention to any product, commodity, or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

Block: A tract of land, a lot, a group of lots, bounded by streets, public parks, railroad rights-of-way, watercourses, and boundary lines of the Municipality, unsubdivided land, other definite barriers, or by a combination of the above.

Board: The Zoning Hearing Board of the Municipality.

Boarding House: Any dwelling or building in which three or more persons or families reside individually of one another and are housed or lodged for compensation with or without meals. A rooming house or a furnished room house shall be deemed a boarding house.

Buffer Area: A strip of land which is planted and maintained in shrubs, bushes, trees, grass, or other landscaping material and within which no structure is permitted except a wall or fence.

Building; A structure having a roof supported by columns or walls, for the shelter of persons, animals, chattels, or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered as separate building.

Building Area: The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions, excluding cornices, eaves, gutters or chimneys projected not more than 18 inches, bay windows not extending through more than one story and not projecting more than five (5) feet, one story open porches projecting not more than ten (10) feet, steps, and balconies.

Building or Set-Back Line: The line within a property defining the required minimum distance between any building and the adjacent right-of-way or property line. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, paved areas or terraces.

1. Front Set-Back Line: The line nearest the front of and across a lot establishing minimum open space to be provided between the front line of buildings and structures and the front lot line.
2. Side Set-Back Line: The line nearest the side of and across a lot establishing the minimum open space to be provided between the side line of buildings and structures and the side lot line.
3. Rear Set-Back Line: The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear line of buildings and structures and the rear lot line.
4. Width of Building Line: The horizontal distance between side lot lines measured at the minimum prescribed front yard setback line as set forth in this Ordinance.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of mansard roofs, and to the mean height between eave and ridge for gable, hip, and gambrel roofs.

Cellar: An unfinished story partly underground and having more than one-half of its clear height below the average level of the ground surrounding the structure. A cellar is not to be counted as a story in computing the number of stories of a structure or building unless it is used for business or dwelling purposes.

Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

Coverage: That percentage of the lot area covered by the building area.

County: The County of Cambria, Pennsylvania.

Day Care:

1. Day Care Center - A facility in which care is provided for seven (7) or more children, at any one time, where the child care areas are not being used as a family residence.
2. Family Day Care Home - Any premises other than the child's own home, operated for profit or not for profit, in which child day care is provided at any one time for four, five, or six children, who are not relatives of the caregiver.
3. Group Day Care Home - A facility in which care is provided for more than 6 but less than 12 children, at any one time, where the child care areas are being used as a family residence.
4. For purposes of this Ordinance, a child is a person under 16 years of age.

District, Zoning: A section of the Municipality for which uniform regulations governing the use, height, area, and intensity of use of buildings and land and open spaces about buildings are herein established.

Development Plan: The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition.

Developer: Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Decision: Final adjudication of any board or other body granted jurisdiction under this Ordinance to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the municipality lies.

Determination: Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body;
2. the zoning hearing board; or
3. the planning agency, only if and to the extent that planning agency is charged with final decision on preliminary or final plans under the Subdivision and Land development Ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

Driveway: A private or common right-of-way used by vehicles and pedestrians for an individual or multiple land, lot, or facility owner.

Dwelling: Any structure, or part thereof, designed to be occupied as living quarters as a single housekeeping unit.

1. Detached House: A dwelling unit occupying the whole of a freestanding residential structure.
2. Twin or Semi-Detached House: A residential structure occupied by two (2) dwelling units with a common wall.
3. Duplex: A residential structure divided vertically or horizontally into two (2) dwelling units.
4. Row House or Town House: A structure with two (2) or more party walls of three (3) or more units not having any horizontal divisions between units.
5. Apartment: A dwelling unit separated horizontally and/or vertically from one or more other units in a structure.
  - a. Apartment House or Multiple Dwelling Unit: A residential structure containing three (3) or more apartments.
  - b. Garden Apartment: An apartment house not exceeding three (3) stories in height.

- c. High-Rise Apartment: An apartment house exceeding three (3) stories in height.

Engineer: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

Family: One or more persons related by blood, marriage, or adoption or three unrelated persons living as a household in a dwelling unit. May also include domestic servants and gratuitous guests.

Farming or Farm Use: The use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or any other agricultural or horticultural use including raising and harvesting timber and timber products or tree farming or any combination thereof and includes the preparation of the products raised therein for man's use and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use.

Fence: A structure which permanently or temporarily serves as a barrier to restrict travel between properties or portions of properties or between street or public right-of-way and a property.

Floor Area: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls, or from the centerline of common walls separating buildings. For purposes of determining parking and loading space requirements for the several zoning districts herein, the "floor area" of a building or buildings shall include: basement space, penthouses, attic space providing structural headroom of seven and one half (7-1/2) feet or more, interior balconies and mezzanines, enclosed porches, accessory uses other than accessory off-street parking, lobbies and hallways. For determination of parking and loading space requirements, the following areas shall not be included: cellar space, elevator shafts and stairwells, floor space for mechanical equipment as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces unroofed unless specifically required in the parking regulations herein, and fitting and dressing rooms.

For the purpose of determining minimum floor area as applied to a dwelling unit, floor area shall mean the habitable living area of the dwelling as measured by exterior dimensions and shall not include

attached garages, unfinished basements, laundry or furnace rooms or carports. Neither are porches included unless completely enclosed and finished.

Foundation: Permanent base or substructure of a building that is totally or more than one half of it's clear height below the average level of the surrounding ground. It is the basic support of the building or structure.

Garage, Private: An accessory building, housing only motor driven vehicles, the property of and for the use of the occupants of the lot on which the private garage is located.

Garage, Public: Any garage other than a private garage, available to the public, and which is used for storage, parking, repair, rental, greasing, washing, servicing, adjusting, or equipping of motor-driven vehicles. (Does not include marshalling yard or storage or repair of earth-moving or construction vehicles.)

Garden Apartment: A multiple-family dwelling of two or three stories in height, which by its name implies low land coverage, ample open space between buildings, and convenient on-site parking for tenants' cars.

Governing Body: The council of Franklin Borough, Cambria County, Pennsylvania.

Habitable Living Area: The floor area of a building or structure which is furnished to the extent that it is customarily occupied by residents or users of the buildings or structure.

Health Authority: The State Department of Health or its authorized representative of the Municipality.

Hearing: An administrative proceeding conducted by a board pursuant to Section 909.1 of the Pennsylvania Municipal Planning Code.

Home Occupation: An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate, measuring not more than one hundred forty four (144) square inches, and in connection therewith there is not involved the exhibition of stock in trade. The secondary use shall not be carried on in an adjacent separate, attached or integral structure not designed for living space such



as a garage or other out building, shall not constitute more than twenty-five (25%) percent of the habitable living area and shall not employ more than one (1) other person than a resident family member. A home occupation shall be permitted by a special exception according to the criteria stated in that Section.

Hotel: A building in which temporary lodging is offered to the public or transients for compensation and in which ingress and egress to and from rooms is made from an inside lobby or office which is supervised by a person in charge at all hours. Access to on site parking, restaurants, news stands, and other commercial facilities may be provided for the occupants and only incidentally to the public.

Hotel, Motor: A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either directly from the exterior or through an inside lobby or office supervised by a person in charge at all times.

Institutional House: A public or private organized establishment in which children, elderly, or adults may receive services in order to maintain daily routines. Services may or may not include medical or educational services. The classification shall not include: Daycare Facilities, Nursery Schools, or Penal or Reformatory Institutions.

Junk Yard: An area set aside for the accumulation of abandoned vehicles, appliances, or other used or scrap materials for the express purpose of resale.

Land Use Ordinance: Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code.

Landscaping: To improve, arrange, ornament, or modify the effects of natural scenery over a tract of land through development and decorative planting of gardens and grounds.

Landowner: The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

Livestock: Any animal such as cattle, pigs, horses, chickens, etc. or any animal to be deemed farmlike other than common domesticated animals such as dogs, cats, and domesticated birds, etc.

Loading Space: A space within the main building or on the same lot therewith providing for the standing, loading, or unloading of vehicles.

Lot: A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Lot, Corner: A lot at the junction of two or more intersecting streets and having frontage on two or more such streets.

Lot, Depth of: The mean horizontal distance between the front line and the rear lot line, measured midway between the side lot lines.

Lot, Interior: A lot other than a corner lot or a through lot.

Lot, Recorded: Any lot which individually, or a part of a subdivision, has been recorded in the Office of the County Recorder of Deeds.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

Lot, Width: The dimension of a lot, measured between the side lot lines on the building line.

Lot Line, Front: In the case of an interior lot, the line separating the lot from the street. In case of a corner lot, the line separating the narrowest frontage of the lot from the street.

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.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park for the placement of a single mobile home and the exclusive use of its occupants.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. The property may be owned by an individual, a firm, trust, partnership, public or private association or corporation. Recreational vehicles shall not be included.

Modular Home: A single family dwelling designed for transportation after fabrication in one or more units, and arriving at a site where it is assembled on a permanent foundation and connected to utilities.

Motel: See Hotel Motor, herein.

Municipality: The Borough of Franklin.

Municipal or Public Building: Any building or structure erected, altered, and/or occupied by a governmental or public agency or organization providing services and facilities for the general public.

Municipal Engineer: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

Nonconforming Lot: A lot the area or dimension of which was lawful prior to the adoption or amendment of a Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Nonconforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a Zoning Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Ordinance or amendment or prior to the application of such Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use: A use, whether of land or of structure, which does not comply with the applicable use provisions in a Zoning Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such Ordinance or amendment, or prior to the application of

such Ordinance or amendment to its location by reason of annexation.

Nursery School: A premise other than the child's own home which shall provide daytime care or instruction to two or more children of preschool age.

Official Map: A map adopted by ordinance pursuant to Article IV of the PA Municipalities Planning Code.

Office Structure: A structure designed and used only for office and administrative activities and shall not include those activities of a commercial nature.

Park Street: A private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

Parking Lot: Any lot, parcel or yard used in whole or in part for the storage or parking of two or more vehicles where such usage is not incidental to or in conjunction with a one-family or two-family dwelling.

Parking Space: An off-street space available for the parking of one motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley.

Planning Agency: A planning commission, planning department, or a planning committee of the governing body.

Planning Commission: The Planning Commission of the Municipality.

Plat: The map or plan of a subdivision or land development, whether preliminary or final.

Public Grounds: Includes:

1. Parks, playgrounds, trails, paths and other recreational areas and other public areas; and
2. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
3. Publicly owned or operated scenic and historic sites.

Public Hearing: A formal meeting held pursuant to public notice by the governing body, zoning hearing board, or planning agency, intended to inform and obtain public comment, prior to taking action.

Public Meeting: A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

Public Notice: Notice published once each week for two 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 30 days and the second publication shall not be less than seven days from the date of the hearing.

Recreation Vehicle: A vehicle of any size which is designed as a temporary dwelling for travel, recreational and vacation uses, and which is self-propelled or is designed to be towed or carried by another vehicle.

Report: Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Self-Service Laundry: A business that provides home-type washing, drying or ironing machines, or dry-cleaning machines for hire to be used by customers on the premises.

Service Building: A structure housing toilet, lavatory and such other facilities as may be required by this Ordinance.

Service Station: A building(s), premises or portions thereof which are used, arranged, designed, or intended to be used for the retail sale of gasoline, or other fuel for motor vehicles, boats, or aircraft as well as for minor automobile repair, including state inspection.

Shed: A building or structure used as a storage place or workshop and should have a maximum square footage of 160 square feet and a maximum height of 10 feet.

Sign: Any surface, fabric, display of merchandise, or vehicle device, bearing lettered, pictorial, sculptured, or other matter designed to convey information visually and exposed to public view; any structure designed to carry the above visual information; any structure or device designed or installed principally to direct or attract attention, except traffic signs or devices.

Special Exception: A land use which is not specifically permitted in a zoning district by a Zoning Ordinance but which may be permitted upon application to the Zoning Hearing Board pursuant to the provisions of Article I and Article IX of the Pennsylvania Municipalities Planning Code.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Street: Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Structure: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Subdivision: The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

Surface Mining: Any extraction of any mineral which involves removal of the surface of the earth or exposure of the mineral or substance of the earth to wind, rain or sun or other elements of nature for sale or commercial purposes.

