

Chapter 27

Zoning

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Part 1**Preliminary Provisions****§27-101. Enacting Clause.**

Be it ordained and enacted by the Borough of Ferndale, in 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 Chapter, the following districts shall be established and the following regulations to apply in such districts, for the purpose of regulating and restricting the height, number of stories and size of buildings and other structures hereafter erected or altered, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

(Ord. 385, 12/6/1982, §101)

§27-102. Short Title.

This Chapter shall be known as the "Zoning Ordinance" and the map herein referred to, which is identified by the title "Borough of Ferndale, Pennsylvania, Zone Map" and which is hereby declared to be a part of this Chapter, shall be known as the "Zone Map."

(Ord. 385, 12/6/1982, §102)

§27-103. Effective Date.

The effective date of this Chapter shall be 5 days after its adoption by the Borough Council.

(Ord. 385, 12/6/1982, §103)

§27-104. Validity and Conflict.

Should any Section or provision of this Chapter be declared invalid, the same shall not affect the validity of this Chapter as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this Chapter 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 Ferndale Borough existing on the effective date of this Chapter, or in any regulation issued under the authority of such code or ordinance, the provision which establishes the higher standard for the protection of health, safety and welfare shall prevail.

(Ord. 385, 12/6/1982, §104)

§27-105. Purpose and Community Development Objectives.

The purpose of this Chapter shall be designed:

A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports and national defense facilities, the provisions of adequate light and air,

police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements, as well as.

B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This Chapter has been made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.

C. To facilitate the development of the Borough to fulfill the goals and objectives of the Ferndale Borough Comprehensive Plan dated _____, 1982, in developing the Borough primarily as a residential, commercial and light industrial area, with the preservation of natural beauty.

(Ord. 385, 12/6/1982, §105)

§27-106. Filing.

This Chapter, including the Zoning District Map, together with any succeeding amendments, thereto, shall be on file and may be viewed by any interested party in the Ferndale Borough office.

(Ord. 385, 12/6/1982, §106)

Part 2**Rules and Definition****§27-201. Rules.**

The following rules of construction shall apply to this Chapter:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Chapter 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 used 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."

(Ord. 385, 12/6/1982, §201)

§27-202. Definitions.

Accessory building or 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:

- A. Children's playhouse, garden house, or private greenhouse.
- B. Civil defense shelter serving not more than two families.
- C. Garage, shed, or building for domestic storage.
- D. Incinerator incidental to residential use.
- E. Storage of merchandise normally carried in stock on the same lot with any commercial use unless such storage is excluded by the district regulations.
- F. Nonpaying guest house or rooms for nonpaying guests within an accessory building provided such facilities are used for the occasional housing of guest or occupants of the principal building and not for permanent occupancy by others as housekeeping units.
- G. Servants' quarters or servants' house.
- H. Off-street motor vehicle parking area; loading and unloading facility.
- I. Fence; sign.

Alley—a service way 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 or in the exit 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 hotel—a building consisting of guest rooms, suites of rooms, or dwelling units which are occupied more or less permanently, wherein the occupants are furnished so-called hotel services, including dining room and maid service.

Apartment house—a building used by three or more families living independently of each other and containing dwelling units.

Area, building—the total of areas taken on a horizontal plane at the main grade level of the principal building exclusive of uncovered porches, terraces, steps, garages and other accessory buildings.

Automobile repair, major—engine rebuilding or major reconditioning of worn 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 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, announcement, commodity, or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

Board—the Zoning Hearing Board of Ferndale Borough.

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 a separate building. It shall include any overhang, projection or roof extending beyond a wall or support. Sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, or terraces.

Building line—the line of that face of the building nearest the front line of the lot. This face includes front main foundation but does not include walks, steps, or terraces.

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 deck line of mansard roofs, and to the mean height between eave and ridge for gable, hip and gambrel roofs.

Cellar—a portion of a building having one-half or more of its height below the

average grade of the adjoining ground. In a dwelling, a cellar may not contain the principal living quarters.

Coverage—that percentage of the lot area covered by the building area.

District, zoning—a section of Ferndale Borough 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.

Dwelling—a building designed or used exclusively as the living quarters for one or more families.

Dwelling, one-family—a detached building designed for or occupied exclusively by one-family.

Dwelling, two-family—a building designed for or occupied exclusively by two families living independently of each other, with separate dwelling unit entrances.

Dwelling multiple family—a dwelling or group of dwellings on one plot or lot containing separate living units or dwelling units for three or more families, but which may have joint services or facilities or both.

Dwelling, group—a group of two or more one-family, two-family, or multiple family dwellings occupying a lot in one ownership and having a yard in common.

Dwelling, multi-story multiple family—a multiple family dwelling of more than three stories, unless further restricted in district regulations herein.

Dwelling, townhouse—a townhouse is a multi-story dwelling that is one of a planned complex of such contiguous dwellings sharing common party walls. Such dwellings are divided into distinct and noncommunicating units, with each dwelling unit having direct access to the outdoors. Provision for separate utilities and separate lots for all dwelling units in a building must be made, and the facades of dwelling units shall harmonize with each other and the surrounding neighborhood.

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

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 dwelling standards, the garage and basement areas shall not be included. 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 7½ 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.

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.

Habitat living space—refers to space utilized by occupant within a dwelling unit including the following areas: living room, dining room, kitchen, bedroom, bathroom, closets, stairways, etc., but not including basements, garages or common hallways and common stairways.

Height—see “building height,” herein.

Home occupation—a secondary use of a service nature customarily conducted within a residential dwelling by the residents with no paid assistants. A home occupation is clearly secondary to the use of the residential dwelling and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign, and in connection therewith there is not involved the keeping of or exhibition of stock in trade.

A. The office of a physician, dentist, architect, or other professional person shall be deemed to be a home occupation. Instructions in violin, piano, or other individual musical instruments limited to a single person at a time shall also be deemed a home occupation. The occupations of dressmaker, barber, watchmaker, milliner, beautician, seamstress, or other persons who offer skilled services to clients, and are not engaged in the purchase or sale of economic goods, shall also be deemed to be home occupations.

B. The following are not permitted as home occupations: dancing instruction, band instrument instructions in groups, tea rooms, tourist homes, real estate offices, convalescent homes, mortuary establishments, stores, trades, auto body work shops, or business of any kind.

Hospital—shall include residential in-patient treatment facilities such as sanitarium, sanatorium, preventorium, rest home, nursing home, convalescent home, and any place for in-patient care.

Hotel—a building in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from rooms is made from an inside lobby or office supervised by a person in charge at all hours, and which is open to transient guests, in contradistinction to a boarding house, lodging house, or rooming house.

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 through an inside lobby or office supervised by a person in charge at all times or directly from the exterior.

Institutional house—a public or private benevolent establishment devoted to the shelter, maintenance, or education and care of minor children homeless, half-way house, aged, or infirm persons.

Livestock—such animals normally raised on farms for individual consumption or for sale. Generally such animals include, but are not limited to, pigs, goats, sheep, cattle, horses, chickens, or other fowl.

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 parcel, tract, or area of land accessible by means of a public street which is

intended for transfer of ownership, use, lease, improvements or for development, regardless of how it is conveyed. Lot shall also mean parcel, plot, site, or any similar term.

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 lot 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 line, front—in the case of an interior lot, the line separating the lot from the street. In the case of a corner lot, the line separating the narrowest frontage of the lot from the street.

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.

Medical and dental out-patient clinic—limited to a nonresidential place for the diagnosis, treatment, or other care of human ailments.

Mobile home—a transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit or in two units designed to be jointed 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, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

Mobile home park—a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

Modular home—a transportable, single-family dwelling intended for permanent occupancy contained in two or more units and designed for use with a permanent foundation.

Motel—see “hotel, motor,” herein.

Nonconforming use—a building or use of land lawfully existing on the effective date of this Chapter that does not completely conform to the use regulations for the district in which it is located.

Nursery school—a school designed to provide daytime care or instruction for two or more children of preschool age.

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 180 square feet exclusive of passageways and driveways

appurtenant thereto and giving access thereto and having direct access to a street or alley.

Planning Commission / Committee—the planning body of Ferndale Borough, which shall have conferred and imposed upon it all the powers of the Zoning Commission.

Porch—an open structure projecting from the front, side or rear wall of a building and having no enclosed features of glass, wood or other material more than 30 inches above the floor thereof, except the necessary columns to support the roof.

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 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.

Sign—any surface, fabric, or 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.

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—a strip of land, including the entire right-of-way (not limited to the cartway), intended for use by the general public as a means of vehicular and pedestrian circulation to provide access to more than one lot.

Structure—any materials or combination of materials, which are constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on or in the ground.

Use—the specific purpose for which land or a 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 nonconforming use.

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

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 the 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 35 percent of the space, and steps, walks, terraces, driveways, lampposts, and similar structures, the depth of which is the least distance between the rear lot line and the rear of such buildings.

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 90 degrees with the side lot line, from the nearest part by encroachment of the principal

building.

(*Ord. 385*, 12/6/1982, §202)

Part 3**Establishments of Districts****§27-301. Establishment of Districts and the Zoning Ordinance Map.**

The Borough of Ferndale hereby classifies and divides into six districts designated as follows:

- A. R-1 District—One-Family Residential District.
- B. R-2 District—Multi-Family Residential District.
- C. C District—Commercial District.
- D. LI District—Light Industrial District.
- E. RC District—Recreation and Conservancy District.
- F. FP District—Floodplain District.

(Ord. 385, 12/6/1982, §301)

§27-302. Interpretation of District Boundaries.

1. Where district boundaries are indicated as approximately following the center lines of streets, highways, street lines, highway right-of-way lines, or streams, such center lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
3. Where district boundaries are so indicated that they approximately follow or are parallel to the centerlines of streets, highways, or the rights-of-way of same, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Ordinance Map.
4. Where the boundary of a district follows a railroad, such boundary shall be deemed to be located in the middle of the main tracks of such railroad.
5. Where the boundary of a district follows a stream or other body of water abutting another municipality, the boundary shall be deemed to be the limits of jurisdiction of the Borough, unless otherwise indicated.

(Ord. 385, 12/6/1982, §302)

Part 4**General Provisions****§27-401. Conformance and Permits.**

No building or land shall, after the effective date of this Chapter, except for existing nonconforming 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 and licenses required by all laws and ordinances.

