

Chapter 27

Zoning

Part 1

Short Title, Authority, Purpose, Community Development Objectives

- §27-101. Short Title
- §27-102. Authority
- §27-103. Purpose
- §27-104. Community Development Objectives

Part 2

Definitions

- §27-201. Definition of Terms
- §27-202. Interpretation
- §27-203. Words Not Included in Definitions
- §27-204. List of Definitions

Part 3

Designation of Districts

- §27-301. Zone Districts
- §27-302. Zoning Map
- §27-303. Boundaries Between Districts
- §27-304. Interpretation of Boundaries

Part 4

C-Conservation District

- §27-401. Intended Purpose
- §27-402. Permitted Uses
- §27-403. Height Regulations
- §27-404. Area Regulations
- §27-405. Width Regulations
- §27-406. Yard Regulations
- §27-407. Coverage Regulations
- §27-408. Minimum Off-Street Parking Requirements

Part 5

Residential Suburban District-RS

- §27-501. Intended Purpose
- §27-502. Permitted Uses
- §27-503. Height Regulations
- §27-504. Area Regulations
- §27-505. Width Regulations

- §27-506. Yard Regulations
- §27-507. Coverage Regulations
- §27-508. Minimum Off-Street Parking Requirements

Part 6
Residential Town District-RT

- §27-601. Intended Purpose
- §27-602. Permitted Uses
- §27-603. Height Regulations
- §27-604. Area and Width Regulations
- §27-605. Yard Regulations
- §27-606. Minimum Off-Street Parking Requirements

Part 7
VM-Village Mixed Use District

- §27-701. Intended Purpose
- §27-702. Permitted Uses
- §27-703. Height Regulations
- §27-704. Area and Width Regulations
- §27-705. Yard Regulations
- §27-706. Minimum Off-Street Parking Requirements

Part 8
C-Commercial District

- §27-801. Intended Purpose
- §27-802. Permitted Uses
- §27-803. Height Regulations
- §27-804. Lot Area
- §27-805. Yard Regulations
- §27-806. Minimum Off-Street Parking Requirements

Part 9
I-Industrial District

- §27-901. Intended Purpose
- §27-902. Permitted Uses
- §27-903. Height Regulations
- §27-904. Lot Area
- §27-905. Yard Regulations
- §27-906. Buffer Yard
- §27-907. Minimum Off-Street Parking Requirements

Part 10
General Regulations

- §27-1001. Use Regulations
- §27-1002. Height Regulations

- §27-1003. Area Regulations
- §27-1004. Yard Regulations
- §27-1005. Habitable Floor Area
- §27-1006. Illumination
- §27-1007. Reduction of Lot Dimensions
- §27-1008. Performance Standards
- §27-1009. Earth-Sheltered Housing
- §27-1010. Solar Access Protection
- §27-1011. Wind Power
- §27-1012. Cluster Option

Part 11
Nonconforming Buildings and Uses

- §27-1101. Continuation
- §27-1102. Abandonment
- §27-1103. Restoration
- §27-1104. Reversion
- §27-1105. Alterations
- §27-1106. Construction Approved Prior to Ordinance
- §27-1107. District Changes
- §27-1108. Discontinued Nonconforming Use of Open Land

Part 12
Off-Street Parking, Loading/Unloading Access

- §27-1201. General Parking Regulations
- §27-1202. Facilities Required
- §27-1203. Off-Street Parking Space Requirements
- §27-1204. Location of Parking Space
- §27-1205. Design Standards
- §27-1206. Handicapped Parking
- §27-1207. Drainage, Surfacing and Maintenance Standards
- §27-1208. Lighting
- §27-1209. Loading and Unloading Space
- §27-1210. Driveways and Curbs
- §27-1211. Location of Gasoline Pumps

Part 13
Signs

- §27-1301. Intended Purpose
- §27-1302. Signs Prohibited in All Districts
- §27-1303. Signs in Residential Districts
- §27-1304. Business Identification Signs
- §27-1305. Business and Professional Office Identification Signs
- §27-1306. Billboards
- §27-1307. General Regulations

Part 14
Floodplain Management

- §27-1401. General Provisions
- §27-1402. Establishment of Flood Districts
- §27-1403. Flood District Provisions
- §27-1404. Special Provisions for Certain Kinds of Development within Floodplain Districts
- §27-1405. Existing Structures in Floodplain Districts
- §27-1406. Variances Within Floodplain Districts
- §27-1407. Permit

Part 15
Administration and Enforcement

- §27-1501. Appointment and Powers of Zoning Officer
- §27-1502. Enforcement
- §27-1503. Zoning Appeals
- §27-1504. Permits
- §27-1505. Fees
- §27-1506. Records
- §27-1507. Certificate of Use
- §27-1508. Violations
- §27-1509. Appeals and Applications

Zoning Map Amendments

Zoning Map

Part 1**Short Title, Authority, Purpose, Community Development Objectives****§27-101. Short Title.**

This Chapter shall be known as the “Millerstown Borough Zoning Ordinance.”
(*Ord. 78, 11/7/1985, §1*)

§27-102. Authority.

This Chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, the Pennsylvania Municipalities Planning Code, July 31, 1968, 53 P.S. §10101 *et seq.*, as amended.
(*Ord. 78, 11/7/1985, §2*)

§27-103. Purpose.

The fundamental purpose of this Chapter is to promote the safety, health, morals, convenience and general welfare; to encourage the most appropriate use of land throughout the Borough; to conserve and stabilize the value of property; to prevent overcrowding of land and buildings; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate open spaces for light and air; to facilitate adequate provisions of streets and highways, water, sewerage, drainage and other public facilities; to conserve life, property and natural resources; and to conserve the expenditure of funds earmarked for public improvement.

(*Ord. 78, 11/7/1985, §3*)

§27-104. Community Development Objectives.

This Chapter is to render a legal basis and framework to the future land use plan and development goals established in the Comprehensive Plan prepared by the Millerstown Borough Council. The objectives guiding future growth and improvement of existing development within the Borough are to promote the most economical and efficient provision of municipal services; eliminate hazardous and detrimental land uses while encouraging beneficial and compatible land uses; maintain a healthful residential environment with adequate recreational, commercial and industrial supporting areas; protect and conserve open spaces, drainageways and floodplains; and, in general, avoid the problems of random development inconsistent with Borough-wide goals and objectives. This Chapter is found to be in accordance with the spirit and intent of the formally adopted portion of the Millerstown Borough Comprehensive Plan.

(*Ord. 78, 11/7/1985, §4*)

Part 2**Definitions****§27-201. Definition of Terms.**

The following words are defined in order to facilitate the interpretation of this Chapter for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

(Ord. 78, 11/7/1985, §11)

§27-202. Interpretation.

For the purpose of this Chapter, certain words, phrases and terms are herewith defined as follows: Words used in the present tense include the future. The singular number includes the plural number, and words in the plural number include the singular number. The word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “zone” includes the word “district”; the word “occupied” includes the word “designed” and the phrase “intended to be occupied”; the word “use” includes the words “arranged,” “designed” and the phrase “intended to be used”; and the word “shall” is always mandatory.

(Ord. 78, 11/7/1985, §12)

§27-203. Words Not Included in Definitions.

Any words not included in the following definitions will be defined as described in the latest edition of *Webster’s Abridged Dictionary*.

(Ord. 78, 11/7/1985, §13)

§27-204. List of Definitions.

The following is a list of definitions:

Abandonment—the relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

Accessory building—a building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

Accessory use—use customarily incidental and subordinate to the principal use or the main building and located on the same lot with such principal use or main building.

Access drive—a paved surface, other than a street, which provides vehicular access from a street or private road to a lot.

Agriculture—the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and

grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. (See “horticulture.”)

Alley—a public thoroughfare other than a side street which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alterations—as applied to a building or structure, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Animal hospital—a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Apartment—a dwelling unit within a multiple dwelling. This classification includes apartments in apartment houses, apartment hotels, bachelor apartments, studio apartments and kitchenette apartments. Conversion apartments are not included in this classification.

Apartment, conversion—a multi-family dwelling constructed by converting an existing dwelling into apartments for more than one family without substantially altering the exterior of the building.

Automobile service station—any area of land, including any structures thereon, or any building or part thereof, that is used for the retail sale of gasoline, oil, other fuel, or accessories for motor vehicles, and which may include facilities used for polishing, greasing, washing, dry cleaning, or otherwise cleaning or servicing such motor vehicles.

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 more than 5 feet or if used for business or dwelling purposes, other than a game or recreation room.

Building—any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattels, and including covered porches or bay windows and chimneys.

Building coverage—the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building, height of—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 eaves and ridge for gable, hip and gambrel roofs.

Building line—a line parallel to the front street, side, or rear lot line set so as to provide the minimum yard requirements in the zoning district in which the lot is located. The lot width shall be measured at the building line.

Building setback line—the line within a property defining the required minimum distance between any enclosed structure and the adjacent right-of-way.

Camp—any one or more of the following, other than a hospital, place of detention, school offering general instruction, or a trailer camp.

(1) Any area of land or water of a design or character used for seasonal, recreational or other similar temporary living purposes which may include any building or group of buildings of a movable, temporary or seasonal nature, such as cabins, tents, or shelters.

(2) Any land and buildings thereon, used for any assembly of persons for what is commonly known as “day camp” purposes, whether or not conducted for profit and whether occupied by adults or children, either as individuals, families, or groups.