Townhouse: Single-family attached dwelling unit with walls, each dwelling unit is a complete entity with its own utility connections.

Travel Trailer: Any trailer usually drawn by a passenger automobile, used for occasional transport of personal effects.

Use: The specific purpose for which land or building is designed, arranged, intended, or for which it may be occupied or maintained. The term PERMITTED USE or its equivalent shall not be deemed to include any non-conforming use.

Variance: Permission granted by the Zoning Hearing Board, following a public hearing that has been properly advertised as required by the appropriate municipal code, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Zoning Ordinance.

Water Survey: An inventory of the source, quantity, yield and use of groundwater and surface-water resources within a Municipality.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by structures, except as otherwise provided in this Ordinance.

Yard, Front: A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the lot line and building line.

Yard, Rear: A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied by other than accessory buildings which do not occupy more than thirty (30) percent of the space, and steps, walls, terraces, driveways, lampposts, and similar structures the depth of which is the least distance between the rear lot line and the rear of such building.

Yard, Side: A yard between the principal building and the side lot line, extending from the front yard, or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally and at ninety (90) degrees with the side lot line, from the nearest part of the principal building.

Zoning Administrator: The administrative officer appointed by elected officials of the Municipality to administer the Zoning Ordinance in accordance to its literal terms and requires the officer to identify and register nonconforming uses and structures, receive applications, inspect premises, and issue permits. Any disagreement with the Zoning Administrator's literal interpretation can be settled judicially through the appeals process. The Zoning Administrator may also be referred to as the Zoning Officer.

Zoning Approval: A statement issued by and signed by the Zoning Officer authorizing the use of construction of a structure and indicating on its face that the proposed use or structure complies with the Zoning Ordinance or with a decision and order of the Zoning Hearing Board or a court of competent jurisdiction rendered in connection with an application relative to use of the premises involved. No approval shall be issued for any use or construction unless the applicant shall submit written proof that the designated authorities have granted approval of required sanitary sewage and water facilities.

Zoning Hearing Board: A multiple member board, appointed by elected officials of the Municipality, to hear and decide appeals from the variances and special exceptions, and hear challenges to the validity of the Zoning Ordinance or maps.



## ARTICLE III

### ESTABLISHMENT OF DISTRICTS

#### SECTION 301 ESTABLISHMENT OF DISTRICTS AND THE ZONING DISTRICT MAP

For the purposes of this Ordinance, the Municipality is hereby divided into the following districts:

R-1 District	Single Family Residential District (Medium Density)
R-2 District	Multi-Family Residential District (High Density)
C District	Commercial District
I District	Industrial District
FP District	Floodplain District
S District	Conservancy District

The boundaries of districts shall be as shown on the map attached hereto and made a part of this Ordinance, which map shall be known as the "Zoning District Map of the Borough of Franklin." Said map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of this Ordinance as if all were fully described herein.

#### SECTION 302 INTERPRETATION OF DISTRICT BOUNDARIES

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, alleys, street lines, highway right-of-way lines, or streams, such centerlines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow or are parallel to the centerlines of streets, highways, or the right-of-way of same, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning District Map.

- D. Where the boundary of a district follows a stream or other body of water, another Municipality or Municipality boundary, the boundary shall be deemed to be the limits of jurisdiction of the Municipality, unless otherwise indicated.
- E. Where the boundary of a district follows a railroad right-of-way, such district boundaries shall be construed to the centerline of the right-of-way.

## ARTICLE IV

### GENERAL PROVISIONS

#### SECTION 401 CONFORMANCE AND PERMITS

No building or land shall, after effective date of this Ordinance, except for existing lawful non-conforming uses, be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located, and then only after applying for and securing all permits (sewage enforcement, building, occupancy, etc.) and licenses required by all laws and ordinances.

#### SECTION 402 CONSTRUCTION OR ALTERATION

No building shall hereafter be erected or altered to exceed the height, to accommodate (or house) a greater number of families; to occupy a greater percentage of lot area; or to have a narrower or smaller rear yard, side yard, or front yard than is herein specified for the district in which the building is located.

#### SECTION 403 YARDS

No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or open space similarly required for another building.

#### SECTION 404 SUBSTANDARD DWELLINGS

No structure shall be used or occupied as a dwelling if such structure is in need of such major structural repairs as to render it unsafe or unsanitary, or if the premises do not have connection with the municipal sewer system or alternative sanitary sewage facilities approved by the Sewage Enforcement Officer (SEO).

#### SECTION 405 USES REQUIRING SITE PLAN AND/OR SITE PLAN APPROVAL

A. All Uses of Property for One and Two-Family Dwellings

The application for a permit shall be accompanied by a site plan at an appropriate scale to indicate the following:

1. The size and shape of the property including property line dimensions, corners, easements, right-of-ways, and names of adjacent properties.
2. The size, shape, height, area, and location of all principal and accessory buildings. Dimensions from all buildings to adjacent property lines shall be indicated.

B. Use of Property Other Than One and Two Family Dwellings

In addition to the above requirements, uses of all property other than one and two-family dwellings in R-2, C, and I districts, shall in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this ordinance, be in accordance with a site plan approved by the Planning Agency. In addition, all public or semi-public buildings, all subdivision plans, and special exceptions shall be in accordance with a site plan approved by the Planning Agency and Zoning Hearing Board, as is necessary in cases where exceptions are granted. The site plan shall show in addition to any specific requirements set forth in the district regulations herein, the following:

1. The location of principal and accessory buildings.
2. Traffic circulation features within the site.
3. The location of vehicular access onto the site.
4. Utilities connections: water, electric (show voltage), sewage, gas, phone.
5. The height and bulk of structures.
6. The provisions of off-street parking and loading facilities.
7. The provision of open space.
8. Drainage Structures: culverts, catch basins, inlets, ditches, drain tile.

9. Drainage flow, catch basin size, and location of any storm sewers and discharge points from the site.
10. The landscaping, paving, fencing, walls and signs on the site.
11. Location, size, and content of all underground and above ground storage tanks.
12. Provide floor plans for all structures to be developed as part of this project.
13. Such additional information as may be required by the Municipality.

In considering any plan hereunder, the Planning Agency will endeavor to assure safety and convenience of traffic movement, harmonious and beneficial relationship of buildings and uses on the site as well as to contiguous properties and overall development in a manner not detrimental to the public at large, before giving a recommendation to the Zoning Hearing Board (where exceptions are necessary).

#### SECTION 406 PUBLIC UTILITY LINES

An easement for the transportation, distribution, and control of water, gas, electricity, oil, steam, telegraph, cable T.V., and telephone shall not be required to be located on a lot nor be held to reduce yard dimensions for other buildings on a lot.

#### SECTION 407 LOTS OF RECORD NOT MEETING LOT AREA REQUIREMENTS

A one-family dwelling may be erected upon a lot on an approved plan of record, which lot has insufficient area and dimensions to meet the lot area and setback requirements, provided said lot, on the effective date of this Ordinance, was held lawfully under separate ownership from the adjoining lots, and provided that all other provisions of this Ordinance can be met.

#### SECTION 408 FENCES AND ENCLOSURE WALLS

- A. An open fence or wall with a ratio of solid portion to open portion not exceeding 2:1 may be built to a height of 6 feet. Said fence may be erected to six inches (6") within the

owners property line for side yards; six inches (6") within street right-of-way for front yards; and two feet (2') within alley right-of-way at rear yards.

- B. All fences and walls shall not obstruct the field of vision for vehicular street traffic, particularly at corner lots. Corner lot fences shall have a maximum height of three (3) feet within an area that is between the street lines of intersection and a line connecting them at points twenty (20) feet from the intersection of the street lines.
- C. A solid fence or wall must comply with the setback requirements for an accessory building, shall not exceed 6 feet in height, and is not permitted on a corner lot.

## ARTICLE V

### PROVISIONS GOVERNING ZONING DISTRICTS

#### SECTION 501 R-1 ONE-FAMILY RESIDENTIAL DISTRICT

The "R-1" One-Family Residential District is composed of certain medium-density residential areas of the Municipality representing a compatible mingling of a single-unit and double-unit dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial and industrial nature except home office of doctors or ministers and certain home occupations, controlled by specific limitations governing the size and extent of such non-residential activities. To these ends, development is limited to a relatively medium concentration and permitted uses are typically single and two-unit dwellings, providing homes for the residents in this choice of dwelling types, plus certain additional uses such as schools, parks, churches and certain facilities which serve the residents of the district.

#### A. Permitted Uses

A building may be erected or used and a lot may be used or occupied for any of the following purposes:

1. One-family detached dwelling.
2. Two-family dwelling (duplex).
3. Public school, or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial school.
4. Church and similar place of worship.
5. Convent, monastery, rectory or parish house to be occupied by not more than ten persons.
6. Temporary building and use for construction purposes, not to exceed a period of one year.
7. Public and private outdoor recreation areas and facilities.

B. Accessory Uses

Accessory uses on the same lot with and customarily incidental to any of the foregoing permitted uses and including but not limited to:

1. Private garage;
2. Off-street parking and loading facility;
3. Cultivation of plants, non-commercial;
4. Private swimming pool appurtenant to a dwelling when meeting the requirements of this Ordinance;
5. Signs as provided under this Ordinance;
6. Parking of boats, boat trailers, and trailers not used as dwellings on the premises;
7. Such permitted accessory uses as listed in the definition of Accessory Use and which are incidental to residential use;
8. Similar type uses not specifically listed herein when authorized by the Zoning Hearing Board.

C. Uses by Special Exception

1. Home occupation;
2. Day Care Center/Group Day Care;

D. Non-Permitted Uses

1. Surface Mining;
2. Management of livestock;
3. Commercial and Industrial establishments;
4. Mobile Home Parks;
5. Associated Deep Mining Facilities; and
6. Institutions for the mentally handicapped, psychiatric patients, and substance abuse patients.



E. Setbacks

No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:

1. Yard Setbacks

- a. Front Yard - Not less than ten (10) feet.
- b. Rear Yard - Not less than thirty-five (35) feet.
- c. Side Yard - Not less than ten (10) feet.

2. Corner Lots

- a. Front Yard - Not less than ten (10) feet.
- b. Side Yard Abutting Side Street - Not less than ten (10) feet.
- c. Interior Side Yards - Not less than ten (10) feet.
- d. Rear Yard - Not less than thirty-five (35) feet.

Note: Landscape area is included in setback dimensions.

3. Exceptions

Where more than fifty percent (50%) of the lots within a block contain existing structures, the front yard setback may be reduced to conform to the setback lines of the existing structures.

Small utility sheds not exceeding 160 square feet (10 feet high) may be placed on any residential lot with a minimum setback of five (5) feet from side and rear property lines.

Rear Yard setbacks may be reduced to five (5) feet from the alley right-of-way to accommodate a private garage when such garage has direct access to an adjacent alley.

F. Height

The maximum height of buildings hereafter erected or altered shall be as follows:

1. One and two family detached dwellings - thirty-five (35) feet.
2. Church or similar place of worship - forty-five (45) feet for the principal building and seventy-five (75) feet for steeples or towers.
3. Accessory building - twenty (20) feet.
4. Any other permitted building - thirty-five (35) feet.

G. Lot Area

The minimum lot area for every building hereafter erected or altered shall be as follows:

1. One-family detached dwelling, convent, monastery, rectory or parish house -- four thousand (4,000) square feet and a width at the building line of not less than forty (40) feet.
2. Two-family dwellings - A combined area of six thousand five hundred (6,500) square feet and a width at the building line of not less than fifty (50) feet.
3. Church or similar place of worship -- one and one-half (1-1/2) acres and a width at the building line of not less than two hundred (200) feet.
4. Public or private school --
  - a. Elementary School: five (5) acres plus one (1) acre for every one hundred (100) students at design capacity.
  - b. Junior High School: eight (8) acres plus one (1) acres for every one hundred (100) students at design capacity.

- c. High School: twelve (12) acres plus one (1) acre for every one hundred (100) students at design capacity.

H. Percentage of Lot Coverage

All one-family dwellings, including accessory uses, shall cover not more than forty (40) percent of the area of the lot. Two-family dwellings, including accessory uses, shall cover not more than thirty-five (35) percent of the area of the lot.