(Ord. 385, 12/6/1982, §401)

§27-402. General Restrictions.

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 hereby specified for the district in which the building is located.

(Ord. 385, 12/6/1982, §402)

§27-403. Yards.

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

(Ord. 385, 12/6/1982, §403)

§27-404. 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 local public health authorities having jurisdiction.

(Ord. 385, 12/6/1982, §404)

§27-405. Public Utility Lines.

For the transportation, distribution, and control of water, gas, electricity, oil, steam, telegraph and telephone communications and their supporting members other than buildings, and railroads shall not be required to be located on a zoning lot nor be held to reduce yard dimensions for other buildings on a lot.

(Ord. 385, 12/6/1982, §405)

§27-406. Lots Not Meeting Lot Area Requirements.

Nothing in the district regulations shall be held to prohibit the erection of a one-family dwelling upon a lot whose size is inadequate to meet the lot area regulations set for the district, provided such lot on the effective date of this Chapter was held under separate ownership from the adjoining lots or is a lot in a recorded plan which complies

with all district regulations, except lot area requirements, or is a lot in a subdivision plan approved under the Borough of Ferndale subdivision regulations.

(*Ord. 385, 12/6/1982, §406*)

§27-407. Mobile Home Parks.

Mobile homes, home trailers, or auto trailers shall be permitted for permanent occupancy in the R-2 District and in mobile home parks only. All mobile homes must be permanently affixed to a foundation so as to prevent tipping due to high winds or flash flooding, and comply with all other requirements of §27-502.

(*Ord. 385, 12/6/1982, §407*)

§27-408. Property Survey.

Prior to all new construction the owner and/or developer must have each lot or lots properly surveyed by a certified surveyor or professional engineer, and the location of the proposed building and/or buildings (drawn to scale) indicated on said survey.

(*Ord. 385, 12/6/1982, §408*)

Part 5**Provisions Governing Residential Districts****§27-501. R-1 One-Family Residential District.**

Within the R-1 One-Family Residential District the following regulations apply:

A. Permitted Uses.

- (1) One-family detached dwelling.

B. Permitted by Special Exception.

- (1) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools.

- (2) Church and similar place of worship.

- (3) Convent, monastery, rectory, or parish house to be occupied by not more than ten persons.

- (4) Private swimming pool appurtenant to a dwelling by special exception as per §27-1003. Swimming pools or the property on which they are located must be adequately fenced to prevent free access of small children and meet all applicable health and sanitary requirements. The Zoning Officer shall have complete discretion as to what is "adequate."

- (5) Public recreation (Borough, County or State) areas including municipal parks.

C. Accessory Uses.

- (1) Customarily incidental to any of the above permitted uses and including:

- (a) Private garage.

- (b) Fence or ornamental wall not over 6 feet in height. [Ord. 472]

- (c) Cultivation of plants (noncommercial only).

- (d) Home occupation.

- (2) *Permitted by Special Exception.*

- (a) Parking of boats, boat trailers and house trailers not used as dwellings on the premises.

- (b) Children's playhouse, garden house, private (noncommercial) greenhouse.

- (c) A garage, shed or building for domestic storage, dog kennel (noncommercial) or similar domestic pet housing.

D. Nonpermitted Uses. Surface mining, commercial and industrial establishments, deep mining facilities, the keeping of livestock, and other activities that are deemed damaging to the purpose of this Chapter.

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

- (1) One-family detached dwelling—35 feet or 2½ stories.
- (2) Church or similar place of worship—45 feet for the principal building and 75 feet for steeples or towers.
- (3) Any other permitted building—35 feet or 2½ stories.
- (4) Accessory building—20 feet.

F. *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, a minimum of 4,800 square feet and a width at the building line of not less than 40 feet.
- (2) Church or similar place of worship—1½ acres and a width at the building line of not less than 200 feet.
- (3) Public or private school:
 - (a) Elementary school—10 acres plus 1 acre for every 100 students at design capacity.
 - (b) Junior high school—20 acres plus 1 acre for every 100 students at design capacity.
 - (c) High school—35 acres plus 1 acre for every 100 students at design capacity.

G. *Yard Areas.* No building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure, or enlargement:

- (1) Front yard—not less than 15 feet.
- (2) Side yard—on each side, not less than 4 feet in width, free from all encroachments such as overhanging eaves and cornices, porches, steps, cellar doors, etc., on each side of a one-family dwelling, unless prior to the effective date of this Chapter, lots have been accepted by Ferndale Borough Council with less than 40 feet frontage on any Borough street and in that event, the side yard on each side of a one-family dwelling shall be equal to 10 percent of the amount of the foot frontage of the lot, but, in no event, shall be less than 4 feet.

Side yards, on corner lots, shall be 15 feet clear of all encroachments on the street side. Side yard fences are allowed to sit on side yard property lines.

- (3) Rear yard—there shall be a rear yard of not less than 25 percent of the depth of the lot at the ground level.

Accessory buildings and private garages may occupy not more than 35 percent of the required area of the rear yard. The yard area occupied by such accessory buildings shall, however, be included in computing the percentage of the lot area which may be built upon in a given zone.

No private garage or other accessory building shall be nearer to a rear or side property line than 4 feet unless otherwise permitted in side yard requirements of this Part. No garage or other accessory building shall be placed nearer to a rear lot line, which serves as a side line of an adjoining property, than 4 feet. Nothing contained herein, however, shall prevent the

construction of a private garage as a structural part of a dwelling; provided, that when so constructed, the garage walls shall be regarded as any other walls of the main building in applying the front, side, and rear yard requirements of this Chapter.

H. *Present Average Setback.*

(1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the average distance of setback from the front street line of all main buildings within the block.

(2) Exclusive of open porches projecting no more than 8 feet and overhanging eaves and cornices, no building shall extend nearer to a front street line than the "present average setback," and in no event, less than 15 feet back from the street line.

(3) In the case of a corner lot having two street frontages of approximately equal lengths, the owner may designate either of the two exterior yards as the front yard and the other as the side yard. In such case, no building (free of all encroachments) shall extend nearer to the street line of the yard designated as the side yard than 15 feet.

I. *Off-Street Parking Facilities.* Shall be provided as required or permitted under Part 11.

(Ord. 385, 12/6/1982, §501; as amended by Ord. 472, 7/9/2007, §1)

§27-502. R-2 Multiple Family Residential District.

Within the R-2 Multiple Family Residential District, the following regulations shall apply:

A. *Permitted Uses.*

(1) Any use and accessory use permitted in the R-1 District – two-family dwelling.

(2) Multiple family dwellings and apartments with not more than six dwelling units in one structure.

(3) Mobile home park as specified in §27-1002 hereof.

B. *Permitted by Special Exception.*

(1) As permitted by special exception in the R-1 District – conversion apartments for family occupancy.

(2) Efficiency apartments.

C. *Nonpermitted Uses.* As required in the R-1 District.

D. *Height.* As permitted in the R-1 District, except the multiple family dwellings shall be restricted by lot coverage, and a maximum height of three stories.

E. *Lot Area.* The minimum lot area for every building hereafter erected or altered shall be as follows:

- (1) One-family detached dwelling as required in R-1 District.
- (2) Two-family dwelling—22,400 square feet per dwelling unit and a width at the building line of not less than 40 feet.
- (3) Multiple family dwelling not less than 1,600 square feet per dwelling unit or apartment and a width at the building line of not less than 40 feet.
- (4) Church and similar place of worship as required in the R-1 District.
- (5) Public or private school as required in the R-1 District.

F. *Yard Areas.* No building or structure shall be hereafter erected or enlarged unless the following yards are provided and maintained in conjunction with such building, structure or enlargement:

- (1) Front yard—as required in R-1 District.
- (2) Side yard—as required in R-1 District.
- (3) Rear yard—there shall be a rear yard of not less than 20 percent of the depth of the lot at the ground level.

Accessory buildings and private garages as required in R-1 District.

G. *Special Regulations for Conversion—Apartments.*

(1) Plans and specifications to be submitted and approved by the Zoning Officer.

(2) No living quarters to be below ground level.

(3) Exterior to be renovated at the time of conversion and in accordance with generally accepted architectural design and practice.

(4) The entire structure of the building, both exterior and interior, must be up to minimum housing code standards at time of conversion when such codes are adopted by the Borough Council.

(5) No building shall be more than three stories in height.

(6) No multiple family dwelling shall be occupied by more than six families.

(7) Each housekeeping unit must have living quarters with an area of not less than 500 square feet of usable floor space per unit, exclusive of bathroom and kitchen facilities.

(8) No multiple dwelling or two-family dwelling unit shall occupy more than 60 percent of the lot area.

(9) *Garage Facilities.* Garage facilities for any two-family dwelling or multiple dwelling unit may be erected upon the same lot for the housing of automobiles for those who have a residence in such dwelling. These garage facilities shall be subject to rear yard restrictions contained elsewhere in this Chapter.

(10) In any event, all conversions or alterations must conform to any other provisions of this Chapter relating to area, yard, height restrictions including off-street parking according to the provisions of Part 11.

H. *Present Average Setback.* As required in the R-1 District.

(Ord. 385, 12/6/1982, §502)

Part 6**Provisions Governing Commercial Districts****§27-601. C Commercial District.**

Within the C Commercial District, the following regulations shall apply:

A. Permitted Uses.

(1) Any use or accessory use permitted in any R-1 and R-2 Residential District.

(2) Amusement establishment, including bowling alleys, similar place of recreation when conducted wholly within a completely enclosed building.

(3) Art, book, school supply and stationery store.

(4) Automobile repair—minor.

(5) Auto accessory store, automobile and truck sales and incidental service.

(6) Bakery shop, including the baking and processing of baked food products when prepared for retail use on the premises only.

(7) Bank or financial institution.

(8) Barber shop, beauty shop.

(9) Bicycle repair, sales, rental.

(10) Blueprinting, photostating establishment.

(11) Camera and photographic store.

(12) Candy or ice cream store.

(13) Custom dressmaking, millinery, tailoring or shoe repair when conducted for retail sales on the premises only.

(14) Delicatessen.

(15) Dry cleaning outlet—no on-site cleaning permitted.