Camping ground—a parcel of land used by campers for seasonal, recreational, or other similar temporary living purposes, in buildings of a movable, temporary, or seasonal nature, such as cabins, tents, or shelters, but not including mobile home camp, mobile home court, or mobile home park.

Carport—a covered space, open on three sides, for the storage of one or more vehicles and accessory to a main or accessory building.

Certificate of occupancy—a certificate issued by the Building Inspector and enforced by the Zoning Officer upon completion of the construction of a new building or upon a change or conversion of the structure or use of a building, which certifies that all requirements and regulations as provided herein, and within all other applicable requirements, have been complied with.

Club—an association of persons for social, political, athletic or other ends.

Common open space—a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the planned residential development, not including streets, off-street parking areas and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of residents.

Commune—a collective body of five or more persons unrelated by birth or marriage living communally and sharing in work, earnings, and other pursuits of daily activity.

Condominium—real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Court—an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Day care center—a private establishment enrolling four or more children between 2 and 5 years of age and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a child care center.

Dog kennel—a structure where three or more dogs that are more than 6 months old are kept.

Dish antennas—dish antennas consist of three main components: the antenna

itself, often called a dish; a low-noise amplifier (LNA); and a receiver. The antenna and the LNA are located outdoors and are connected by coaxial cable to the receiver, which is placed indoors.

Dwelling—a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling unit—one or more rooms used for living and sleeping purposes and having a kitchen with fixed cooking facilities arranged for occupancy by one family.

Dwelling, apartments—a dwelling unit for rent or lease within multiple family or group buildings providing separate living and sanitary facilities for each family, including provisions for cooking and sleeping. An apartment dwelling may be classified as an efficiency unit where no specific bedroom is provided or it may contain one or more bedrooms. An apartment dwelling specified as “high-rise” consists of eight or more stories in height.

Dwelling, earth sheltered—any completed building or structure that was designed to be built partially or wholly underground. A completed building or structure or foundation for a building.

Dwelling group—a group of two or more single-family, two-family, or multi-family dwellings occupying a lot in one ownership.

Dwelling, manufactured home—any structure designed primarily for residential occupancy, except a mobile home, which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site in such a manner that all concealed parts or processes of manufacture cannot be inspected at the site without disassembly, damage or destruction.

Dwelling, 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 joined into one integral unit capable of again being separated for repeated towing which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Dwelling, multi-family—a building used by three or more families living independently of each other and doing their own cooking including apartment houses, row houses.

Dwelling, single-family, attached (townhouses)—a one-family dwelling attached to two or more one-family dwellings by common vertical walls.

Dwelling, single-family detached—a dwelling which is designed for and occupied by not more than one-family and surrounded by open space or yards and which is not attached to any other dwelling by any means, excluding mobile home dwellings.

Dwelling, single-family, quadplex—a building used by one-family, having one side yard, and two party walls in common with another building, one party wall being a side wall and one being a rear party wall.

Dwelling, single-family, semi-detached—a dwelling used by one family, having one side yard, and one party wall common with another dwelling.

Dwelling, two-family, detached (duplex)—a building used by two families, with

one dwelling unit arranged over the other, and having two side yards.

Dwelling, two-family, semi-detached (double duplex)—a building used by two families, with one dwelling unit arranged over the other, having one side yard, and one party wall in common with another building.

Family—a single individual doing his own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, legal marriage, or other domestic bond. This definition does not include a collective body of persons occupying a hotel, dormitory, lodge, boarding house, commune, or institution.

Fence—any freestanding and uninhabitable structure constructed of wood, glass, metal, plastic materials, wire, wire mesh, or masonry, singly or in combination, erected for the purpose of screening or dividing one property from another to assure privacy, or to protect the property so screened or divided, or to define and mark the property line, when such structure is erected on or within 2 feet of any front, side or rear lot line; for the purpose of this Chapter a freestanding masonry wall when so located is considered to be a fence; also for the purpose of this Chapter, when the term “lot line” is used in relation to fences, it shall be synonymous with “rear yard lot lines,” “side yard lot lines,” “front yard lot lines” and the area within 2 feet of the same. Fences are not synonymous with “garden structures” which are defined elsewhere herein.

Flood fringe area—that portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus 25 percent of the regulatory base flood discharge.

Flood hazard boundary map—means an official map or plat of a community, issued or approved by the Administrator, on which the boundaries of the floodplain and/or mudslide areas having special hazards have been drawn. This map must conform to the Special Flood Hazard Map and be of sufficient scale and clarity to permit the ready identification of individual building sites as either within or without the area having special flood hazards.

Floodplain—the area along a natural watercourse which is periodically overflowed by water therefrom.

Floodproofing—means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway—the channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

Floodway encroachment lines—the lines marking the limits of floodways on official Federal, State and local floodplain maps.