I. Dwelling Standards

Every one-family dwelling hereafter erected or altered shall have a floor area of not less than one thousand (1,000) square feet. A two-family dwelling shall have a minimum (combined) floor area of sixteen hundred (1,600) square feet.

J. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

## SECTION 502 "R-2" MULTI-FAMILY RESIDENTIAL

The R-2 Multi-Family Residential District is composed of certain higher density residential areas of the Municipality representing a compatible mingling of single, duplex, and multi-unit residential dwellings as well as professional offices. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial and industrial nature except those having also some aspects of residential use, such as professional business offices, and membership clubs, controlled by specific limitations governing the size and extent of such semi-commercial activities. Development is encouraged at a higher concentration, and permitted uses are typically row dwellings and low-rise apartments, plus certain additional uses such as schools, parks, churches, and certain public facilities which serve the residents of the district. However, four-story apartments with corresponding proportions of open space also may be developed under prescribed standards of density and open space.

### A. Permitted Uses

A building may be erected or used, and a lot may be used or occupied, for any of the following purposes:

1. Any use permitted in R-1 Districts;
2. Townhouses;
3. Garden Apartments;
4. Four-Story Apartments;
5. Professional Offices;
6. Schools and Churches;
7. Public and private outdoor recreation areas and facilities.

### B. Accessory Uses

As permitted in R-1 District.

C. Uses by Special Exception

1. Rooming House;
2. Day Care Facilities;
3. Motel and Restaurants;
4. Mobile Home Park;
5. Home Occupation.

D. Non-Permitted Uses

1. Surface Mining;
2. Associated Deep Mining Facilities;
3. Management of Livestock.

E. Setbacks

No building or structure shall be erected or enlarged unless the minimum yard areas and setbacks are provided as follows:

1. Single-family dwelling as follows:
  - a. Front Yard - Not less than 5 feet
  - b. Rear Yard - Not less than 25 feet
  - c. Side Yard - Not less than 10 feet
2. Two-family dwelling as permitted in R-1 District;
3. Multi-family dwelling, townhouse, multi-story buildings, and non-residential buildings - all yards to be equal to building height, or:
  - a. Front Yard - Not less than fifty (50) feet
  - b. Rear Yard - Not less than thirty-five (35) feet, except where abutting a street, then fifty (50) feet
  - c. Side Yard - Not less than twenty-five (25) feet, except where abutting a street, then fifty (50) feet

4. Exceptions as permitted in R-1 District.

F. Height

The maximum height of buildings hereafter erected or altered shall be as follows:

1. As permitted or required in the R-1 District;
2. Multi-family dwellings, townhouses, garden apartments, and apartment buildings shall not exceed sixty (60) feet in height.

G. Lot Area

The minimum lot area for every building hereafter erected or altered shall be as follows:

1. Single-family detached dwelling - three thousand two hundred (3,200) square feet and a width at the building line of not less than forty (40) feet.
2. Two-family dwelling - as permitted in R-1 Districts.
3. Multiple-family dwelling - not less than fifteen hundred (1,500) square feet per dwelling unit or apartment and a width at the building lines of not less than one hundred fifty (150) feet.
4. Town Houses - not less than twenty-seven hundred (2,700) square feet per unit and width at the building line of not less than seventy-five (75) feet for a row dwelling containing three (3) or more dwelling units, but not to exceed six (6). If a row dwelling is arranged, designed, or intended to be sold or owned in separate ownership between party walls, the minimum width of lot between centerlines of party walls shall be sixteen (16) feet and the seventy-five (75) foot minimum width of total site frontage shall apply for the entire structure. The minimum size lot for a row dwelling structure shall be one-quarter acre (10,980 square feet) per unit.

5. Church and similar place of worship - as required in the R-1 District.
6. Public or private school - as required in the R-1 District.
7. Non-residential buildings - as required in the C District.

H. Percentage of Lot Coverage

All buildings, including accessory uses, except multi-family dwellings shall cover not more than forty-five (45) percent of the area of the lot. Multi-family dwellings shall cover not more than fifty (50) percent of the area of the lot.

I. Dwelling Standards

1. Single-family dwellings erected or altered shall have a floor area of not less than one thousand (1,000) square feet.
2. Two-family dwellings - as permitted in R-1 Districts.
3. Each townhouse dwelling unit shall have a total minimum floor area of not less than one thousand (1,000) square feet.
4. Each dwelling unit in a multi-family structure (apartment) shall have a minimum floor area of not less than eight hundred (800) square feet.
5. All non-residential structures hereafter erected or altered shall have a total minimum floor area of not less than fifteen hundred (1,500) square feet.

J. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

K. Site Plan Requirements

All buildings shall comply with the site plan requirements as outlined in Article IV, Section 405 of this Ordinance.

## SECTION 503 "C" COMMERCIAL DISTRICT

The "C" Commercial District is intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any other nuisance except those created by human interaction and passenger vehicles. This includes such uses as retail stores, theaters and other amusement enterprises, business offices, newspaper offices and printing presses, restaurants, bars, and community garages or community parking areas subject to special regulations. Uses which would substantially interfere with the development or continuation of the commercial structures and uses in the district are restricted.

### A. Permitted Uses

1. Administrative offices for commercial and industrial organization;
2. Amusement establishment, including bowling alleys, dance halls, similar place of recreation when conducted wholly within a completely enclosed building;
3. Auto accessory store, automobile and truck sales and incidental service;
4. Bakery shop, including the baking and processing of food products;
5. Bank, financial institution, savings and loan association, drive-in or main office;
6. Barber shop, beauty shop;
7. Blueprinting, photostating establishment;
8. Business, charitable, professional offices;
9. Bus passenger terminal;
10. Cabinet shop;



11. Camera and photographic supply shop, retail sales and service;
12. Day Care facilities;
13. Department store;
14. Dry-cleaning or pressing establishment, when employing facilities for the cleaning or pressing of dry goods received on the premises from retail trade only and including no wholesale cleaning or pressing business and when using nonflammable solvents as approved by the fire department;
15. Dry goods store, haberdashery, wearing apparel store;
16. Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture;
17. Food stores;
18. Funeral home, mortuary;
19. Furniture store, upholstery shop;
20. Furrier, conducted as a retail operation for trade on the premises only;
21. Garden supplies, seed store, nursery;
22. Health club;
23. Hotel, motor hotel, club or restaurant;
24. Household appliance store, sales and service;
25. Interior decorating business, including upholstering and making of draperies, slip covers and similar articles when conducted as a part of the retail operations and secondary to the main use;
26. Jewelry store;
27. Medical Clinic;
28. Office, business or professional;

29. Paint, wallpaper sales;
30. Photographers studio, art gallery, including the developing of film when conducted as a part of the retail business on the premises;
31. Plumbing, heating, similar business showroom including shop or repair facilities; provided that work is carried out and storage is accommodated in an enclosed building;
32. Post Office;
33. Printing Shop;
34. Restaurant, cafeteria and snack bar, including the sale of alcoholic beverages;
35. Service station, public garage, or other motor vehicle services, provided no repair work is performed outdoors, provided all pumps, underground storage tanks, lubricating and other devices are located not less than twenty-five (25) feet from any street right-of-way, provided all fuel, oil or similar substances are stored inside or underground, and provided all automobile parts, dismantled vehicles, and similar articles are stored within a building;
36. Shoe store;
37. Sporting good store;
38. Theater, indoor;
39. Travel agency;
40. Typewriter, office equipment sales and services;
41. Variety store;
42. Similar type retail or service use not specifically listed herein when authorized by the Zoning Hearing Board.

B. Accessory Uses

Accessory uses customarily incidental to any of the above uses, and including:

1. Off-street parking and loading facilities, as regulated in this Ordinance;
2. Fence or a metal wall not over six (6) feet in height;
3. Sign as regulated in this Ordinance;
4. Cultivation of plants, non-commercial, where used for landscaping or buffer areas.

C. Use by Special Exception

1. Storage yard and buildings for contracting or excavating equipment;
2. Commercial Shopping Center;
3. Car Wash.
4. Billboards.

D. Non-Permitted Uses

1. Residential;
2. Industrial; and
3. Mining.

E. Set Back

1. No building shall hereafter be erected or altered unless the minimum set-back is met as follows:
  - a. Front - five (5) feet
  - b. Rear - ten (10) feet
  - c. Side - five (5) feet

2. Where a commercial structure is proposed adjacent to a residential area the following setback specifications will be met:

- a. Front - ten (10) feet
- b. Side - fifteen (15) feet
- c. Rear - thirty (30) feet
- d. Buffer Area - ten (10) feet, which includes landscaping, abutting R Districts

Note: Buffer area is located within setback dimensions.

3. Where more than fifty percent (50%) of the lots within a block contain existing structures, the front yard setback may be reduced to conform to the setback lines of the existing structures.

F. Height

The maximum height of buildings hereafter erected or altered shall be as follows:

All buildings shall be a maximum height of thirty-five (35) feet.

G. Lot Area

The minimum lot area for all commercial buildings hereafter erected or altered shall be eight thousand (8,000) square feet and a minimum width at the building line of eighty (80) feet.

H. Percentage of Lot Coverage

- 1. All buildings shall cover not more than seventy-five (75) percent of the lot area.
- 2. All buildings plus accessory uses including parking shall cover not more than eighty-five (85) percent of the lot area.

I. Floor Area Standards

Every one-story structure hereafter erected or altered shall have a total floor area of not less than one thousand (1,000) square feet.

J. Off-Street Parking and Loading Facilities

Shall be provided as required under this Ordinance.

K. Signs

Shall be provided as required under this Ordinance.

L. Site Plan Requirements

All buildings shall comply with the site plan requirements as outlined in Article IV, Section 405 of this Ordinance.

## SECTION 504 "I" INDUSTRIAL DISTRICT

The "I" Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Municipality, contribute to the soundness of the economic base of the Municipality, provide opportunities for local employment close to residential areas, thus reducing travel to and from work, and otherwise further the purposes set forth in the initial paragraphs of this Ordinance. The limitations on use, height, and lot coverage are intended to provide for modern industrial development in an urban environment. Residential and general commercial uses are considered not compatible and are prohibited, as well as any use which would substantially interfere with the development or continuation of the industrial uses and structures in the district.

### A. Permitted Uses

In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for industrial uses listed hereunder, provided:

1. No explosive materials or processes are involved.
2. No smoke, fumes, odor, dust, noise, vibration or glaring light is noticeable from outside any lot in this district.
3. The use is not offensive by reason of emission of refuse matter or water-carried waste.
4. There may be retail sale of products on the premises, when such sale is clearly incidental to the permitted industrial use.

Various industrial and distributive uses including fabricating, assembly, storage, parking and other space uses incidental to the following:

Food and kindred products  
Apparel and other products  
Lumber and wood products

Furniture and Fixtures  
Paper and allied products  
Printing and publishing  
Plastic materials and synthetics  
Miscellaneous petroleum and coal products  
Leather and leather products  
Stone, clay and glass products  
Fabricated metal products  
Non-electrical machinery  
Electrical equipment  
Transportation equipment  
Trucking and warehousing  
Wholesale trade

Any other compatible type of industrial use not specifically listed herein when authorized by the Zoning Hearing Board.

B. Accessory Uses

1. A single mobile home used as a dwelling for a watchman of an industry on same site provided lot size is two (2) acres or more and mobile home is connected to public water and either public sewers or approved on-lot system. The minimum floor area shall be four hundred (400) square feet and shall not exceed seven hundred (700) square feet.
2. Accessory use of building customarily incidental to the above uses and as regulated by this Ordinance.

C. Use by Special Exception

1. Storage yards;
2. Junk yards;
3. Mining and other excavating.

D. Non-Permitted Uses

1. Farming;
2. Residential dwellings; and
3. Commercial establishments.

E. Set Back

1. No building shall be hereafter erected or altered unless the minimum set back is met as follows:

- a. Front - seventy-five (75) feet
- b. Side - twenty-five (25) feet
- c. Rear - fifty (50) feet

If proposed structure is to be adjacent to a Residential District, a buffer area of ten (10) feet shall be added to the aforementioned setback adjacent to that Residential District.

For construction of a new structure adjacent to a railroad, no setback standards are required.

F. Height

The maximum height of buildings hereafter erected or altered shall be as follows:

All buildings shall be a maximum of forty-five (45) feet or three (3) stories.