(16) Drugstore.

(17) Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture.

(18) Florist shop.

(19) Food, fruit or vegetable store.

(20) Funeral home.

(21) Furniture store.

(22) Furrier, conducted as a retail operation for trade on the premise only.

(23) Garden supplies, seed store, nursery.

(24) Gift store.

(25) Hardware store.

(26) Hobby store.

- (27) Interior decorating business.
- (28) Jewelry store.
- (29) Meat market.
- (30) Newsstand.
- (31) Office, business or professional or broadcasting stations.
- (32) Business and nonmedical professional.
- (33) Medical and dental out-patient clinic.
- (34) Paint, wallpaper sales.
- (35) Plumbing, heating, similar business showroom, including shop or repair facilities.
- (36) Post office or postal substation.
- (37) Restaurants.
- (38) Service station or other motor vehicle services. Tank size shall not exceed 10,000 gallons and number of tanks will not exceed five.
- (39) Shoe store.
- (40) Sporting goods store.
- (41) Theater, indoor.
- (42) Tobacco store.
- (43) Typewriter, office equipment sales and service.
- (44) Variety store.
- (45) Watch repair.
- (46) Similar type commercial use not specifically listed when authorized as a special exception by the Zoning Hearing Board after receipt and review of recommendations of the Planning Commission/Committee. Special exceptions shall be based upon compatibility and similarity to other uses listed herein and shall not be prejudicial to the health or public safety of the community.
- (47) All activities permitted in the C District shall be conducted at least partly within an enclosed building.

B. *Nonpermitted Uses.* As required in the R-1 District, and:

- (1) All manufacturing, assembling, treating, processing servicing or repairing of goods or merchandise which are not retail businesses conducted on the premises, or which constitute nuisances by reason of odor, noise, dust or smoke, or which constitute unusual fire or explosion hazards or which, in any manner, are detrimental to the health, morals or welfare of the community.
- (2) No service station or commercial garage, or vacant lot other than located in a commercial zone, or existing as nonconforming use in any other zone shall be used for the storage or rental of trucks, trailers, utility trailers or other rental vehicles unless said vehicles are parked within a building so as not to be visible. In the event sufficient inside storage is not available this shall be a prohibited use.
- (3) *Height.* The maximum height of buildings hereafter erected, altered

or enlarged shall be 40 feet.

(4) *Lot Area*. The minimum lot area for every building hereafter erected or altered shall contain a minimum of 4,800 square feet, and a width at the building line of not less than 40 feet.

(5) *Yard Areas*. No building shall be hereafter erected, altered or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.

(a) Front yard—not less than 15 feet.

(b) Side yard—not less than 4 feet. Where abutting an R District there shall be provided in addition to the 4 feet, a buffer area of not less than 4 feet.

(c) Rear yard—not less than 10 feet. Where abutting an R District there shall be provided, in addition to the rear yard requirements, a buffer area of not less than 4 feet.

(6) *Off-Street Parking and Loading Facilities*. Shall be provided as required or permitted under Part 11.

(Ord. 385, 12/6/1982, §601)

Part 7**Provisions Governing Light Industrial District****§27-701. General Provisions; Statement of Intent.**

The L-I Light 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 Borough of Ferndale, provide opportunities for local employment close to residential and commercial areas and otherwise further the purposes set forth in the initial Sections of this Chapter. The limitations on use, height and lot coverage are intended to provide for modern light industrial development in an urban environment that produces no detrimental effect to other districts beyond the light industrial boundary.

(Ord. 385, 12/6/1982)

§27-702. Use Regulations.

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

A. In the Light Industrial District, all business, servicing, manufacturing or processing within 500 feet of an adjacent district shall be conducted at least partly in an enclosed building. All storage in a Light Industrial District within 500 feet of an adjacent district shall be effectively screened by a solid fence or planting so that the materials shall not be visible from the other districts bordering the Light Industrial District.

B. Activities involving the storage, utilization or manufacture of products which decompose by detonation shall be prohibited.

C. In the Light Industrial District, the storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire-resistive construction of no less than 2 hours and protected with an automatic fire extinguishing system. The outdoor storage of such materials shall be permitted no closer than 10 feet from all lot lines.

D. Particulate matter emission from materials or products subject to becoming windborne shall be kept to a minimum by paving, oiling, wetting, covering or other means, such as to render the unpaved roads, yards and storage piles of bulk materials.

E. No toxic matter may be discharged into the water or sewers or buried under the ground. The determination of what is a toxic matter for the purpose of enforcing this Chapter is any toxic matter listed by the American Conference of Governmental Industrial Hygienists.

F. Regardless of any other provisions of this Chapter, no use shall be constructed or operated so as to create any noxious, offensive, objectionable, or other undesirable effect on persons or property outside the lot line by virtue of emission of smoke, particulate matter, noise, dust, fumes, vibration, odor, glare, heat, humidity, solid waste, and liquid waste. Materials used and products stored

shall be adequately housed, shielded, or screened so that health, safety, and welfare of persons occupying the property or adjacent properties are not jeopardized.

G. There may be retail sale of products on the premises, when such sale is clearly incidental to the permitted industrial use.

H. *Permitted Uses.*

- (1) Any use permitted in a R-1, R-2 or C District.
- (2) Agricultural activities including greenhouse and nursery.
- (3) Bakery.
- (4) Bank, financial institutions, savings and loan association, drive-in or main offices.
- (5) Bottling work.
- (6) Building material yards or establishments.
- (7) Business, charitable, professional and consulting offices.
- (8) Cabinet making establishments and carpenter shops.
- (9) Clothing factory.
- (10) Contractor's yard.
- (11) Dairy.
- (12) Dry cleaning plant.
- (13) Dying plant.
- (14) Fruit canning and packing establishment.
- (15) Ice plant.
- (16) Machine shop.
- (17) Milk distribution station.
- (18) Motor vehicle repair, major.
- (19) Optical goods factory.
- (20) Paper box factory.
- (21) Pencil factory.
- (22) Printing, publication and engraving plant.
- (23) Sheet metal shop.
- (24) Storage firm.
- (25) Warehouses--wholesale storage facilities.
- (26) Welding shop.
- (27) Wholesale business.
- (28) Any lawful use not specifically permitted in an R-1, R-2, C or RC District.

(29) Accessory use or building customarily incidental to the above permitted uses and as regulated by this Chapter.

I. *Uses by Special Exception.*

- (1) Storage yard and building for contractors or excavating equipment.
- (2) Billboards.
- (3) Any industry that is compatible to the Borough with the approval of the Zoning Hearing Board.

(Ord. 385, 12/6/1982, §701)

§27-703. Area Regulations.

1. *Lot Area and Width.*

A. The minimum lot size for light industrial uses shall be 14,400 square feet with a minimum width at the building line of 120 feet.

B. *Yard Area Setbacks.* No building or structure shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:

(1) Front yard—not less than 15 feet.

(2) Side yard—not less than 4 feet. When abutting a street, not less than 4 feet. When abutting a Residential, Commercial or Conservancy District, not less than 8 feet.

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

C. *Height Regulations.* The maximum height of buildings including accessory buildings hereafter erected or altered shall be 40 feet.

D. *Off-Street Parking and Loading Facilities.* Off-street parking and loading facilities shall be provided as required or permitted under Part 11.

E. *Planting Areas.* Planting areas shall be provided as required or permitted under Part 10.

(Ord. 385, 12/6/1982, §702)

§27-704. Site Plan Required Data and Evidence.

1. Following the application for a certificate of occupancy or building permit, the Zoning Officer may require the owner or operator of any proposed use to submit such data and evidence as is needed to make an objective determination of eligibility. The evidence may include but is not limited to the following items:

A. Two copies of a site or plot plan drawn to scale showing actual dimensions of the lot, the exact size and location on the lot of the building and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this Chapter.

B. A description of the existing or proposed machinery, processes and products.

C. Specifications for the mechanisms and techniques used or proposed to be used in restricting the possible emission of any of the dangerous and objectionable elements.

D. Measurements of the amount or rate of emission of said dangerous and objectionable elements.

E. Any authority approval required, when applicable, such as Department of Health, State Highway Department, Department of Labor and Industry, Department of Environmental ~~Resources~~ Protection, and similar organizations, shall be obtained before applying for a building or occupancy permit. Said authorization shall accompany plans at the time they are submitted to the Zoning Administrator. [A.O.]

Failure to submit data required by the Zoning Officer shall constitute ground for denying a certificate of occupancy or building permit for any use of the land.

2. The Zoning Officer may require any person, firm or corporation to retain an expert consultant or consultants to study and report as to compliance or noncompliance of the proposed use with this Chapter, and to advise how a proposed use can be brought into compliance with this Chapter. Such consultants shall be fully qualified to give the required information and shall be persons or firms mutually agreeable to the Zoning Officer and to the owner or operator of the use in question. In the event of inability to select a mutually agreeable consultant, the Planning Commission shall select the consultant. The cost of the consultant's services shall be borne by the owner or operator of said use.

3. The Zoning Officer may require modifications or alterations in the existing or proposed construction or the operational procedures to insure that compliance with this Chapter is maintained.

(Ord. 385, 12/6/1982, §703; as amended by A.O.)

Part 8**Provisions Governing Floodplain Districts****§27-801. General Provisions.**

The following Part is incorporated to comply with the National Flood Insurance Program.

(Ord. 385, 12/6/1982)

§27-802. Statement of Intent.

The intent of this Part is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices to minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

(Ord. 385, 12/6/1982, §801)

§27-803. Applicability.

1. It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within flood-prone areas of the Borough unless an approved special building permit has been obtained from the Zoning Officer.

2. A building permit shall not be required for mines repairs to existing buildings or structures, provided that no structural changes or modifications are involved.

(Ord. 385, 12/6/1982, §802)

§27-804. Building Permits Required.

Building permits shall be required before any proposed construction or development is undertaken within any identified flood-prone area of the Borough of Ferndale.

(Ord. 385, 12/6/1982, §803)

§27-805. Issuance of Building Permit.

1. The Zoning Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

2. No building permit shall be issued until all other required permits have been obtained from any other office or agency.

(Ord. 385, 12/6/1982, §804)

§27-806. Application Procedures.

1. Application for such a building permit shall be made, in writing, to the Zoning Officer on forms supplied by the Borough of Ferndale. Such application shall contain at least the following:

- A. Name and address of application.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location.
- E. Proposed lowest floor and basement elevations in relation to mean sea level.
- F. Brief description of proposed work and estimated cost.
- G. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

2. If any proposed construction or development is located within, or adjacent to, any identified flood-prone area, applicants for building permits shall also provide the following specific information:

A. A plan which accurately delineates the area which is subject to flooding, the location of the proposed construction, the location of any other flood-prone development or structures, and the location of any existing or proposed stream improvements or protective works. Included shall be all plans for proposed subdivision and land development in order to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage.
- (2) All utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards.

B. Such plan shall also include existing and proposed contours; information concerning 100-year flood elevations, and other applicable information such as uplift forces associated with the 100-year flood; size of structures, location and elevations of streets; water supply and sanitary sewage facilities; soil types; and flood-proofing measures.

C. A document certified by a registered professional engineer or architect that the proposed construction has been adequately designed against flood damage and that the plans for the development of the site adhere to the restrictions cited in this Chapter. Such statement shall include a description of the type and extent of flood-proofing measures which have been incorporated into the design of the structure.

(Ord. 385, 12/6/1982, §805)

§27-807. Other Permit Issuance Requirements.

1. Prior to any proposed alteration, relocation or development within 50 feet

landward from the top-of-bank of any stream or any water courses, etc., within the Borough a permit shall be obtained from the Department of Environmental ~~Resources~~ Protection, Dams and Encroachment Division, as specified in the Dam Safety and Encroachments Act of 1979, as amended. Further, notification of the proposal shall be given to all affected, 32 P.S. §693.1 *et seq.*, adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Department of Community ~~Affairs~~ and Economic Development. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. [A.O.]

2. Prior to the issuance of any building permit the building official shall review the application for permit to determine if all other necessary governmental permits such as those required by Act 537, the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, and the U.S. Clean Water Act. No permit shall be issued until this determination has been made.

(Ord. 385, 12/6/1982, §806; as amended by A.O.)

§27-808. Designation of Flood-Prone Areas.

The flood-prone areas shall be any areas of the Borough of Ferndale which are identified as being flood-prone on the Flood Hazard Boundary Map as issued by the Federal Insurance Administration, dated October 13, 1978.

(Ord. 385, 12/6/1982, §807)

§27-809. Determination of the Regulatory Flood Elevation.

1. For purposes of this Chapter, the regulatory flood elevation, i.e., the 100-year flood elevation plus a freeboard safety factor of 1½ feet, shall be used. To determine the 100-year flood elevation, the elevation at a given point on the boundary of the identified flood prone areas 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:

- A. Corps of Engineers - Floodplain Information Reports.
- B. U.S. Geological Survey - Flood-prone Quadrangles.
- C. USDA, Soil Conservation Service - County Soil.
- D. Known highwater marks from past floods.
- E. Other sources.

2. In lieu of the above, the Borough 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 qualification, 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 Borough of Ferndale.

(Ord. 385, 12/6/1982, §808)

§27-810. Changes in Designation of Areas.

The delineation of any of the identified flood-prone areas may be revised by the Ferndale Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission or other qualified agency or individual documents the notification for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

(Ord. 385, 12/6/1982, §809)

§27-811. Boundary Disputes.

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Ferndale Borough Planning Commission/Committee and any party aggrieved by this decision may appeal to the Ferndale Borough Council. The burden of proof shall be on the appellant.

(Ord. 385, 12/6/1982, §810; as amended by A.O.)

§27-812. Specific Requirements.

1. In the identified flood-prone areas, the development and/or use of any land shall be permitted; provided, that the development and/or use adheres to the restrictions and requirements of all other applicable codes and ordinances in force in the municipality.

2. Within any identified flood-prone areas, the elevation of the lowest floor (including basement) of any new or improved residential structures shall be at or above the regulatory flood elevation.

3. Within any identified flood-prone areas, the elevation of the lowest floor (including basement) of nonresidential structures shall be at or above the regulatory flood elevation or be flood-proofed up to that height.

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

(Ord. 385, 12/6/1982, §811)

§27-813. Design and Construction Standards.

The following minimum standards shall apply for all construction proposed to be undertaken within any identified flood-prone area:

A. *Fill*. If fill is used, it shall:

(1) Extend laterally at least 15 feet beyond the building line from all points.

(2) Consist of soil or small rock materials only. Sanitary land fills shall not be permitted.

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

(4) Be no steeper than one vertical to two horizontal, unless substantiated data, justifying steeper slopes, are submitted to, and approved by, the Ferndale

Borough Building Official.

(5) Be used to the extent to which it does not adversely affect adjacent properties.

B. *Placement of Buildings and Structure.* All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood waters.

C. *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes and storage tanks and other similar objects or components located at or below the regulatory flood elevation shall be firmly anchored or affixed to prevent flotation.

D. *Floors, Walls and Ceilings.* Where located at or below the regulatory flood elevation:

(1) Wood flooring shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.

(2) Plywood shall be of a "marine" or "water-resistant" variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

E. *Electrical Systems and Components.*

(1) Electric water heaters, furnaces, air condition and ventilating systems, and other electrical equipment or apparatus shall not be located below the regulatory flood elevation and other electrical equipment or apparatus shall be permitted only at elevations above the regulatory flood elevation.

(2) Electrical distribution panels shall be at least 3 feet above the level of the 100-year flood elevation.

(3) Separate electrical circuits shall serve lower levels and shall be dropped from above.

F. *Plumbing.*

(1) Water heaters, furnaces, and other mechanical equipment or apparatus shall not be located below the regulatory flood elevation.

(2) No part of any on-site sewage disposal systems shall be located within any identified flood-prone areas.

(3) Water supply systems and sanitary sewage systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.

(4) All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharge from the system into the flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

G. *Paints and Adhesives.* When used at or below regulatory flood elevation:

(1) Paints or other finishes shall be of a "marine" or water-resistant quality.

(2) Adhesives shall be of a "marine" or a water-resistant quality.

(3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or water-resistant paint or other finishing material.

H. *Storage.* No materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life, shall be stored below the regulatory flood elevation.

I. *Drainage Facilities.* Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

J. *Sanitary Sewer Facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

K. *Water Facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damage.

L. *Streets.* The finished elevation of proposed new streets shall be no more than 1 foot below the regulatory flood elevation.

M. *Utilities.* All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the change or impairment during a flood.

(Ord. 385, 12/6/1982, §812)

§27-814. Activities and Materials Specifically Prohibited.

1. No mobile homes, mobile home parks, hospitals (public or private), nursing homes (public or private), or jails shall be erected in any flood-prone area of Ferndale Borough.

2. None of the following materials shall be stored or manufactured in any flood prone area of Ferndale Borough, nor shall a supply thereof be maintained in the Borough of Ferndale: 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 (insecticides, fungicides, and

rodenticides and radioactive substances.

(Ord. 385, 12/6/1982, §813)

§27-815. Existing Structures in Identified Flood-Prone Areas.

Structures existing in any identified flood-prone area prior to the enactment of this Chapter, but which are not in compliance with these provisions, may continue to remain subject to the following:

A. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.

B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50 percent or more of its market value, shall be undertaken only in full compliance with the provisions of this Chapter.

(Ord. 385, 12/6/1982, §814)

§27-816. Variances.

1. If compliance with the elevation or flood-proofing requirements of this Part would result in an exceptional hardship for a prospective builder, developer or landowner, the Borough of Ferndale may, upon request, grant relief from the strict application of the requirement.

2. Request for variances shall be considered by the Borough of Ferndale in accordance with the following procedures:

A. If granted, a variance shall involve only the least modification necessary to provide relief.

B. In granting any variance, the Borough of Ferndale attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare, and to achieve the objectives of this Part.

C. Whenever a variance is granted, the Borough of Ferndale shall notify the applicant in writing that:

(1) The granting of the variance may result in an increased premium rates for flood insurance.

(2) Such variance may increase the risks to life and property.

D. In reviewing any request for a variance, the Borough of Ferndale shall consider, but not be limited to, the following:

(1) That there is good and sufficient cause.

(2) That failure to grant the variance would result in exceptional hardship to the applicant.

(3) That the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable local or State ordinances and regulations.

E. A complete record of all variance requests and related actions shall be maintained by the Borough of Ferndale. In addition a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

3. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

(Ord. 385, 12/6/1982, §815)

§27-817. General Definition.

Unless specifically defined below, words and phrases used in this Part shall be interpreted so as to give this Part its most reasonable application.

(Ord. 385, 12/6/1982, §816)

§27-818. Specific Definitions.

Accessory use or structure—a use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Building—a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

Construction—the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

Development—any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the subdivision of land, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

Flood—a temporary inundation of normally dry land areas.

Floodproofing—any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood-prone area—a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

Minor repair—the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep; but, not including any addition, change or modification in construction, exit facilities, or permanent fixtures or equipment.

Mobile home—a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, 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 with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

Mobile home park—a parcel of land under single ownership which has been planned

and improved for the placement of two or more mobile homes for nontransient use.

Obstruction—any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, of flood-prone area, which may impede, regard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same down stream to the damage of life and property.

One hundred year flood—a flood that, on the average is likely to occur once every 100 years (i.e., that has a 1 percent chance of occurring each year, although the flood may occur in any year).

Person—any person, persons, partnership, business or corporation.

Regulatory flood elevation—the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

Structure—anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, mobile homes, and other similar items.

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, transfer of ownership, or building, or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

(Ord. 385, 12/6/1982, §817)

§27-819. Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restrict by debris. This Part does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas, will be free from flooding or flood damages.

2. This Part shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made thereunder.

(Ord. 385, 12/6/1982, §818)

Part 9**Provisions Governing Recreation and Conservancy District****§27-901. RC Recreation and Conservancy District.**

The RC Recreation and Conservancy District is intended to maintain the recreational areas and to preserve the scenic and ecological values of the Borough's steep hillside lands, waterways, environmentally sensitive forest lands and soil types through the prohibition or restriction of commercial, industrial and residential development.