The height of any accessory apparatus for newly erected or altered buildings shall not exceed seventy-five (75) feet.

G. Lot Area

The minimum lot size for all industrial buildings hereafter erected or altered shall be one (1) acre with a minimum width at building line of one hundred fifty (150) feet.

H. Percentage of Lot Coverage

The building area shall not exceed forty (40) percent of the lot area and no more than sixty-five percent (65%) shall be used (including the building area) for paving.

I. Off-Street Parking and Loading Facilities

All parking shall be provided as required in this Ordinance.



J. Signs

Shall be provided as required in this Ordinance.

K. Special Conditions

In addition to the site plan requirements under Article IV, any other authority approval required, when applicable, such as Department of Health, State Highway Department, Department of Labor and Industry, and similar organizations shall be obtained before applying for zoning approval or an occupancy permit. Said authorizations shall accompany plans at the time they are submitted to the Municipality for review.

## SECTION 505 "FP" FLOOD PLAIN DISTRICT

The Flood Plain District is designed as a sub-zone within any given zoning district. The recognition of a Flood Plain District on the Zoning Map serves to minimize loss of life and health and damage to public and private property due to recurring or severe flooding. The Flood Plain District also provides notices to prospective developers that flooding may be expected in the area.

The identified Flood Plain District shall be any area of the Municipality, subject to the one hundred (100) year flood, which is identified as Zone A (Area of Special Flood Hazard) on the most recent Flood Hazard Boundary Map (FHBM) as issued by the Federal Emergency Management Agency (FEMA), or on the most recent Flood Insurance Rate Map (FIRM) issued by FEMA, if such a map has been prepared for the Municipality.

### A. Flood Elevation Determination

For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified flood plain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used such as:

1. Corps of Engineers - Flood Plain Information Reports
2. U.S. Geological Survey - Flood Prone Quadrangles
3. U.S.D.A., Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information
4. Pennsylvania Department of Environmental Resources - Flood Control Investigations
5. Known Highwater Marks from Past Floods
6. Other Sources

In lieu of the above, the Municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Municipality.

B. Changes in Identification of Area

The identified floodplain area may be revised or modified by the Municipality where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

C. Boundary Disputes

Should a dispute concerning any identified flood plain boundary arise, an initial determination shall be made by the Municipal Planning Agency and any party aggrieved by this decision may appeal to the Municipality. The burden of proof shall be on the appellant.

D. General Technical Requirements

1. In the identified flood plain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the Municipality. (Municipal Flood Plain Ordinance)
2. Within any identified flood plain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

3. Within any identified flood plain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be one and one half (1-1/2) feet or more above the one hundred (100) year flood elevation.
4. Within any identified flood plain area, the elevation of the lowest floor (including basement) of any new or substantially improved non-residential structure shall be one and one half (1-1/2) feet or more above the one hundred (100) year flood elevation or be flood-proofed up to that height.

Any non-residential structure, or part thereof, which will not be completely or adequately elevated, shall be flood-proofed in accordance with the provisions of the Municipal Flood Plain Ordinance. Additional information may be obtained from the publication entitled, "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972).

E. Design and Construction Standards

The minimum standards for all construction and development proposed within any identified flood plain area provided in the Municipal Flood Plain Ordinance.

F. Development Which May Endanger Human Life

In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or,
- will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or

- will involve the production, storage, or use of any amount of radioactive substances;

shall be prohibited from development within any identified flood plain area. The following list of materials and substances are considered dangerous to human life:

Acetone  
Ammonia  
Benzene  
Calcium carbide  
Carbon disulfide  
Celluloid  
Chlorine  
Hydrochloric acid  
Hydrocyanic acid  
Magnesium  
Nitric acid and oxides of nitrogen  
Petroleum products (gasoline, fuel oil, etc.)  
Phosphorus  
Potassium  
Sodium  
Sulphur and sulphur products  
Pesticides (including insecticides, fungicides and rodenticides)  
Radioactive substances, insofar as such substances are not otherwise regulated.

G. Special Requirements for Mobile Homes

Shall be required as provided in the Municipal Flood Plain Ordinance.

H. Activities Requiring Special Permits

The following activities shall be prohibited within any identified flood plain area unless a Special Permit has been issued by the Municipality as provided in the Municipal Flood Plain Ordinance:

1. Hospitals;
2. Nursing Homes;
3. Jails or Prisons; and
4. Mobile Home Parks.

Application requirements, review procedures, and special technical requirements are contained within the Municipal Flood Plain Ordinance regarding the above-mentioned activities.

I. Existing Structures in Identified Flood Plain Areas

1. Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the following provisions shall apply.

2. Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified flood plain area:

Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance and the Municipal Flood Plain Ordinance.

J. Variances

Requests for variances shall be considered by the Municipality in accordance with the procedures contained in the Municipal Flood Plain Ordinance.

## SECTION 506 "S" CONSERVANCY DISTRICT

The "S" Conservancy District is intended to encourage the conservation of steep hillside land within the Municipality, where the economics of building and supplying public services and facilities argue against the more usual type of building development; and where only excessive expenditures for grading the land will make building development feasible; to prohibit commercial and industrial uses of land, and also residential use, except under special conditions relating to the availability of public facilities; and to discourage any use when its character or location within the district would create requirements and costs for public facilities, such as water supply and sewerage service substantially in excess of such requirements and costs in areas of less steep topography. All public water supply reservoirs and their approximate watershed areas are also included in this district, regardless of slope, so as to prevent erosion, sedimentation, and other contamination of the water supply.

### A. Permitted Uses

1. Farming, general gardening, and growing of trees and nursery stock;
2. Recreation area, when operated by a non-profit organization;
3. Tourist attractions and historic or culturally significant areas, when operated by a non-profit organization; and
4. Public reservoirs and their associated watersheds.

### B. Accessory Uses

As authorized by the Zoning Hearing Board

### C. Uses by Special Exception

1. One-family dwellings; and
2. Home occupations.

### D. Non-Permitted Uses

1. Industrial Uses;
2. Surface Mining; and
3. Commercial Uses.

E. Setback

All setbacks - 50 feet

F. Height

1. One-family detached dwelling -  
thirty-five (35) feet
2. Agricultural structures - sixty (60)  
feet
3. Accessory Building - twenty (20) feet
4. Any other permitted building -  
thirty five (35) feet

G. Lot Area

The minimum lot area for every building hereafter erected or altered shall be five (5) acres.

H. Percentage of Lot Coverage

All buildings, including accessory uses, shall cover not more than ten (10) percent of the area of the lot.

I. Dwelling Standards

As permitted in R-1 One-Family Residential District

J. Off-Street Parking and Loading Facilities

Shall be provided as required in this Ordinance.

K. Special Conditions

On any lot traversed by an intermittent and/or a permanent watercourse, i.e., stream, lake, pond, etc., no building or structure shall be erected within one hundred and fifty (150) feet of the waterway. Nor shall any building or structure be erected upon slopes in excess of 25% grade unless the architectural design conforms to the landscape in a manner minimizing site preparation and excavation work.



## ARTICLE VI

### SIGNS

#### SECTION 601 GENERAL PROVISIONS

Any sign erected or altered after the effective date of this Ordinance shall be in accordance with the provisions and regulations contained in this Article.

- A. A building permit shall be required for any sign erected.
- B. All signs shall be constructed and maintained in a safe orderly manner. No sign shall be placed in such a position that it will cause danger to vehicular or pedestrian traffic by obscuring view or causing distraction.
- C. Any sign, if illuminated, shall be non-flashing, shall be of enclosed lamp design, and shall be lighted in a manner not detrimental to any adjacent property or public right-of-way.
- D. No sign, except traffic signs and other official signs, may be erected or extend onto any public street or right-of-way.
- E. Any sign attached to or painted on a building may protrude a maximum distance of six (6) inches from the wall to which it is attached, may cover maximum of 25% of the total area of the wall to which it is attached, and shall not extend beyond any point of the line of the building to which the sign is attached.
- F. No sign that is a part of or is supported by a building shall be erected upon the roof of such a building.
- G. No sign structure erected directly upon the ground shall have less than three (3) feet of clear space between such sign and the ground, however, necessary supports may extend through such open space.
- H. No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles or trees within the street line.

- I. Non-conforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs may be repainted or repaired, providing such repainting or repairing does not exceed the dimensions of the existing sign.
- J. Zoning Hearing Board approval shall be required for all signs and billboards erected pursuant to this Article.

#### SECTION 602 PROVISIONS FOR R-1 AND R-2 DISTRICTS

In a residential district, the following signs shall be permitted and the following regulations shall apply:

- A. All signs erected in a residential zone shall be on premise signs and refer, advertise, or direct attention only to activities conducted on the site; except that a temporary directional sign may be erected for special events, if prior approval is granted by the owner of property on which the sign is to be erected under the same conditions provided for temporary promotional signs as provided in this Article.
- B. One temporary sign of contractors, realtors, architects, mechanics, and artisans provided that such signs shall not exceed six (6) square feet and shall be removed within thirty (30) days following completion of work. There shall be a ten (10') foot set back, or the minimum required for that zone, whichever is less.
- C. One (1) identification sign for each professional and accessory use indicating the name, profession, or activity of the occupant of a dwelling or structure and similar type signs provided that such signs do not exceed an area of two (2) square feet per occupant and are set back a minimum of ten (10) feet from the nearest property line.
- D. One (1) identification sign for motels, office buildings, churches, schools, restaurants, mobile home parks, funeral homes and other places of business permitted in respective residential zones provided that such signs shall not exceed an area of twenty-four (24) square feet and are set back a minimum distance of fifteen (15) feet from the nearest property line.

- E. A sign offering the sale of farm products, nursery products, or livestock produced or raised on the premises, provided that the area of any such sign shall not exceed twelve (12) square feet and not more than one (1) such sign shall be erected on any one street frontage. There shall be a ten (10') foot set back.
- F. A sign denoting membership in agricultural associations, cooperatives, or indicating specialization in a particular breed of cattle, hogs, etc., or in a particular hybrid or strain of plant, provided that such sign is limited to six (6) square feet and not more than one (1) sign on any one street frontage. There shall be a ten (10') foot set back.
- G. The height of any sign may not exceed ten (10) feet, as measured from the ground level to the top of the sign.

#### SECTION 603 SIGN PROVISIONS FOR "C" COMMERCIAL DISTRICT

In a Commercial District, the following signs shall be permitted and the following regulations shall apply:

- A. Signs permitted within the Front Yard Setback Area. (Between the building setback line and the property line.)
  - 1. All signs erected in the front yard must be set back a minimum distance of five (5) feet from all property lines.
  - 2. Any sign within the setback area must be erected in a manner to permit the free and unobstructed vision of persons entering or leaving the property and adjacent property.
  - 3. One (1) sign within the setback line may be permitted for each twenty-five (25) feet of frontage of the lot used for business advertised on the sign, and the maximum number of such signs shall not exceed four (4) for any one business or commercial lot. Double faced signs shall be considered two (2) signs under this provision.

4. For a commercial lot with a frontage of less than sixty (60) lineal feet, the maximum area of any single-faced sign shall not exceed thirty (30) square feet, for a double-faced sign the combined area shall not exceed sixty (60) square feet.
5. In no case may the combined area of all signs within the setback area exceed 360 square feet.
6. Temporary promotional signs or displays may be erected within the setback line subject to the following regulations:
  - a. A special permit must be obtained for all signs to be erected or displayed during the temporary promotion, such a permit shall be valid for a period not to exceed thirty (30) days.
  - b. The applicant for such a permit shall submit drawings and/or narrative description of the size and location of all signs and/or display material to be utilized in the temporary promotion.
  - c. The maximum number of six (6) signs or displays may be used in a temporary promotion and the combined area of all such signs or displays shall not exceed thirty (30) square feet.
  - d. Temporary/portable signs which shall not exceed twelve (12) square feet, and not more than two (2) such signs shall be placed on any one hundred (100) feet of street frontage and no temporary/portable sign shall be on display for a period of more than thirty (30) days in any one calendar year. Temporary/portable signs shall be defined as a sign which is not permanent, is capable of being carried and/or easily moved.
  - e. Any sign or display erected under a special temporary promotion permit shall be removed by the applicant

on the expiration date of such a permit.