A. *Permitted Uses.*

(1) Open recreation and educational use when operated by a nonprofit organization (playgrounds, athletic field, hiking trails, picnicking pavilions and buildings associated with outdoor recreation). Such auxiliary buildings, if necessary, shall be constructed in a manner compatible with the surrounding recreation or conservancy area.

(2) Scenic or natural preservation.

B. *By Special Exception* (as procedurally outlined in Part 14).

(1) Building of educational facilities.

(2) Signs for recreation or educational facilities.

(3) Scoreboard for athletic functions.

C. *Setbacks.* No building or structure shall be erected or enlarged unless the minimum setback of 15 feet is provided when facing Borough streets.

D. *Height.* Maximum height shall be 15 feet.

E. *Off-Street Parking.* Shall be provided as under Part 11.

F. *Signs.* Shall be provided as under Part 12.

(Ord. 385, 12/6/1982, §901)

Part 10**Supplementary Regulations****§27-1001. Additional Height, Area, and Yard Regulations.**

The district regulations set forth in this Section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Chapter.

A. Additional Height Regulations.

(1) Single-family dwellings and two-family dwellings may be increased in height by not more than 10 feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than 10 feet, but they shall not exceed three stories or 45 feet in height.

(2) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, radio towers, or necessary mechanical appurtenances may be erected to a height above the limitations of the district but not to exceed 15 feet over such limitations.

B. Additional Area Regulations. When more than one multiple family dwelling building is erected upon a single lot or tract, the minimum distances between main buildings shall be the following:

(1) Front to front, 70 feet; front to rear, 60 feet.

(2) Side to side, one-half the height of the tallest building, but not less than 20 feet.

(3) Front to side or rear to side, the height of the tallest building, but not less than 30 feet.

(4) Rear to rear, 50 feet.

C. Additional Yard Regulations.

(1) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features projecting not to exceed 12 inches. This requirement shall not prevent the construction of fences not exceeding 6 feet in height, provided that no solid or stockade type fences are erected. The ratio of solid to open portion shall not exceed one to one and shadowboxing is permitted using a one and one-half to one ratio. No fence of any type shall be permitted on that portion of lots within 20 feet of the intersection of two or more streets. Permits shall be required for construction of any fences. [Ord. 472]

(2) Open, or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than 3 feet, 6 inches, and the ordinary projections of chimneys and flues may be permitted by the Zoning Officer.

(3) For the purpose of side yard requirements, a two-family dwelling shall be considered as one building occupying a single lot.

(4) Terraces, uncovered porches, platforms, and ornamental features which do not extend more than 3 feet above the floor level of the first (ground) story may project into a required side yard, provided these projections are a distance of at least 3 feet from the adjacent side lot lines.

(5) Fences, hedges, trees or other structures or plantings of any nature shall not be located at street corners so as to interfere with vision clearance at intersections across corner lots. The height of such objects is restricted to 3 feet above the established street grade within a triangular area formed by the intersecting street lines and equidistant from the point of intersection.

D. *Planting Area.*

(1) A planting screen consisting of suitable shrubbery and/or trees maintained at an average height of at least 6 feet and an area width or depth of at least 4 feet shall be planted and maintained in the area between any building and the property line of a nonresidential use which abuts a residence district.

(2) Where trees already exist within the screen area specified above, these trees shall remain undisturbed except that diseased or dead material may be removed. Trees may be planting screens; however, all care must be exercised not to disturb the larger, more desirable, trees which are living.

(3) When any tree is removed, it shall be replaced by a seedling suitable to the environment. All such replacement planting shall be in accordance with accepted conservation practice.

(Ord. 385, 12/6/1982, §1001; as amended by Ord. 472, 7/9/2007, §II)

§27-1002. Mobile Home Trailer Park Restrictions.

1. *Use.* Mobile home trailer parks shall be permitted in an R-2 Residential District only.

2. *Lot Area.* The minimum area for every trailer park hereafter developed shall be 2 acres.

3. *Plot Plan.* Each application shall be accompanied by three copies of a plot plan drawn at a scale of 1 inch equals 20 feet, prepared by a licensed surveyor or engineer, showing limits and square footage of the proposed trailer park and location and size of driveways, parking areas, drying areas, playgrounds, service buildings, other buildings, trailer lots, together with required setbacks from rights-of-way and property lines. All trailer lots shall be numbered in sequence on the plot plan.

4. *Minimum Lot Area for Each Trailer.* The minimum unit area for each trailer lot used or occupied by and under each trailer shall be as follows:

A. Seventy-five percent of the lots in any one trailer park shall be not less than 2,100 square feet in area.

B. Twenty-five percent of the lots in any one trailer park shall be not less than 1,800 square feet in area.

C. Density in any trailer park shall not exceed 10 units per gross acre.

5. *Minimum Width of Trailer Lots.* The minimum width for each trailer lot shall be 30 feet.

6. *Minimum Distance Between Trailers.* No trailer shall be placed within 15 feet of another; provided, that with respect to trailers parked end-to-end, the distance between trailers so parked shall be not less than 10 feet.

7. *Setbacks.* No trailer shall be placed a lesser distance from the trailer park boundary than the side yard width required in the zoning district which abuts each boundary line. In no case shall a trailer be parked less than 10 feet from the trailer park boundary. All trailers shall be set back from any public street the same distance as buildings are required to set back in the zoning district in which the trailer park is located.

8. *Markers.* Every trailer 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 in the plot plan.

9. *Driveways.* The minimum lane or driveway on which an individual trailer lot fronts shall be 28 feet in width. In cases where driveways dead-end, there shall be constructed at each such dead-end a cul-de-sac with a minimum turning radius of 50 feet. All construction material for such roads shall meet established Borough requirements. When an entrance to any trailer park is from a State highway, approval of said entrance from the Pennsylvania Department of Transportation must be secured before said development is approved.

10. *Water and Sewer Facilities.* An adequate supply of water approved by the Department of Environmental ~~Resources Protection~~, or Health Department 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 trailer lot. In each trailer 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 Borough regulations. [A.O.]

11. *Service Buildings.* Each trailer park shall provide service buildings to house the following facilities:

A. All service buildings shall be permanent structures complying with ordinances regulating the construction of buildings.

B. 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 68 degrees Fahrenheit during the period from October 1 to May 1.

C. Service buildings housing sanitation facilities shall be located not closer than 20 feet from any trailer lot nor further than 150 feet from any trailer lot serviced by such building. Setback requirements from public streets pertaining to trailers shall also apply to service buildings. Walkways shall be provided from each service building to the nearest driveway and shall be constructed and maintained to a minimum width of 3 feet in a manner and of materials suitable for all-weather use.

D. All service buildings and the 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.

12. *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~~ International Fire Code regulations. [A.O.]

13. *Additions to Trailers.* No permanent or semi-permanent structure shall be affixed to any trailer as an addition to such trailer, nor shall any accessory structure be permitted on any trailer lot or in any trailer park except those accessory structures required by these regulations and an office structure. The prohibition herein against any addition or accessory to a trailer shall not apply to a canopy or awning designed for use with a trailer.

14. *Percentage of Lot Coverage.* The maximum lot coverage of a trailer shall not exceed 30 percent of the total trailer lot area.

15. *General Conditions.* All procedures for development of a trailer park shall be the same as required for a special exception as specified in Part 15.

(Ord. 385, 12/6/1982, §1002; as amended by A.O.)

§27-1003. Private Swimming Pools.

1. *Private Swimming Pools; Definitions.* A contained body of water located in the ground, or above ground, not located within a completely enclosed building, containing or normally capable of containing water to a depth at any point greater than 1½ feet.

2. *Regulations.*

A. *Size of Pool.* Because of the severe land elevation and relatively small size of lots in much of the Borough of Ferndale and the close proximity of the residential dwellings, the size of swimming pools permitted shall be determined by the Zoning Officer.

B. All swimming pools must be enclosed with a protective fence with suitable protection gate or gates. Said protective fence shall have a minimum height of 4 feet and a maximum height of 6 feet.

C. All swimming pools shall be erected, constructed and maintained with a suitable water filtration system in working order in accordance with minimum specifications as may be prescribed by the Zoning Officer.

D. All swimming pools and buildings accessory thereto, such as dressing rooms, shower rooms, etc., must conform with yard area and height regulations as contained elsewhere in this Chapter. No pool shall be covered with a building or other structure without prior approval from the Zoning Officer and no temporary type enclosure shall be permitted.

E. All swimming pools shall be erected in rear and side yards only. All pools must be provided with adequate drainage system connected with a storm sewer where accessible. In the event a storm sewer is not accessible, the Zoning Officer shall have full power to prescribe rules and regulations to insure adequate drainage without harm to other persons or property.

3. *Department of Environmental ~~Resources~~ Protection.* All swimming pools shall conform to the Pennsylvania Department of Environmental ~~Resource~~ Protection standards. [A.O.]

4. Swimming pools are permitted in all residential and commercial zones provided the same are not operated for benefit.

5. Homemade or nonmanufactured pools are not included within any of the above definitions and shall not be constructed within the Borough in any district.

6. An application to construct any swimming pool not meeting the above specifications may be the subject of an application for a variance before the Zoning Hearing Board.

(*Ord. 385*, 12/6/1982, §1003; as amended by *Ord. 434*, 7/1/1992; and by A.O.

Part 11**Off-Street Parking and Loading Requirements****§27-1101. General Provisions.**

1. *Procedure.* An application for a building permit for a new, renovated or enlarged building, structure, or use shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with the requirements of this Chapter.

2. *Extent of Control.* The off-street parking and loading requirements of this Chapter apply as follows:

A. All buildings and structures erected and all land uses initiated after the effective date of this Chapter shall provide necessary off-street parking or loading facilities as required hereinafter for the use thereof.

B. When a building and structure erected, renovated or enlarged prior to or after the effective date of this Chapter, shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and together, when said decrease would result in a requirement for fewer total off-street parking or loading spaces through application of the provisions of this Chapter thereto, off-street parking and loading facilities may be decreased only when the facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Chapter to the entire building or structure as modified.

C. When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this Chapter, parking and loading facilities shall be increased so that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Chapter to the entire building or structure as modified.

3. *Existing Off-Street Parking and Loading Spaces.* Accessory off-street parking and loading spaces in existence on the effective date of this Chapter may not be reduced in number unless already exceeding the requirements of this Part for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.

(Ord. 385, 12/6/1982, §1101)

§27-1102. Design and Maintenance.

1. *Parking Space; Description.* A required off-street parking space shall be an area of not less than 180 square feet nor less than 9 feet wide by 20 feet long, measured perpendicularly to the sides of the parking space exclusive of access drives or aisles, ramps, columns, or office and work areas, accessible from streets or alleys, or from

private driveways or aisles leading to streets or alleys, and to be used for the storage or parking of passenger automobiles or commercial vehicles under 1½ ton capacity. Aisles between vehicular parking spaces shall be not less than 12 feet in width when serving automobiles parked at a 45-degree angle in one direction; not less than 20 feet in width when serving automobiles parked perpendicularly for two-way aisle movement; and not less than 20 feet in width when serving automobiles parked perpendicularly for one-way aisle movement.

2. *Measurement of Space.* When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including one-half may be disregarded, and fractions over one-half shall be interpreted as one parking space.

3. *Access.* Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed 25 feet in width for one-way movement, or 32 feet in width for two-way movement.

4. *Signs.* No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities. All signs in other parking areas shall conform to Part 12 herein.

5. *Striping.* All parking spaces shall be properly marked by durable paint in stripes in a minimum of 4 inches wide and extending the length of the parking space.

6. *Required Setbacks.* No parking space or portion thereof established on a lot shall be located within a required front yard, except in C Districts, where off-street parking areas may be installed and maintained in the required front yard, provided such parking areas do not occupy street or alley rights-of-way, but in no case shall be closer than 5 feet to the paved cartway.

7. *Surfacing.* All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a compacted base surfaced with all-weather dustless material of adequate thickness to support the weight of fully-loaded vehicles which customarily park or travel on it.

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

9. *Stormwater.* Adequate storm water drainage facilities shall be installed in order to insure that stormwater does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Borough Engineer shall approve all such facilities.

10. *Walls or Planting Strip.* Whenever a parking lot abuts onto a public street, sidewalk, or alley, a structurally sound wall or planting strip approved by the Borough Engineer, shall be installed. Adequate retaining walls and other walls along abutting properties shall also be constructed, subject to the approval of the Borough Engineer. (Ord. 385, 12/6/1982, §1102)

§27-1103. Schedule of Off-Street Parking Requirements.

1. *One and Two-Family Dwellings.* One parking space for each family dwelling unit.

2. *Three or More Family Dwellings.* One parking space for each family dwelling unit.

3. *Bowling Alleys, Recreation Centers, Swimming Pools, Skating Rinks, Outdoor Commercial Recreation Enterprise and Other Recreation and Amusement Facilities.* One parking space for every four customers computed on the basis of maximum servicing capacity at any one time plus one additional space for every two persons regularly employed during peak shift on the premises.

4. *Club Houses and Meeting Places of Veterans, Business, Civic, Fraternal, Labor and Similar Organizations.* One parking space for every 50 square feet of aggregate floor area in the auditorium, assembly hall, and dining room of such building, plus one additional space for every two persons regularly employed during peak shift on the premises.

5. *"Drive-in" Facilities.* Five parking spaces per 100 square feet of floor space.

6. *Funeral Homes and Undertaking Establishments.* Parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for every two persons regularly employed on the premises during peak shift, and one space for every six seats in the establishment.

7. *Hospital (In-Patient).* One parking space for every four beds intended for patients, excluding bassinets, plus one per doctor, plus one per two employees on peak shift, plus one per hospital vehicle.

8. *Home Occupation.* Adequate off-street parking shall be provided for patrons of all home occupations. At a minimum, one parking space for each chair provided in the waiting room or examination room must be provided. These parking requirements are in addition to those required for the residential dwelling.

9. *Indoor Retail Businesses.* Parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for each 250 square feet of total floor area.

10. *Junior and Senior High Schools.* One parking space for every six seats available at maximum capacity in the assembly hall, auditorium, stadium, or gymnasium of greatest capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium, or gymnasium, one parking space shall be provided for each person regularly employed at such school, plus two additional spaces for each classroom.

11. *Libraries, Museums, Post Offices and Similar Establishments.* Parking or storage space for all vehicles used directly in the operation of such establishment, plus one parking space for each 250 square feet of total floor area.

12. *Medical and Dental Clinics (Out-Patient).* Three parking spaces for each doctor, plus one additional space for every two regular employees.

13. *Multi-use Building.* Parking space for buildings of mixed uses shall be calculated proportionally according to its uses.

14. *Nursing Homes.* One parking space for every two beds occupied at maximum capacity. This requirement is in addition to the parking space requirement for hospitals set forth herein.

15. *Offices.* One parking space for every 500 square feet of office space.

16. *Outdoor Retail Business.* Parking or storage space for all vehicles used directly in the conduct of such business, plus two parking spaces for each person employed on the premises based on maximum seasonal employment, plus one parking space for every 500 feet of lot area used for business purposes.

17. *Public and Private Elementary Schools.* Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus three parking spaces for each person regularly employed on the premises.

18. *Repair Shops, Plumbing Shops, Electrical Shops, Roofing Shops, and Other Service Establishments.* Parking or storage space for all vehicles used directly in the conduct of the business, plus two parking spaces for each person regularly employed on the premises.

19. *Restaurants.* One parking space for each table or booth, plus one parking space for every two stools at bar or counter, plus one parking space for every two persons on peak shift.

20. *Service Stations.* Parking or storage space for all vehicles used directly in the conduct of the business, plus one parking space for each gas pump, three spaces for each grease rack or similar facility, and one space for every two persons employed on the premises at maximum employment on a single shift.

21. *Theaters, Auditoriums, Churches, Stadiums, and Other Places of Public Assembly.* One parking space for every six seats available at maximum capacity.

22. *Warehouses.* Parking or storage for all vehicles used directly in the conduct of such business, plus two parking spaces for each person regularly employed on the premises during peak shift.

(Ord. 385, 12/6/1982, §1103)

§27-1104. Location of Parking Areas.

Off-street automobile parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve:

A. For one and two-family dwellings on the same lot with the building they are required to serve.

B. For three and four-family dwellings not over three stories in height, and townhouse dwellings not over three stories in height on the same lot or parcel of land as the building they are required to serve for the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assumed to be on a single lot or parcel of land.

C. For clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes, and for other similar uses on the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the lot upon which is located the building or buildings they are intended to serve.

D. For multiple family dwellings containing more than four dwelling units and all other uses on the same lot or parcel of land as the building they are required to service, or on a separate lot or parcel of land not more than 300 feet from the nearest entrance to the main use being served.

E. Notwithstanding paragraphs .A through .D above, no parking area accessory to a C or an LI use shall be located in an R2 District.

(Ord. 385, 12/6/1982, §1104)

§27-1105. Additional Regulations; Parking.

1. *Use of Off-Street Parking Facilities.* Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Part shall be used solely for the parking of passenger automobiles, commercial vehicles of not more than 1 ton GVW owned by occupants of the dwelling structures to which such facilities are accessory, service vehicles, or by guests of said occupants.

2. *Joint Parking Facilities.*

A. Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use together are not less than the sum of the separate requirements for each use of which normal hours of operation coincide, and not more than 300 feet from and contiguous to the lot on which the main building is located.

B. In any case, where the required parking spaces are not on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereto, assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Borough Solicitor, and shall be filed with the application for a building permit.

C. Not more than 50 percent of the parking spaces required for theaters, and places of amusement, and up to 100 percent of the parking spaces required for a church or school may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used or operated during the same hours as those listed in subsection .1; provided, however, that written agreement, assuring the retention for such purposes, is properly drawn and executed by the parties concerned, approved as to form and execution by the Borough Solicitor, and is filed with the application for a building permit.

3. *Control of Off-Site Facilities.* When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use is located, they shall be in the same possession, either by deed or long term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the Borough Secretary requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

4. *No Nonresidential Parking in Residential Districts.* No nonresidential parking in residential areas shall be permitted.

(Ord. 385, 12/6/1982, §1105)

§27-1106. Design, Maintenance, and Schedule of Off-Street Loading Space.

1. *Design.*

A. *Loading Space; Description.* An off-street loading space shall be a hard-surfaced area of land, open or enclosed, other than a street or public way, used principally for the standing, loading, or unloading of motor trucks, tractors, and trailers so as to avoid undue interference with the public use of streets and alleys. A required loading space shall be not less than 10 feet in width, 14 feet in height and of adequate length to suit the specific use exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned herein.

B. *Location.* No permitted or required loading space shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any two streets. Loading space open to the sky may be located in any required yards.

C. *Measurement of Spaces.* When determination of the number of required off-street loading spaces results in a requirement of a fractional space any fraction up to and including one-half may be disregarded, and fractions over one-half shall be interpreted as one loading space.

D. *Surfacing.* All open off-street loading berths shall be improved with a compacted base, surfaced with all-weather dustless material, or adequate thickness to support the weight of a fully-loaded vehicle.

2. *Additional Requirements.* Every building or structure used for business or trade shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have 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 for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended, or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley, or adjoining property.

(Ord. 385, 12/6/1982, §1106)

Part 12**Signs****§27-1201. Permit and Fee.**

A building permit shall be required prior to the erection of any and all signs in the Borough of Ferndale including, but not limited, to political, commercial and/or other signs. Prior to the erection of any sign in the Borough of Ferndale the owner of the real estate upon which the sign is to be located shall make application for a permit by letter addressed to the Borough of Ferndale Zoning Officer. The letter must set forth the type, size and classification of signs proposed to be erected and the proposed location of the sign on the property. An application fee ~~of \$5~~ in an amount as established from time to time by resolution of Borough Council shall accompany each letter application of a property owner, which shall not be refundable.

(Ord. 385, 12/6/1982, §1201; as amended by A.O.)

§27-1202. Safe and Orderly Condition.

All signs shall be erected and maintained in a safe and orderly condition. The Zoning Officer may order the repair or removal of any sign which he has declared unsafe. In the event the property owner fails to remove or repair an unsafe sign within 48 hours following such notification by the Zoning Officer, it may be removed by the Borough at the property owner's expense.

(Ord. 385, 12/6/1982, §1202)

§27-1203. Unobstructed Vision.