B. Signs Permitted Behind the Setback lines of a Commercial Zone

In addition to the above-regulated signs permitted within the setback area, signs behind the setback line and those attached to a building shall be permitted and regulated as follows:

1. All signs erected shall conform to the height and setback regulations of the Commercial Zone.
2. One (1) sign may be permitted for each twenty-five (25) feet of lineal frontage of the lot used for commercial purposes.
3. The combined area of all signs behind the setback may not exceed one (1) square foot in area for each one (1) foot of lineal frontage of the lot used for commercial purposes. In no case may the combined area of all signs exceed 360 square feet.
4. Billboards may be permitted in the C zone by the Zoning Hearing Board granting of a special exception provided that:
  - a. The area of the billboard does not exceed three hundred (300) square feet.
  - b. The billboard is set back a minimum distance of fifty (50) feet from the nearest public right-of-way.
  - c. The billboard does not exceed forty (40) feet in height.
  - d. The billboard is a minimum distance of three hundred (300) feet from the nearest residential district, church, park, school, or other public building.
  - e. The billboard is a minimum distance of four hundred (400) feet from the center line of any expressway or limited access highway if the face of the sign is visible therefrom.

- C. Off premises signs may be permitted by special exception only in a commercial zone, provided that such signs comply with the area regulations of the District and that the land on which such sign is erected is owned or leased by the individual or business erecting the sign.

SECTION 604 SIGN PROVISIONS FOR "I" INDUSTRIAL DISTRICTS

In "I" districts, the following signs shall be permitted and the following regulations shall apply:

- A. Any sign permitted in R and C districts.
- B. Business or identification sign, not to exceed one (1) square foot for every one (1) lineal foot of frontage per street occupied, but not to exceed one hundred twenty (120) feet for any one (1) sign.
- C. One (1) business or identification sign per street for a group of three or more businesses on one parcel or tract not to exceed two hundred forty (240) square feet per sign.
- D. Signs attached to a building shall be set back at least five (5) feet from a lot or street line, or any required buffer area. Any sign mounted on a building may not project above the ridge line of a sloping roof or above the eave line of a flat roof.

## ARTICLE VII

### SUPPLEMENTARY PROVISIONS

#### SECTION 701 PARKING AND LOADING FACILITIES

All off-street parking and loading facilities shall be indicated on the site plan as required under Article IV, Section 405 of this ordinance. Off-street parking and/or loading facilities shall be in compliance with provisions of this Ordinance as follows:

##### A. Extent of Control

All buildings and structures erected or altered and all land uses initiated after the effective date of this Ordinance shall provide off-street parking and/or loading facilities as required herein. When a building or structure undergoes any increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified for off-street parking or loading facilities, off-street parking and loading requirements shall be determined by the entire building or structure as modified.

##### B. Schedule of Off-Street Parking Requirement

One and two-family dwellings	2 spaces for each unit
Three or more family units	1-1/2 spaces for each unit
Bowling alleys, recreation centers, public swimming pools, skating rinks and outdoor recreation facilities	1 space for every four (4) customers at maximum capacity and one (1) space for every two (2) persons regularly employed during peak periods
Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations	One (1) parking space for every fifty (50) square feet of gross floor area in the auditorium, assembly hall, and dining hall of such buildings plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises.

Drive-In Restaurant  
Facilities

Five (5) per one hundred  
(100) square feet floor  
space

Funeral Homes and  
Undertaking  
Establishments

Parking or storage space  
for all vehicles directly  
in the conduct of the  
business plus (1) parking  
space for every two (2)  
persons regularly  
employed on the premises  
during peak shift and  
one (1) space for every  
six (6) permanent seats  
in the establishment.  
One (1) parking space  
will be provided for  
every three (3) non-  
permanent seating  
arrangements (i.e. folding  
chairs)

Hospital and  
Nursing Homes

One (1) parking space for  
each four (4) beds intended  
for patients, excluding  
bassinets, plus one (1) per  
two employees on peak shift  
plus one (1) per hospital  
vehicle, and one (1) per  
doctor

Indoor retail  
businesses

Parking or storage space for  
all vehicles used directly  
in the conduct of such  
business plus one (1) parking  
space for each two hundred  
fifty (250) square feet of  
building area used for retail  
or business purposes

Elementary, Junior  
and Senior High  
Schools (includes  
Private and  
Parochial Schools)

One (1) parking space for  
every six (6) seats available  
at maximum capacity in the  
assembly hall, auditorium,  
stadium or gymnasium of  
greatest capacity. Plus one  
(1) space shall be provided  
for each person regularly  
employed at such school plus  
two (2) additional spaces for  
each classroom



Libraries, museum,  
post office and  
similar  
establishments

Parking or storage space for  
all vehicles used directly  
in the operation of such  
establishment plus one (1)  
parking space for each two  
hundred fifty (250) square  
feet of total floor area

Medical and dental  
clinics

Three (3) parking spaces for  
each doctor plus one (1)  
additional space for every  
two (2) regular employees

Manufacturing/  
Industrial

One (1) parking space for  
every three (3) employees  
during peak period, and  
adequate parking/storage  
space for all vehicles used  
directly in the conduct of  
such industrial use

Motels and hotels

One (1) parking space for  
each sleeping room offered  
for tourist accommodation  
plus one (1) space for each  
dwelling unit on the premises  
plus one (1) additional  
space for every two (2)  
persons employed by the  
establishment

Offices

Three (3) parking spaces  
for every one thousand  
(1,000) square feet of  
office space, plus one (1)  
parking space for each  
employee

Outdoor and retail  
business

Parking or storage space  
for all vehicles used  
directly in the conduct  
of such business plus two  
(2) parking spaces for each  
person employed plus one (1)  
parking space for every five  
hundred (500) feet of lot  
area used for business  
purposes

Public garages	Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each person regularly employed on the premises
Restaurants, indoor, and other eating and drinking establishments	One (1) parking space for each table or booth, plus one (1) parking space for every two (2) stools at bar or counter, plus one (1) parking space for every two (2) employees on peak shift
Service stations	Parking or storage space for all vehicles used directly in the conduct of the business plus one (1) parking space for each gas pump, three (3) spaces for each grease rack or similar facility, and one (1) space for every two (2) persons employed on the premises at maximum employment on a single shift
Theaters, auditoriums, stadiums, and places of public assembly	One (1) parking space for every four (4) seats available at maximum capacity
Places of Worship	One (1) parking space for every four permanent seats
Transportation terminals	One (1) parking space for every one hundred (100) square feet of waiting room space plus one (1) additional space for every two (2) persons regularly employed on the premises during peak shift

C. Schedule of Loading Requirements

Every building or structure used for business, trade, or industry shall provide

space as herein indicated for the loading and unloading of vehicles off the street or public alley.

Such space shall have direct access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements of off-street parking space. Off-street loading and unloading space shall not be used or designed, intended, or constructed to be used in any manner to obstruct or interfere with the free use of any street, alley or adjoining property. Off-street loading and unloading spaces shall have a minimum width of twelve (12) feet and minimum length of one hundred (100) feet. The following off-street loading and unloading space requirements of specific uses shall be provided.

- |    |  |   |
|----|--|---|
| 1. | Multi-story multiple-family                      | In excess of ten (10) units shall have one (1) off-street loading and unloading space for providing service to structure  |
| 2. | Commercial, retail and/or manufacturing building | Shall have one (1) off-street loading and unloading space plus one (1) additional space for every ten thousand (10,000) square feet of floor area devoted to commercial, retail, and/or manufacturing use |
| 3. | Warehouse and wholesale storage facilities       | Shall have one (1) off-street loading and unloading space for every seventy-five hundred (7,500) square feet of floor area of the building or structure   |

D. Design and Development Standards

1. Design

The following minimum design standards for parking areas and aisles shall apply.

- a. Parking lot dimensions shall be no less than those listed in the following table:

Angle Parking/90 degrees

Parking Width - 10'  
Stall Depth - 20'  
Aisle Width/One Way - 20'  
Aisle Width/Two Way - 24'

Angle Parking/60 degrees

Parking Width - 10'  
Stall Depth - 21'  
Aisle Width/One Way - 18'  
Aisle Width/Two Way - 21'

Angle Parking/45 degrees

Parking Width - 10'  
Stall Depth - 20'  
Aisle Width/One Way - 15'  
Aisle Width/Two Way - 18'

Angle Parking/30 degrees

Parking Width - 10'  
Stall Depth - 18'  
Aisle Width/One Way - 12'  
Aisle Width/Two Way - 15'

Parallel Parking

Parking Width - 8'  
Stall Depth - 22'  
Aisle Width/One Way - 12'  
Aisle Width/Two Way - 18'

- b. Entrance and exit ways shall have a minimum width of 12 feet for each lane of traffic entering or leaving the side but shall at no time exceed 30 feet in width at the street line.
- c. All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.
- d. Evergreen plantings shall be provided of sufficient height and density to screen off-street parking from public street view and from adjoining residential districts. A planting plan specifying type, size, and location of existing and proposed planting

material shall be submitted with the application for the permit.

- e. Entrance and exit ways and interior access ways shall be designed so as to prevent the blocking of vehicles entering or leaving the site.

2. Location

Required parking spaces shall be provided on the same lot as the building served. Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.

3. Access to Adjacent Street

Access lane to a parking lot shall be minimum width of twenty (20) feet and maximum width of forty (40) feet. The minimum center line distance between any two curb cut or access points to a parking lot shall be one hundred fifty (150) feet. Signs designating entrances, exits, and conditions of use shall not exceed twenty (20) square feet and shall be erected in a manner which will not restrict the sight distance of persons entering or leaving the lot.

4. Screening and Buffer Requirements

Whenever a parking lot abuts a public street, a structurally sound wall or planting strip shall be installed. Whenever a parking lot abuts a residential district or residential property a landscaped buffer strip a minimum width of ten (10) feet and a minimum height of six (6) feet shall be developed in a manner which will screen the parking lot from residential property or district.

5. Surfacing

All off-street parking spaces, except those accessory to a single family residential dwelling, shall be improved with a compacted base and surfaced with all-weather dustless material of adequate thickness to support the weight

of fully loaded vehicles which customarily park or travel on it.

6. Lighting

Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining properties.

7. Storm Drainage

Adequate storm drainage facilities shall be designated and installed in accordance with any applicable Stormwater Management Plan and/or accepted engineering practices. All surface water shall be collected and/or diverted in a manner which does not flow onto the surface of adjacent streets, sidewalks, or properties.

SECTION 702 SWIMMING POOLS

A. Private Swimming Pools

A private swimming pool in the ground or prefabricated installation above the ground shall be any pool, lake, or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than two (2) feet.

No such swimming pool shall be allowed in an R-1, R-2, S, or C District except as an accessory use and unless it complies with the following conditions and requirements.

1. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.
2. It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than fifteen (15) feet to any property line of the property on which it is located.
3. The swimming pool or the entire property on which it is located, shall be so walled or substantially fenced so as to

prevent uncontrolled access by children from the street or from adjacent properties, said fence or wall to be not less than six (6) feet in height and maintained in good condition.

B. Community or Club Swimming Pools

A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club solely for use and enjoyment by members of the association or club and their families and guests of members. Community and club swimming pools shall comply with the following conditions and requirements:

1. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than one hundred (100) feet to any property line of the property on which it is located.
2. The swimming pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than six (6) feet in height and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

Pools shall conform to the standards and regulations of the Pennsylvania Department of Environmental Resources.

SECTION 703 STORMWATER MANAGEMENT

Any landowner and any person engaged in the alteration or development of land which may affect storm water runoff characteristics shall implement such measures consistent with the provisions of the applicable watershed storm water management plan as are reasonably necessary to prevent personal injury to health and safety, or damage to adjacent property. Such measures shall include such actions as are required:

1. to assure that the maximum rate of storm water runoff is no greater after development than prior to development activities; or

2. to manage the quantity, velocity and direction of resulting storm water runoff in a manner which otherwise adequately protects health and property from possible injury.