All signs should be erected in a manner which will not obstruct vision or in any way impede the safe movement of vehicular and/or pedestrian traffic. The Zoning Officer may order the removal of any sign which obstructs vision or in any way impedes the safe movement of vehicular and/or pedestrian traffic. In the event the property owner fails to remove the sign within 48 hours following such notification by the Zoning Officer, the sign may be removed by the Borough at the property owner's expense.

(Ord. 385, 12/6/1982, §1203)

§27-1204. Regulations.

In the Borough of Ferndale the following regulations shall apply to all signs proposed to be erected including, but not limited to, political, commercial and/or other signs:

A. Rear, front and side yard restrictions set forth in this Chapter shall apply to all signs to be erected or proposed to be erected in the Borough of Ferndale including, but not limited to, political, commercial and/or other signs.

B. Each home occupation and/or family dwelling in the Borough of Ferndale shall be restricted to one political, commercial, and/or other identification sign, said sign not to exceed 9 square feet.

C. Billboards are specifically prohibited in the Borough of Ferndale.

D. Any signs in the Borough of Ferndale shall be nonflashing and non-
animated.

(Ord. 385, 12/6/1982, §1204)

§27-1205. No Signs on Public Property.

No sign including, but not limited to, political, commercial and/or other signs shall be erected in the Borough of Ferndale on public property.

(Ord. 385, 12/6/1982, §1205)

§27-1206. Temporary Signs.

A temporary sign shall mean a sign which is erected for a period of not more than 30 consecutive days. Erection of a temporary sign shall not occur more than twice in any calendar year.

A. All provision of this Chapter shall apply to temporary signs except that no permit or fee shall be required as set forth in §27-1201 and rear, front and side yard restrictions set forth in §27-1204 shall not apply.

B. The property owner on whose property the temporary sign is erected shall remove said sign on or before the thirtieth day after it was erected. In the event the property owner fails to remove said temporary sign, it may be removed by the Borough at the property owner's expense.

(Ord. 385, 12/6/1982, §1206)

~~§27-1207. Penalty.~~

~~—If any person shall violate any provision of this Part, such person shall, upon conviction of such offense, pay a fine of not less than \$100.00 nor more than \$300.00 and costs for each and every such offense in an action brought in a court of summary jurisdiction.~~

~~(Ord. 385, 12/6/1982, §1207)~~

Part 13**Nonconforming Uses and Buildings****§27-1301. Continuance.**

The lawful use of a building existing at the time of the effective date of this Chapter may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming 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 nonconforming through a change in this Chapter or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restricted classification.

(*Ord. 385, 12/6/1982, §1301*)

§27-1302. Discontinuance of Use.

Whenever a nonconforming use of a building, structure or land, or part thereof, has been discontinued for a period of 12 consecutive months, or for a continuous period of 18 months if the building or land was originally designed and constructed for a nonresidential use, such discontinuance shall constitute an abandonment of such use. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of 6 months shall constitute abandonment of such use, and any new use must be in conformity with the regulations of the district. However, if the Zoning Hearing Board determines the resumption of the discontinued use to be in harmony with the general intent of this Chapter, it may grant a special exception permitting the resumption of the discontinued use.

(*Ord. 385, 12/6/1982, §1302*)

§27-1303. Alterations.

No existing building or premises devoted to a use not permitted in the district in which such building or premises is located, except when required to do so by law, or permitted by special exception, shall be enlarged, extended, reconstructed, or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.

(*Ord. 385, 12/6/1982, §1303*)

§27-1304. Provision for Reconstruction.

Any building or structure containing a nonconforming use which is damaged by fire, flood, wind, or other act of God or man to the extent of 75 percent or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed, except in conformity with the provisions of this Chapter. In the event that the Zoning Officer's estimate of the extent of damage or fair sales value 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.

(*Ord. 385, 12/6/1982, §1304*)

§27-1305. Construction in Progress.

No building or structure designed or intended to be utilized for a nonconforming use shall be constructed or allowed unless construction is already underway at the time of enactment or subsequent amendment of this Chapter and is being diligently pursued so that such building or structure will be completed within 18 months from the date of the enactment or subsequent amendment of this Chapter. All outstanding building permits for construction which do not meet these requirements are hereby rendered null and void.

(*Ord. 385, 12/6/1982, §1305*)

§27-1306. Historical Landmarks.

The provisions of this Part shall not apply to any building or structure which is designated by the Zoning Hearing Board to be a "historical landmark."

(*Ord. 385, 12/6/1982, §1306*)

§27-1307. Extensions and Enlargements.

The Zoning Hearing Board may grant special exceptions permitting the reasonable extension of a nonconforming use or the reasonable enlargement or addition to a nonconforming building or structure; provided, it would be in conformity with the standards hereinafter set forth for granting special exceptions.

(*Ord. 385, 12/6/1982, §1307*)

Part 14**Administration****§27-1401. Building Permit.**

1. No excavation for foundation, nor the erection, construction or structural alteration of any structure or part of a structure, nor the occupancy of streets or alleys with building materials or temporary structures for construction purposes, shall be undertaken until a permit therefor shall have been issued by the Zoning Officer. No such building permit shall be issued if the activity for which the permit is to be granted does not conform with any of the provisions of this Chapter, except upon grant of a variance or special exception by the Zoning Hearing Board.

2. There shall be submitted with all applications for building permits two copies of a site or plot plan drawn to scale showing actual dimensions of the lot, the exact size and location on the lot of the building and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this Chapter. Where a special exception is required, the site or plot plan, in addition to any specific regulations set forth in the district regulations, shall show the following:

- A. The location of principal and accessory buildings.
- B. Traffic circulation features within the site.
- C. The location of vehicular traffic onto the site.
- D. The proposed height and size of structures.
- E. The provision for off-street parking and loading facilities.
- F. The provision for open space.
- G. The landscaping, paving, fencing, walls and signs on the site.

(Ord. 385, 12/6/1982, §1401)

§27-1402. Certificate of Occupancy.

1. No vacant land shall be occupied or used and no structure hereafter erected, structurally altered or changed in use shall be used or changed in use until a certificate of occupancy shall have been issued by the Zoning Officer.

2. Certificates of occupancy shall be required only for the following:

- A. Residential uses in any district.
 - B. Nonresidential uses in any district.
 - C. Multiple dwelling units in R Districts.
 - D. Home occupation uses (as defined in §27-202) in any R Districts shall be notarized prior to issuance of occupancy certificate.
 - E. Nonconforming uses in any district.
 - F. There must be two inspections made of any building project, one when the foundation is completed and the other when construction is 75 percent completed.
 - G. Swimming pools and garages must also be inspected twice.
3. After completion of a building or structure for which a building permit has been

issued and inspection has determined that all requirements of all codes and ordinances of the Borough have been met, a certificate of occupancy whenever required shall be issued by the Zoning Officer, stating that the land or building and proposed use thereof complies with the provisions of this Chapter.

4. No nonconforming use shall be maintained, renewed, or changed without a certificate of occupancy having been secured from the Zoning Officer within 1 year from the effective date of this Chapter.

5. Whenever a certificate of occupancy is required, it shall be applied for at the same time as the application for a building permit. Said certificate will be issued within 10 days after the erection of alteration and inspection, if the building or use is found to be in accordance with all codes and ordinances.

6. The Zoning Officer shall maintain a record of all certificates of occupancy. Copies will be furnished upon request to any person having proprietary or tenancy interest in the building affected.

(Ord. 385, 12/6/1982, §1402)

§27-1403. Fees, Permits and Certificates.

1. The building permit fee for the erection, addition to or structural alteration of any shed, fence or other small structure which is not used for residential purposes shall be ~~\$10~~ in an amount as established from time to time by resolution of Borough Council. [A.O.]

2. The building permit fee for the erection, addition to or structural alteration of any building or structure for residential (including garages) purposes shall be ~~\$10 plus \$1.50 per \$1,000 of the estimated cost of construction over \$2,000~~ in an amount as established from time to time by resolution of Borough Council. [A.O.]

3. The building permit fee for the erection, addition to or structural alteration of any commercial building, industrial building, church, school, barn and other large structure not used for residential purposes shall be ~~\$100 plus \$1.50 per \$1,000 of the estimated cost of construction over \$100,000; except that such building permit fee shall not exceed the amount of \$1,500~~ in an amount as established from time to time by resolution of Borough Council. [A.O.]

4. A fee of ~~\$5~~ in an amount as established from time to time by resolution of Borough Council shall be charged for a certificate of occupancy when required for land use, building or structure in an R, LI, or C District or for a nonconforming use in any district or for a home occupation use in any R District. [A.O.]

5. Copies of an original building permit or certificate of occupancy can be obtained by payment of the ~~sum of \$2~~ in an amount as established from time to time by resolution of Borough Council. [A.O.]

6. All fees and payment shall be made to the Borough Treasurer, although the same may be received on his behalf by the Zoning Officer.

7. A building permit shall be valid for 1 year from the time of issuance; and any renewal or extension of the same shall be paid for the same rate as charged for the original building permit.

(Ord. 385, 12/6/1982, §1403; as amended by A.O.)

Part 15**Zoning Officer****§27-1501. Appointment Removal and Compensation.**

The duty of administering and enforcing the provisions of this Chapter is hereby conferred upon the Borough Treasurer, or such other person as the Borough Council designates, and for this purpose, he shall have such powers as are conferred upon him by this Chapter and as reasonably may be implied. At their discretion, the Borough Council may also appoint an Assistant Zoning Officer who shall serve under the direction and control of the Zoning Officer.

(Ord. 385, 12/6/1982, §1501)

§27-1502. Administration.

1. All applications for building permits and certificates of occupancy shall be made to the Zoning Officer, accompanied by the required fee and plot plans, together with such other data as may be required by district regulations.

2. Applications which require a special exception or variance from the Zoning Hearing Board may, at the applicant's option, be presented directly to the Zoning Hearing Board by a petition for the grant of a special exception or variance, with said petition to be considered as the equivalent of an appeal from an adverse decision of the Zoning Officer.

(Ord. 385, 12/6/1982, §1502)

§27-1503. Enforcement.