A. General Criteria

1. The storm water management plan must consider all the storm water runoff flowing over the project site.
2. All storm water runoff easements and detention controls shall be located and designed by a person qualified and/or experienced in the location and design of such structures.
3. The method used in calculating storm water runoff shall be the method designated in the appropriate storm water management plan, or an equal method (approved by DER) if said plan has not been completed or adopted.
4. Storm water roof drains and pipes shall discharge water into cisterns, french drains (where soils are suitable), sheet drains or other storm water runoff dispersion and absorption control device and not into storm sewers unless recommended in the watershed storm water plan.
5. No discharge of toxic materials into any storm water management system is permitted.
6. Flow velocities from any storm drain may not result in a deflection of the receiving channel.
7. Developers are encouraged to consult the following storm water management and erosion sedimentation control publications in preparing their plans.
  - (a) Chapter 102. Erosion Control, Title 25, Rules and Regulations of the Department of Environmental Resources.



- (b) Chapter 105. Water Obstructions and Encroachments, Title 25, Rules and Regulations of the Department of Environmental Resources.
- (c) Engineering Field Manual for Conservation Practices, 1975, U.S. Department of Agriculture, Soil Conservation Service.
- (d) Erosion and Sediment Control Handbook, Cambria County Conservation District.
- (e) Guidelines for Storm Water Management, Department of Environmental Resources, Bureau of Dams and Waterway Management.
- (f) Soil Erosion and Sedimentation Control Manual, Department of Environmental Resources, Bureau of Soil and Water Conservation and Bureau of Water Quality Management.
- (g) Urban Hydrology for Small Watersheds, Technical Release No. 55, Soil Conservation Service, U.S. Department of Agriculture, January, 1975.
- (h) Little Conemaugh River Stormwater Management Plan, Cambria County Planning Commission, Ebensburg, Pennsylvania.

#### B. Specific Criteria

- 1. Storm water rate and quality for the specific watershed to be developed in the Municipality must be prepared as indicated in the appropriate Storm Water Management Plan when completed, or its equal (approved by Department of Environmental Resources).
- 2. Until such time as a county-wide or municipal storm water management plan is available, a recommended method for calculating storm water runoff is included in the Appendix of this Ordinance.

3. Erosion and Sedimentation - All activities shall be conducted in such a way as to minimize accelerated erosion and resulting sedimentation. Measures to control erosion and sedimentation shall at a minimum meet the standards of the Cambria County Conservation District and Chapter 102 (Erosion Control) of Title 25, Rules and Regulations of the Pennsylvania Department of Environmental Resources.

#### SECTION 704 SATELLITE DISHES, ANTENNAS

##### A. Satellite Dishes:

1. A satellite dish antenna is a permissible accessory structure in any zoning district subject to the requirements of this section, and shall require a Building Permit.
2. Such antennas may be installed in rear areas at least fifteen (15) feet from any property line.
3. Installation of such antennas mounted on the ground shall not have a maximum height exceeding fifteen (15) feet and shall have a maximum diameter of ten (10) feet.
4. Ground mounted dishes shall be screened from adjacent properties by evergreen trees or other type of suitable screening, as identified in the Building Permit.

- ##### B. Exceptions to regulations:
- Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size, or placement of a satellite dish when it is demonstrated that the present requirements are detrimental to reception.

## ARTICLE VIII

### SPECIAL EXCEPTIONS

The special exceptions listed in this Ordinance and their accessory buildings and uses may be permitted by the Zoning Hearing Board in the districts indicated therein, in accordance with the procedures and requirements set forth in this Article and Article XI (Zoning Hearing Board).

#### SECTION 801 GENERAL PROCEDURES

Upon receipt of an appeal for special exception by the Zoning Officer, a preliminary site plan by the developer shall be referred to the Municipality or Planning Agency for investigation as to the manner in which the proposed location and character of the special exception will affect the community and how the required standards are to be achieved. The Municipality or Planning Agency shall report the results of its study to the Zoning Hearing Board within thirty days following receipt of the application. If no such report has been filed with the Zoning Hearing Board within this time period, the Zoning Hearing Board may assume the Municipality or Planning Agency has acted favorably but in any event the recommendation of the Municipality or Planning Agency shall be advisory, and not binding upon the Zoning Hearing Board.

The Zoning Hearing Board shall conduct a public hearing on the appeal under Section 1104 (Hearings) of Article XI, and in accordance with Public Notice requirements defined in Article II, Section 202.

If the proposed Special Exception is located in the district wherein such use may be permitted in which the requirements have been met, and the spirit, purpose, and intent of this ordinance is upheld, the Zoning Hearing Board may approve the Special Exception if it is deemed that no harm shall befall the neighboring property. The Board may also levy any conditions or safeguards as deemed appropriate.

The applicant may then apply to the Zoning Officer for building and occupancy permits in accordance with the procedures specified in this ordinance.

Any expansion of such Special Exception involving the enlargement of the buildings, structures, and land area shall be subject to the procedure described in this section.

## SECTION 802 ROOMING HOUSE REQUIREMENTS

A Rooming House may be permitted as a Special Exception in R-2 Residential Districts provided it does not accommodate more than 4 boarders and meets the requirements of a single dwelling in the district.

## SECTION 803 MOTELS AND RESTAURANTS REQUIREMENTS

A Motel or Restaurant may be permitted in R-2 Residential Districts under the minimum requirements as set forth for the commercial district.

## SECTION 804 MOBILE HOME PARK REQUIREMENTS

### A. Special Exception;

A Mobile Home Park may be permitted as a special exception in the R-2 Residential District with the minimum requirements as hereinafter set forth. No Mobile Home Park shall be located or constructed in a manner or at a location inconsistent with the Municipal Flood Plain Ordinance or the Flood Plain provisions of this Ordinance.

### B. Setbacks:

All mobile homes shall be located at least fifty (50) feet from any Mobile Home Park boundary line abutting upon a public street or highway and at least twenty-five (25) feet from other park property boundary lines. There shall be a minimum distance of twenty (20) feet between the mobile home foundation and the abutting street.

### C. Lot Area:

The minimum area for every Mobile Home Park hereafter developed shall be five (5) acres.

### D. Plot Plan:

Each application shall be accompanied by three copies of a plot plan drawn at a scale of one inch equals twenty feet, prepared by a licensed surveyor, engineer, architect, or landscape architect showing limits and square footage of the proposed Mobile Home Park and location and size of driveways, parking areas, playgrounds, service buildings, other buildings, mobile home lots, together with required setbacks from right-of-ways and

property lines. All mobile home lots shall be numbered in sequence on the plot plan.

E. Density:

Density in any Mobile Home Park shall not exceed seven (7) units per gross acre.

F. Minimum Width of Mobile Home Lots:

The minimum width of each mobile home lot shall be thirty-five (35) feet.

G. Minimum Distance Between Mobile Homes:

No mobile home shall be placed within twenty (20) feet of another; provided that with respect to mobile homes parked end-to-end, the distance between mobile homes so parked shall not be less than fifteen (15) feet.

H. Mobile Home Stands:

The area of mobile home stand shall be improved to provide adequate support for the placement and tiedown of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

I. Markers:

Every mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the plot plan.

J. Streets and Driveway:

The street or driveway on which an individual mobile home lot fronts shall be not less than twenty-eight (28) feet in width. In cases where driveways dead-end, there shall be constructed at each dead-end a cul-de-sac with a minimum turning radius of forty (40) feet. All streets and driveways shall be paved in accordance with standards and specifications required for Local Streets in the Municipal Subdivision Regulations or other Municipal requirements. All construction material for such roads shall meet established Municipal requirements. Where any Mobile Home Park has an entrance

from a state highway, approval of said entrance from the State Department of Transportation must be secured before said development is approved.

K. Water and Sewer Facilities

An adequate supply of water approved by the Department of Environmental Resources shall be furnished from a public water supply system or from a private water system conforming to all applicable laws, regulations, resolutions, and ordinances, with supply faucets located on each mobile home lot. In each Mobile Home Park, all waste water from a faucet, toilet, tub, shower, sink, drain, washing machine, garbage disposal unit, or laundry shall empty into an approved sewer system installed in accordance with State and Municipal regulations.

L. Service Buildings

1. All service buildings shall be adequately lighted at all times of day and night, shall be well ventilated, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing and shall be maintained at a temperature of not less than sixty-eight (68) degrees Fahrenheit during the period from October first to May first.
2. All service buildings and grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance or fire hazard.

M. Storage Tanks

Gasoline, liquified petroleum, gas, or oil storage tanks shall be so installed as to comply with all County, State, and National Fire Prevention Code Regulations.

N. Recreation Area

Mobile home developments that accommodate 25 or more mobile homes should be provided with at least one accessible recreation area not

less than five percent (5%) of the gross site area.

O. Additions to Mobile Homes

No permanent or semi-permanent structures shall be attached to any mobile home as an addition to such mobile home. No accessory structure shall be permitted on any mobile home lot or in any Mobile Home Park. The prohibition herein against any addition or accessory to a mobile home shall not apply to a canopy or awning designed for use with a mobile home. The mobile home or lot coverage of a mobile home shall not exceed forty percent (40%) of the total mobile home lot area.

P. Landscaping

The Developer of a Mobile Home Park area shall provide a minimum of two (2) deciduous trees per mobile home. Tree caliber shall not be less than 2-1/2"-3".

SECTION 805 STORAGE YARD REQUIREMENTS

A storage yard and buildings for contractor or excavating equipment may be permitted as a Special Exception in an Industrial District or a Commercial District on a tract of land greater than two (2) acres, as follows:

- A. Storage yard for trucks, tractors, earth moving equipment, and similar types of equipment provided the equipment and the storage yard is set back a minimum distance of twenty-five (25) feet from the nearest property line and the area is properly screened from adjacent properties;
- B. Storage of materials and supplies customarily incidental to the operation of a contractor's business provided that all materials are stored within an enclosed building or structure and comply to set backs for that area;
- C. Office for a contractor.

#### SECTION 806 HOME OCCUPATION REQUIREMENTS

A home occupation shall be permitted as a Special Exception in R-1 and R-2 Residential Districts and S Conservancy Districts where the following criteria are satisfied.

- A. The proposed use shall be consistent with the definition of a home occupation set forth in Section 202 of this Ordinance.
- B. Off-street parking relating to the home occupation shall be limited to not more than three (3) spaces for motor vehicles in excess of the number of motor vehicles registered to the occupants residing at the residence in which the home occupation is conducted.
- C. The Zoning Hearing Board may impose such other reasonable conditions upon the home occupation as may be necessary according to the guidelines set forth in this Ordinance.
- D. A home occupation shall be required to have all necessary state and local permits and licenses.

#### SECTION 807 JUNK YARDS

Junk yards shall be permitted as a Special Exception only in the Industrial (I) District subject to the following regulations:

- A. All junk yards shall be enclosed with a fence a minimum of six (6) feet in height with gates. Gates shall be securely locked except during business hours when an adult attendant is on the premises.
- B. All materials stored within junk yards shall be stored and set back at least twenty-five (25) feet from any adjoining premises and at least fifty (50) feet from the right-of-way of any public road or highway.
- C. Burning or melting of any junk, rubbish, or refuse is prohibited.
- D. All material shall be stored and arranged so as to permit access by fire fighting equipment and to prevent accumulation of stagnant water. Materials or scrapped automobiles shall not be piled to a height of more than eight (8) feet from the ground.



- E. All gasolines shall be drained from any junk or scrapped automobiles into containers and removed from the premises within twelve (12) hours from arrival on the premises.
- F. All fluid wastes must comply with State and Federal regulations for disposal.  
(Transmissions fluid, etc.)
- G. No garbage or organic waste shall be permitted to be stored in any junk yard.

#### SECTION 808 CAR WASH

Car Washes shall be permitted as a Special Exception only in the Commercial (C) District subject to the following regulations:

- A. Automatic, semi-automatic, or self service car washes limited to the service of cleaning of vehicles is permitted only in an enclosed building. No such building shall be located closer than 100 feet to any residence district, hospital, or fire station, nor closer than 50 feet to an intersection.
- B. All vehicle storage, or structures, shall be so located so that they do not intrude into the front yard setback as well as meeting all other yard requirements in the C District.
- C. Sufficient lot area shall be provided to provide space for the building and required yards, and storage space of not less than five (5) vehicles for each bay in a self-service car wash and for not less than ten (10) vehicles for each space or rated capacity within an automatic or semi-automatic car wash.

#### SECTION 809 DAY CARE REQUIREMENTS

- A. Day care facilities may be permitted as a Special Exception in any Residential District with the minimum requirements as hereinafter set forth.
- B. The day care facilities defined in this Ordinance must hold an approved Pennsylvania Department of Public Welfare registration certificate or license, as appropriate, and meet all current DPW regulations including those standards governing adequate indoor space, accessible outdoor play space, and any

applicable state or local building and fire safety codes.

- C. All day care homes and facilities shall be fully protected by smoke detectors and fire extinguishers.
- D. Family Day Care Homes and Group Day Care Homes shall conform to the following safeguards:
  - 1. The general provisions of Section 701 Parking and Loading Facilities shall apply to all Family Day Care Homes and Group Day Care Homes.
  - 2. In all Residential districts in addition to any other parking spaces required in relation to other uses of a building, there shall be one off-street parking space for each non-resident employee or non-resident/full time volunteer and one safe passenger unloading space measuring at least nine (9) feet by twenty (20) feet.
  - 3. The required outdoor play area shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations relating to fences in the Zoning District in which it is located.
  - 4. Outside play shall be limited to the hours between 8:00 a.m. and 7:00 p.m.
  - 5. Any sign shall comply with the standards governing signs as provided in this Ordinance.
  - 6. When day care is provided in a home, the amount of floor area devoted to such purposes shall not exceed thirty (30) percent of the total floor area of the dwelling and there shall be no change to the exterior of the building for the purpose of accommodating the day care use.
  - 7. The lot size of any Family Day Care Home shall not be less than 7,500 square feet and the lot size of any Group Day Care Home shall not be less than 15,000 square feet. Any such home shall

conform to the setback, height, and building area requirements of the Zoning District in which it is located.

E. Day Care Centers may locate in any Residential District by Special Exception and in any Commercial District by right, and subject to the regulations of the Zoning District in which it is located and the following additional standards, whichever is more restrictive.

1. Parking - There shall be one off-street parking space provided for each employee or full-time volunteer and one safe passenger unloading space measuring nine (9) feet by twenty (20) feet for each ten children that the facility is licensed to accommodate.
2. Fence - The outdoor play area required by state licensing shall be surrounded by a safety fence or natural barrier, provided that any fence shall conform to the height limitations for fences in the Zoning District in which it is located.
3. Play Area Setback - No portion of the outside play area shall be less than thirty (30) feet from an existing occupied dwelling.
4. Hours - Outside play shall be limited to hours between 8:00 a.m. and 7:00 p.m.
5. Signs - Any sign shall comply with the standards governing signs as provided in this Ordinance.
6. Concentration - No day care center shall be established within five hundred (500) feet from another day care center in any residential district.
7. Lot Size - The minimum site or lot area shall be determined by the following table when centralized water and sewage service is provided.

<u>License Capacity</u>	<u>Minimum Lot Size</u>
7-11 children	20,000 sq. ft.
12 and above	20,000 plus 500 sq. ft. for additional child (e.g., 50 children equals 45,000 sq. ft.)

## ARTICLE IX

### NON-CONFORMING USES AND BUILDINGS

#### SECTION 901 CONTINUANCE

The lawful use of a building existing at the time of the effective date of this Ordinance may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted one. Whenever the use of a building becomes non-conforming through a change in the Zoning Ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another non-conforming use of the same or of a more restricted classification.

#### SECTION 902 DISCONTINUANCE OF USE

Whenever a non-conforming use of a property, building, sign or part thereof has been discontinued for a period of twelve (12) consecutive months, said non-conformance use shall be presumed to be abandoned and the use of the premises thereafter shall be in conformance with the regulations of the district. A property may be continued as a non-conforming use beyond the 12-month period if it is properly registered with the Zoning Officer. This extension of time shall not exceed an additional 12 months.

#### SECTION 903 ALTERATIONS

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored,

repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

#### SECTION 904 PROVISIONS FOR RECONSTRUCTION

Any building or structure containing a non-conforming use which is damaged by fire, flood, wind, or other act of God or man to the extent of seventy-five (75) percent or more of its fair market value immediately prior to damage shall not be repaired or reconstructed except in conformity with the regulations of the district in which it is located. In the event that the Zoning Officer's estimate of the extent of damage is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Zoning Hearing Board.

## ARTICLE X

### ADMINISTRATION AND ENFORCEMENT

#### SECTION 1001 ZONING OFFICER

##### A. Zoning Enforcement

A Zoning Officer shall be appointed by the Municipality to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the Municipality.

##### B. Duties and Powers of Zoning Officer

It shall be the duty of the Zoning Officer to enforce literally the provisions of this Ordinance, as amended, and he or she shall have such duties and powers as are conferred on him or her by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include but are not limited to the following:

1. Receive application for and issue zoning permits and sign permits.
2. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land, shall be retained as long as they remain in existence.
3. Make inspections as required to fulfill his/her duties. He/She shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his/her duties.
4. Issue permits for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.

5. Be responsible for keeping this Ordinance and the Zoning Map up to date so as to include all amendments thereto.
6. Institute civil enforcement proceedings as a means of enforcement.

C. Notice of Violations

The Zoning Officer shall serve a notice of violation on any person, firm, corporation, or partnership responsible for violating any of the provisions of this Ordinance, or in violation of a detailed statement or a plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct same. If the notice of violation is not complied with, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land.

The violation notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding that parcel, and to any other person requested in writing by the owner of record. The violation notice shall include at least the following information:

1. Name of the owner of record and any other person against whom the Municipality intends to take action;
2. Location of the property in violation;
3. Specific violation(s) with a description of the requirements which have not been met, referring to applicable provisions of the Zoning Ordinance.
4. Date before which the steps for compliance must be commenced and the date before which the steps must be completed;
5. Rights of appeal to the Zoning Hearing Board and prescribed appeal time period of the recipient according to the Zoning Ordinance; and
6. Notice that failure to comply within the time period, unless extended by the

Zoning Hearing Board, constitutes a violation, and possible sanctions clearly described.

#### SECTION 1002 BUILDING PERMIT

No building, structure, or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use without a permit therefor, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Ordinance, or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception, or variance as provided by this Ordinance or by the Court.

##### A. Form of Application

All applications shall be made in writing and shall be accompanied by two sets of plans showing at least the following information:

1. Actual dimensions and shape of the lot to be built upon.
2. The exact size and location on the lot of buildings, structures, or signs existing and/or proposed extensions thereto.
3. The number of dwelling units, if any, to be provided.
4. The provision of a potable water supply.
5. Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment if required.
6. Parking spaces provided and/or loading facilities.
7. Statement indicating the existing or proposed use.
8. Height of structure, building, or sign.
9. All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.



One (1) copy of the plans shall be returned to the applicant by the Zoning Officer after he/she shall have marked such copies either as approved or disapproved and attested to same by his/her signature on such copy.

One (1) copy of all such plans shall be retained by the Zoning Officer for his/her permanent records.

Such approval shall be issued or refused within thirty (30) days from date of application. In case of refusal, the applicant shall be informed to the reasons for the refusal and of his rights of appeal. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe.

B. Expiration of Building Permit

Building permit shall expire within ninety (90) days from date of issuance, if work described in any permit has not begun. If work described in any building permit has begun, said permit shall expire after two (2) years from date of issuance thereof.

SECTION 1003 CERTIFICATE OF USE AND OCCUPANCY

A Certificate of Use and Occupancy shall be required upon the completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building, and/or land portions thereof in any manner until a Certificate of Use and Occupancy has been issued.

A. Form of Application

The application for Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of Certificate of Use and Occupancy

1. The Zoning Officer shall inspect any structure, building, sign, and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Building Permit, he/she shall issue a Certificate of Use and Occupancy.

2. Certificate of Use and Occupancy shall be granted or refused in writing, within ten (10) days from the date of application.

#### SECTION 1004 SCHEDULE OF FEES

Each application for a building permit shall be accompanied by cash, certified check, or money order payable to the Municipality in accordance with the schedule of fees as follows:

A. Single and Two-Family Residential and Accessory Uses

<u>Construction Value</u>	<u>Fee</u>
\$1,000 or less	\$10.00
\$1,000 or more	\$10.00 plus an additional fee of \$1.00 per each \$1,000 or fraction thereof of additional construction value in excess of \$1,000.00

B. Multi-Family, Commercial, Industrial and Accessory Uses

A minimum fee of ten dollars (\$10.00) plus one dollar (\$1.00) additional fee per one thousand dollars (\$1,000) construction value to a maximum fee of two hundred and fifty dollars (\$250).

Payment of permit fees does not obligate the Zoning Officer or the Municipality to grant a permit to the applicant. All permits issued must be in conformance with the provisions of this Ordinance; and in the event a permit is not issued, the application fees will be returned.

#### SECTION 1005 REMEDIES

In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used, in violation of this Ordinance, the Municipality, or with their approval the Zoning Officer, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to

restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

#### SECTION 1006 PENALTIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall upon being found liable therefore in a civil enforcement proceeding commenced by the Municipality pay a judgement not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Municipality as a result thereof. No judgement shall commence or be imposed, levied, or payable until the date of the determination of a violation by the district justice. If the defendant neither pays or timely appeals the judgement, the Municipality may enforce the judgement pursuant to applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there was a good faith basis for the defendant to have believed there was no violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgements, costs, and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Municipality. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement.

## ARTICLE XI

### ZONING HEARING BOARD

#### SECTION 1101 CREATION, ORGANIZATION, AND EXPENDITURES

##### A. Creation and Membership

There is hereby established a Zoning Hearing Board. The membership of the Board shall consist of three (or five) residents of the Municipality appointed by the governing body of the Municipality. Their terms of office shall be three years (or 5 years) and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Municipality of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Municipality. The governing body of the Municipality may appoint at least one but not more than three alternate members of the Board for a three year term of office.

##### B. Removal of Members

Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Municipality taken after the member has received fifteen days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

##### C. Organization

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board. The Board may make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the Municipality and laws of the Commonwealth. The Board shall keep full public records of

its business and shall submit a report of its activities to the Municipality as requested by the Municipality.

If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member to sit on the Board to provide a quorum. The alternate member shall continue to serve on the Board in all proceedings involving the case of which the alternate was initially appointed until the Board has made a final determination of the matter or case.

D. Expenditures

Within the limits of funds appropriated by the Municipality, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties. Alternate members of the Board may receive compensation for the performance of their duties. In no case shall the compensation paid to Board members and alternates exceed the rate of compensation paid to the governing body of the Municipality.

SECTION 1102 FUNCTIONS

The Zoning Hearing Board shall function in strict accordance with and pursuant to the Municipalities Planning Code and shall have all powers set forth therein, including but not limited to the following:

A. Variances

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including

irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the Zoning Ordinance.

B. Special Exceptions

Where the governing body, in the Zoning Ordinance, has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a

special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.

In any instance where the Zoning Hearing Board is required to consider a request for a special exception, the Board should determine that the following review criteria are met before granting such a request:

1. Such use shall be one which is specifically authorized as a special exception in the zoning district in which it is to be located.
2. The size, scope, extent, and character of the special exception is consistent with the Comprehensive Plan of the municipality (if any) and promotes the harmonious and orderly development of the zoning district involved.
3. The proposed special exception constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the special exception for which applicant seeks approval.
4. The proposed use is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect the area from undue congestion and hazard.
5. The proposed special exception is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire

protection, and public schools, and assure adequate arrangements for sanitation in specific instances.

6. Conditions are being imposed to insure that the general purpose and intent of this zoning ordinance is complied with and that the use of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, number of persons involved in allied activities, ventilation, noise, sanitation, safety, smoke and fume control, and minimizing of noxious, offensive, or hazardous elements.
7. The proposed special exception protects and promotes the safety, health, morals, and general welfare of the municipality.

#### SECTION 1103 MEDIATION OPTION

- A. Parties to proceedings authorized in this Article may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this Article once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
- B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any Municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  1. Funding mediation.



2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
3. Completing mediation, including time limits for such completion.
4. Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.
5. Identifying all parties and affording them the opportunity to participate.
6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
7. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in the other sections of this Ordinance.