The Zoning Officer shall have the duty of enforcing this Chapter, as set forth at §27-1701 hereafter. Further, he shall make periodic inspections as may be necessary or desirable, and shall offer opinions and advice as to methods of compliance with the requirements of this Chapter whenever feasible.

(Ord. 385, 12/6/1982, §1503)

§27-1504. Registration of Nonconforming Uses and Nonconforming Structures.

It shall be the duty of the Zoning Officer to identify and register nonconforming uses and nonconforming structures.

(Ord. 385, 12/6/1982, §1504)

Part 16**Zoning Hearing Board****§27-1601. Creation, Appointment and Organization.**

1. A Zoning Hearing Board is hereby established. The Board shall consist of three members, all of whom shall be appointed by the Borough Council. The term of office of the members of the Board shall be for 3 years, excepting that the membership of the first Board shall consist of the present Zoning Hearing Board for the unexpired balance of their terms until the expiration of each term on the first day of January of the next 3 years. Thereafter, members shall be appointed for terms of 3 years each. Vacancies shall be filled for the unexpired term only. Members may be removed by cause by the Borough Council upon written charges and after public hearing.

2. The Board shall elect its own chairman and vice-chairman, who shall serve for 1 year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Chapter.

3. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Borough Secretary and shall be a public record. At the Board's discretion, it may employ a reporter to take testimony at hearings held before the Board.

4. The members of the Board shall receive such compensation, not to exceed the amount permitted by law, for each meeting, as shall be fixed by the Borough Council. No compensation shall be paid for any meeting at which only questions considered in a prior meeting are acted upon. The compensation of Board members shall be paid from the fees which are assessed under Part 13.

(Ord. 385, 12/6/1982, §1601)

§27-1602. Powers and Duties.

1. *Powers Relative to Error.* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Chapter, including any order requiring an alleged violator to stop, cease and desist.

2. *Powers Relative to Variations.* When it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant, the Board may grant a variance if the following conditions are found relevant in a given case:

A. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Chapter in the neighbor-

hood or district in which the property is located.

B. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the applicant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare.

E. 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 variances, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

3. *Powers Relative to Special Exceptions.*

A. Upon appeal, the Board shall be empowered, to permit the following special exceptions, in addition to those otherwise specifically set forth in other Parts of this Chapter.

B. To permit the extension of a district where the boundary line of a district divides a lot of record in single ownership.

C. To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy to the extent of less than 75 percent of its fair market sales value when the Board finds some compelling public necessity requiring a continuance of the nonconforming use.

D. To interpret the provisions of this Chapter where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this Chapter.

E. To vary parking regulations of this Chapter whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

4. *Challenge to the Validity of Any Ordinance or Map.* The Zoning Hearing Board shall hear challenges to the validity of a zoning ordinance or map except as indicated in §1003 and §1004(1)(b) of the Pennsylvania Municipalities Planning Code, 53 P.S. §§11003, 11004(1)(b). In all such challenges, the Zoning Hearing Board shall take evidence and make a record thereon as provided in §27-1603 of this Chapter. At the conclusion of the hearing, the Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court.

5. *Exercise of Powers.* In exercising the above powers, the Board may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In

considering all appeals to this Chapter, the Board shall, before making any finding in a specific case, first determine that the proposed change will not permit a nonpermitted use for the district and will not impair an adequate supply of light and air to adjacent property, or increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, and welfare of the Borough. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variance or special exception. The decision of the Board shall be made a part of any building permit or occupancy certificate in which a variance or special exception is allowed.

6. *Condition.* In arriving at its decision, the Board may impose reasonable conditions, restrictions or safeguards in the furtherance of the general intent of this Chapter, including requiring a bond to assure compliance with such conditions, restrictions or safeguards.

7. *Required Action.* The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to allow any variance or special exception under this Chapter.

8. *Appeal from Action of the Board.* Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or the Borough Council may appeal to the Court of Common Pleas by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and specifying the grounds relied upon.

(Ord. 385, 12/6/1982, §1602)

§27-1603. Procedure.

1. Appeals to the Board may be taken by any person or Borough official aggrieved or affected by any decision of the Zoning Officer. Such appeal shall be taken within 30 days after notice of a decision or order is issued or within such other time as allowed under the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, by filing with the Zoning Officer and the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

2. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board after the notice of appeal was filed with him that by reason of the facts stated in the certificate a stay would be, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Officer and due cause shown.

3. The Board shall fix a reasonable time for the hearing of the appeal (within 45 days of the date the appeal was filed). A public notice of such hearing shall be published once each week for 2 successive weeks in a newspaper of general circulation. Such notice shall state the time and place of the hearing as well as the nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days or less than 14 days from the date of the hearing. A similar notice shall be given to all

parties who have stated an interest in said hearing and a notice of said hearing shall also be conspicuously posted on the affected tract of land. A decision must be rendered within 45 days after the hearing, or if such hearing is continued within 45 days after such continued hearing. Upon the hearing, any party may appear in person or by agent or by attorney.

4. Upon receipt of an appeal or petition involving a variance or special exception and before conducting a hearing thereupon, the Board shall refer the matter to the Planning Commission/Committee for its recommendation, unless the Board decides that such reference is inappropriate. The Planning Commission/Committee shall report the result of its study to the Board within 10 days following its receipt of the appropriate documents. If no such report is filed with the Zoning Hearing Board, the Board shall assume that the Planning Commission/Committee has acted favorably; but, in any event the recommendation of the Planning Commission/Committee shall be advisory, and not obligatory, upon the Zoning Hearing Board.

5. The Board may also hear all challenges to the validity of this Chapter or Map under the provisions of §910 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10910. Any landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided under §609.1 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10609.1. The Board or the governing body shall, in such cases, comply with all requirements set forth in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

6. The Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Notice shall be given to the public, the applicant, the Planning Commission/Committee, the Borough Council, the Zoning Officer, such other persons as the Borough Council shall designate by ordinance and to any person who has made timely request for the same. Hearing notices shall be given at such time and in such manner as prescribed in subsection .3 above. A hearing notice shall also be posted conspicuously on the affected tract of land. The Borough Council may establish reasonable fees based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance.

B. 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, but the parties may accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the municipality or any person who is entitled to notice under paragraph .A without special request, anyone who has made timely appearance of record before the Board and any other person permitted to appear by the Board.

D. 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.

E. The parties shall have the right to be represented by counsel and shall be afforded an opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

F. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

G. The Board 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.

H. 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 unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representatives unless all parties are given an opportunity to be present.

I. 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. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provision of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons of the facts found. If the hearing is conducted by a hearing officer and there has been on stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the Board shall make a final decision and entry of findings.

J. If the Board fails to render its decision or findings within 45 days after the last hearing, or fails to hold a requested hearing within 60 days after 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, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Borough shall give public notice of said decision within 10 days in the same manner as provided in paragraph .A of this subsection. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.

K. 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 which the decision or findings may be examined.

L. The Board shall, in addition, follow all requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

7. The fee for filing appeals or petitions to the Board shall be ~~\$75~~ in an amount as established from time to time by resolution of Borough Council to cover the cost of

notice of public hearing and the other costs pertaining to the hearing. [A.O.]

(*Ord. 385*, 12/6/1982, §1603; as amended by A.O.

Part 17**Enforcement, Violations and Penalties****§27-1701. Enforcement.**

1. In case any building, structure, or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough, in addition to other remedies, may institute in the name of the Borough any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. [Ord. 397]

2. The Zoning Hearing Board shall hear appeals from the decision of the Zoning Officer as provided in Part 16. The Board may reverse or affirm, wholly or partly, or may modify the order of the Zoning Officer, and may make its own appropriate stop order or cease and desist order as ought to be made.

3. The Borough Council or the Mayor may, at their option, institute appropriate actions or proceedings at law or in equity, or commence summary proceedings against violators, in order to enforce this Chapter.

(Ord. 385, 12/6/1982, §1701; as amended by Ord. 397, 5/12/1986, §§1, 2)

~~§27-1702. Violations and Penalties.~~

~~Any person, or corporation violating any of the provisions of this Chapter shall, upon conviction thereof before any district magistrate, pay a fine of not more than \$500 with costs for each separate violation, and in default of payment of the penalty and costs, the person convicted may be sentenced and committed to the county jail for a period not exceeding 60 days. Each day that a violation is continued shall constitute a separate offense. All fines collected for said zoning violations shall be paid to the Borough of Ferndale. See §27-1207 for penalties under "signs."~~

~~(Ord. 385, 12/6/1982, §1702; as amended by A.O.~~

§27-1702. Enforcement Notice.

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

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

3. An enforcement notice shall state at least the following:

A. The name of the owner of record and any other person against whom the Borough intends to take action.

B. The location of the property in violation.

C. The specific violation with a description of the requirements which have

not been met, citing in each instance the applicable provisions of this Chapter.

D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.

F. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

(Ord. 385, 12/6/1982, §1702; as amended by A.O.)

§27-1703. Preventative Remedies.

1. In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

2. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

A. The owner of record at the time of such violation.

B. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

C. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

D. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

3. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

(Ord. 385, 12/6/1982, §1703; as added by A.O.)

§27-1704. Enforcement Remedies.

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

of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such 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 magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation.

2. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

4. Magisterial district judge shall have initial jurisdiction in proceedings brought under this Section.

(Ord. 385, 12/6/1982, §1704; as added by A.O.)

Part 18**Amendments and Changes****§27-1801. Procedure.**

The Borough Council may, from time to time, on their own motion, or on petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts or regulations, or restrictions herein established. Any proposed amendment, supplement change, modification, or repeal shall first be submitted to the Planning Commission/Committee for its recommendations and report, 30 days prior to the hearing on such proposed amendment. The Planning Commission/Committee shall make a preliminary and final report to the Council. Upon receipt of the final report of the Planning Commission/Committee with respect to any proposed amendment, supplement, change, modification, or repeal, the Borough Council shall proceed to hold a public hearing in relation thereto upon such notice as may be required. Thirty days prior to the Borough conducted public hearing, the Borough Planning Commission/Committee shall submit the proposed amendments to the County Planning Commission for recommendations.

(Ord. 835, 12/6/1982, §1801)

§27-1802. General.

The foregoing provisions as to amendments and changes shall at all times be subject to the procedural requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(Ord. 835, 12/6/1982, §1802)