- C. No offers or statements made in the mediation session, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

#### SECTION 1104 HEARINGS

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as the governing body shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided

herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

- B. The governing body may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other consultants, or expert witness costs.
- C. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- D. The hearings shall be conducted by the Board or the Board may appoint any member as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- E. The parties to the hearing shall be the Municipality, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- F. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

- G. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- J. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- K. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Ordinance, rule or regulation shall contain a reference to the

provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, 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. When a decision has been rendered in favor of the applicant because of failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- L. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

## SECTION 1105 JURISDICTION

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
1. Substantive challenges to the validity of this Zoning Ordinance, except those brought before the governing body of the Municipality.
  2. Challenges to the validity of this Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said Ordinance. Where the Ordinance appealed from is the initial Zoning Ordinance of the Municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
  3. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure, or lot.
  4. Appeals from a determination by a Municipal engineer or the Zoning Officer with reference to the administration of any Flood Plain Ordinance.
  5. Applications for variances from the terms of the Zoning Ordinance.
  6. Applications for special exceptions under the Zoning Ordinance or flood plain provisions of this Ordinance.
  7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.

8. Appeals from the Zoning Officer's determination under section 916.2 of the PA Municipalities Planning Code (Procedure to Obtain Preliminary Opinion).
  9. Appeals from the determination of the Zoning Officer or Municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision or Planned Residential Development applications.
- B. The governing body of the Municipality or, except as to clauses 2, 3, and 4, the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
1. All applications for approvals of Planned Residential Developments.
  2. Applications for conditional use under the express provisions of the Zoning Ordinance pursuant to section 603(c)(2) of the PA Municipalities Planning Code.
  3. Applications for curative amendments to a Zoning Ordinance pursuant to sections 609.1 and 916.1(a)(2) of the PA Municipalities Planning Code.
  4. All petitions for amendments to the Zoning Ordinance, pursuant to the procedures set forth in section 609 of the PA Municipalities Planning Code. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
  5. Appeals from the determination of the Zoning Officer or the Municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for or land development under Planned Residential Development.

## ARTICLE XII

### AMENDMENTS

#### SECTION 1201 AMENDMENTS AND CHANGES

##### A. Amendments and Changes

Whenever it is deemed desirable in order to meet the public needs; promote the convenience and welfare of the public; conform with good zoning practice and the intent and purpose of this Ordinance; and adhere to the guiding principles of the Comprehensive Plan or community development objectives, the Municipality may amend, supplement, or change the regulations, district boundaries, or classification of property, now or hereafter established by this Ordinance, subject to the procedure provided in this section.

Any amendment, supplement, reclassification, modification or change may be initiated by any of the following:

1. The Planning Agency may initiate action by filing a written report to the Governing Body of the Municipality;
2. The governing body may initiate action on their own; or
3. The owner or owners of fifty (50%) percent or more of frontage of the properties and fifty (50%) percent or more of the number of properties, between two intersecting streets, may submit a notarized petition to the Municipality.

##### B. Petition for Map Change or Amendment

###### 1. Form and Content

Petitions for change of district boundaries or reclassification of districts as shown on the Official Zoning Map shall be on forms supplied by the Municipality. A narrative description which: (1) defines the limits of the requested change by street name or recognizable physical feature; (2) states the specific reason for the

requested change and (3) states the specific use, type of development, and type of structure to be erected under the proposed change. A map and/or preliminary site plans of the area to be rezoned shall also be submitted to the Municipality for reference and review. All information shall then be submitted to the Municipal Planning Agency for their review and recommendations.

2. Preliminary Review by Planning Agency

After the facts are presented and the data and information from the petition are reviewed and studied by the Planning Agency, the Agency shall, within fifteen (15) days after regularly scheduled meeting, submit the petition with its preliminary recommendations to the Municipality. The preliminary report by the Planning Agency is not intended to establish final approval by the Agency but rather to serve as a means of providing a format for action and review by the Municipality.

B. Action by Municipality

1. Subsequent to the introduction of the Petition for Zoning Change and Preliminary Report by the Planning Commission to the Municipality, the Municipality shall fix a time for a public hearing, pursuant to Public Notice requirements.
2. Public Notice shall include the time and place of the public hearing for consideration of the proposed amendment, supplement, or change, stating when and where a copy of the proposal will be available for public inspection, and briefly describe the change proposed.
3. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Municipality at points deemed sufficient by the Municipality along the perimeter of the tract to notify potentially interested citizens. The affected tract or area



shall be posted at least one week prior to the date of the hearing.

C. Municipal Planning Agency Review

In the case of amendments not initiated by the Municipal Planning Agency, the Planning Agency shall have been informed of the amendment at least 30 days prior to the hearing.

D. Cambria County Planning Commission Review

The Municipality shall submit the proposed amendment to the Cambria County Planning Commission for recommendation at least 30 days prior to the public hearing.

E. Conduct of Public Hearing

The Municipality or a hearing officer appointed by the Municipality shall be responsible for the conduct of the public hearing.

1. The purpose of the public hearing is to receive relevant facts, data, and other material desirable and necessary for a decision on the petition for change.
2. The chief elected official of the Municipality or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
3. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.
4. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
5. The Municipality or the hearing officer, as the case may be, shall keep a record of the proceedings, either

stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

If after the public hearing the proposed amendment is changed substantially, or is revised to utilize land previously not affected by it, the Municipality shall hold another public hearing, pursuant to Public Notice requirements, prior to proceeding to vote on the amendment.

F. Mediation Option

The Municipality may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the PA Municipalities Planning Code.

G. Final Report by Municipal Planning Agency

Within thirty (30) days following the public hearing, the Planning Agency shall review all material, data, testimony, and facts submitted for consideration in the petition for change. The Planning Agency shall make a final report on the petition for change setting forth in detail reasons wherein public necessity, convenience, and general welfare do or do not justify the proposed change and determining that the change is or is not in accord with the general objectives of the Comprehensive Plan and/or good zoning practices and shall forward its findings and recommendations to the Municipality.

H. Publication

Notice of the proposed enactment shall include the time and place of the meeting where passage will be considered, and a reference to the place where copies of the amendment may be examined without charge or obtained at cost. The Municipality shall publish the proposed amendment once in a newspaper of general circulation in the Municipality. Such notice shall state the time, place of the meeting, and the

particular nature of the matter to be considered at the meeting. The publication shall not be more than 60 days nor less than 7 days prior to passage. Publication of the proposed amendment shall include either the full text or the title and brief summary, prepared by the Municipal Solicitor. If the full text is not included, a copy will be supplied to the newspaper at the time public notice is published, and an attested copy of the proposed Ordinance will be filed at the Cambria County Law Library. If substantial changes are made to the amendment after this publication, the Municipality, at least 10 days prior to enactment, shall re-advertise a brief summary setting forth all provisions and changes, according to the aforementioned notice requirements enactment in a newspaper of general circulation in the Municipality.

I. Final Action by the Municipality

1. The passage of an Ordinance amending, supplementing, or changing the regulations, district boundaries, or classification of property, now or hereafter established by this Ordinance, shall require the affirmative vote of a majority of the members of the Municipality's governing body.
2. Any Ordinance amending, supplementing or changing the regulations, district boundaries or classification of property hereinafter established by this Ordinance, if not acted upon by the Municipality within ninety (90) days after the required public hearing, shall require a new public hearing as prescribed in this Section.
3. Within 30 days after the enactment, the Municipality shall forward a copy of the amendment to the Cambria County Planning Commission.

## SECTION 1202 LANDOWNER CURATIVE AMENDMENT

A landowner who desires to challenge the validity of the Zoning Ordinance, map, or any provision thereof, on substantial grounds, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Municipality with a written request that his challenge and proposed amendment be heard and decided. The Municipality shall commence a public hearing within 60 days of the written request.

### A. Notification

The Municipal Planning Agency and the Cambria County Planning Commission shall be notified of the proposed amendment at least 30 days prior to the public hearing.

### B. Publication

Publication requirements of Section 1201 of this Ordinance shall apply.

### C. Public Hearings

The hearing shall be conducted in accordance with Section 1104 of this Ordinance, and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, refer to the governing body of the Municipality.

### D. Invalidation Limitation

If the Municipality does not accept the landowners curative amendment and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance or map, but only for those provisions which specifically relate to the landowners curative amendment and challenge.

E. Enactment Considerations

If it is determined that the challenge has merit, the governing body may accept the landowner's curative amendment, with or without revision, or may adopt an alternative amendment which cures the challenged defects. In addition to the curative amendments, plans, and information submitted by the landowner, the governing body shall also consider the following:

1. The impact of the proposal on roads, sewer facilities, water supplies, and other public facilities;
2. The impact of residential proposals on regional housing needs and their effectiveness in providing housing units of the type available to and affordable by classes of persons otherwise excluded by the challenged provisions of the Ordinance or map;
3. Site suitability in relation to physiographic features;
4. The impact of the proposed use on physiographic and environmental considerations; and
5. The impact of the proposed use on agricultural preservation, public health, and public welfare considerations.

SECTION 1203 MUNICIPAL CURATIVE AMENDMENTS

The Municipality may determine that this Zoning Ordinance or sections thereof are substantially invalid. This determination shall declare by formal action the sections substantially invalid and propose a curative amendment to overcome this invalidity.

A. Within 30 days of this declaration and proposal the Municipality shall:

1. By resolution make specific findings setting forth the declared invalidity which may include specific uses, class of uses, or references to the entire Ordinance; and

2. Begin to prepare and consider a curative amendment to correct the declared invalidity.
- B. Within 180 days of the declaration and proposal, the Municipality shall enact a curative amendment or validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the procedures outlined in Section 1201 of this Ordinance.
- C. After using this procedure, the Municipality may not again utilize this method for a 36-month period following the date of a curative amendment, or reaffirmation of its Zoning Ordinance, unless a new duty or obligation is imposed on the Municipality by a change in statute or Pennsylvania Appellate Court decision after the date of declaration and proposal. In this case, the Municipality may use the provision of this Section to fulfill said duty or obligation.
- D. Any other procedures or provisions as required by the PA Municipalities Planning Code.

#### SECTION 1204 FEES

Any person other than the governing body or Municipal Planning Agency requesting an amendment of the Zoning Ordinance (including a curative amendment) shall pay a fee of three hundred fifty dollars (\$350.00) at the time the request is filed with the Municipality. This fee shall cover the cost of advertising of the aforesaid notice, the cost of stenographic service, legal fees and any other expenses incurred in connection with such application, provided, however, that if the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant. In the event the aforesaid costs and expenses exceed the \$350.00 fee, the applicant shall reimburse the Municipality for such excess.

ARTICLE XIII

REPEALING CLAUSE

SECTION 1301 REPEALING CLAUSE

If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared as the intent of the governing body of this Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentences, clauses, or sections thereof not have been included herein.

All other Ordinances or part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

It is the intention of this Ordinance, or any amendments or supplements hereto, to furnish a complete and exclusive system of zoning and regulations for zoning in Franklin Borough, Cambria County, Pennsylvania.

Ordained and enacted this 12<sup>TH</sup> day of OCTOBER 19 94.

\_\_\_\_\_  
Borough of Franklin  
Municipality

By \_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_  
Secretary

## APPENDIX



Section 303. Calculation Methodology

Any stormwater runoff calculations involving drainage areas greater than 20 acres, including on- and off-site areas, shall use any generally accepted calculation technique that is based on the SCS soil cover complex method. It is assumed that all methods will be selected by the design professional based on the individual limitations and suitability of each method for a particular site.

**ACCEPTABLE COMPUTATION METHODOLOGIES FOR STORMWATER  
MANAGEMENT PLANS**

Method	Method Developed By	Applicability
TR-20 (or commercial package based on TR-20)	USDA SCS	Applicable where use of full hydrology computer model is desirable or necessary.
TR-55 (or commercial computer package based on TR-55)	USDA SCS	Applicable for land development plans within limitations described in TR-55.
HEC-1	U.S. Army Corps of Engineers	Applicable where use of full hydrologic computer model is desirable or necessary.
PSRM	Penn State University	Applicable where use of a hydrologic computer model is desirable or necessary; simpler than TR-20 or HEC-1.
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	For sites less than 20 acres, or as approved by the Plan Administrator and Municipal Engineer.
Other Methods	Varies	Other computation methodologies approved by the Plan Administrator and Municipal Engineer.

Note: Revised April, 1994