Floor area of a building—the sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not used as primary living and sleeping quarters, but including the area of roofed porches and roofed terraces. All dimensions shall be

measured between exterior faces of walls.

Floor area, habitable—the aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than 7 feet and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered as part of the habitable floor area. The minimum total window area, measured between stops shall be 10 percent of the habitable floor area of such room.

Fraternal organization—a group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

Garage, private—an enclosed or covered space for the storage of one or more vehicles, provided that no business, occupation, or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

Garage, public—any garage other than a private garage, and which is used for storage, repair, rental, servicing, or supplying of gasoline or oil to motor vehicles.

Garden apartment—a two-story multi-family dwelling, containing one-story dwelling units, under one ownership.

Garden structures—any accessory structure which may be occupied for other than sleeping or general housekeeping purposes, or which serves as a shelter primarily for human beings, except a permitted garage, porch or carport, which is located in any side or rear yard not closer than 2 feet to any side or rear lot line; included in this category of structures are arbors, aviaries, pergolas, trellises, barbecue shelters, lath houses, private green houses and freestanding screens or baffles and similar structures as however called. No such structure may be located in any required front yard between the building setback line and the street line. Such structures may be solidly roofed and walled or open to the sky and on the sides, but if solidly roofed or solidly walled on more than two sides, they must be located within the building line of the lot and may not invade any required yard. Unscreened, unroofed, unwalled or unfenced patios, bird baths, ornamental pools and swimming pools are not considered as garden structures. Permitted structures may be attached to or be detached from a dwelling.

Home occupation—an accessory use of a service nature customarily conducted within a dwelling by the residents thereof, which is clearly incidental and secondary to the use of a dwelling for dwelling purposes and does not change the character thereof or have any exterior evidence of secondary use other than a small nameplate in connection thereof and which shall not exceed 144 square inches in area.

Hotel—a building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use.

Junkyard—a lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running conditions, and for the sale of parts thereof.

Lodge—the meeting place of a branch of some societies.

Lot—land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter for a lot in the district in which such land is situated, and having its principal frontage on a street.

Lot area—the area contained within the property lines of a lot as shown on a subdivision plan excluding space within any street, but including the area of any easement.

Lot corner—a lot at the junction of and abutting on two or more intersecting streets or private roads or at the point of abrupt change of a single street or private road, where the interior angle is less than 135 degrees and the radius of the street or private road line is less than 100 feet.

Lot, depth of—the average horizontal distance between the front and rear lot lines.

Lot, minimum width—the minimum lot width at the building setback line.

Lot width—the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Marquee—any hood, canopy, awning or permanent construction which projects from a wall of a building, usually above an entrance.

Motel—a building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances and designed for year-round occupancy, primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term “motel” includes buildings designated as tourist courts, tourist cabins, motor lodges, and similar terms.

Nonconforming lot—a lot, the area, dimensions or locations of which was lawful prior to the adoption, revision or amendment of this Chapter, but which fails by reason of such adoption, revisions or amendment to conform to the present requirements of the zoning district.

Nonconforming sign—any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

Nonconforming structure or building—a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Nonconforming use—a use or activity which was lawful prior to the adoption,

revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Off-street parking space—a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

Open space, common—land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

Parking space—the space within a building, or on a lot or parking lot, for the parking or storage of one automobile.

Penthouse—a roofed structure located on the roof of a building to house mechanical equipment associated with the building.

Principal building—a building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

Recreational vehicle—a vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

Setback—the distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps.

Sign—any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization.

Sign area—the area defined by the frame or edge of a sign. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

Sign, business—a sign which directs attention to a use conducted, product or commodities sold or service performed upon the premises.

Solar access—a property owner's right to have the sunlight shine on his land.

Story—a story is that part of a building between the surface of any floor and the next floor above it or, in its absence, then the finished story if its floor level is 6 feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a building which is more than 2 feet below the top plate shall be counted as a story; and, if less than 2 feet below the top plate, it shall be counted as a half-story. A basement shall be counted as a story if it averages more than 5 feet above grade.

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

Street line—the street line is that line determining the limit of the street or

highway right of the public, either existing or contemplated. Where a definite right-of-way width has not been established, the street line shall be assumed to be at a point 25 feet from the center line of the existing street.

Structure—any combination of materials, other than a building which forms a construction that is safe and stable, including, but not limited to, flagpoles, stadiums, platforms, towers, sheds, storage bins, gas pumps, fences exceeding 4 feet in height, signs, sign posts, lights, and light standards for other than residential use but excepting patios, driveways, walks, and parking areas at yard grade.

Use—the specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

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

Yard—an unoccupied space, other than a court, open to the sky, on the same lot with a building or structure.

Yard, buffer—a yard covered with vegetation and intended to provide an area of separation between different districts or uses.

Yard, front—a yard situated between the front street line and the front building line. The depth of the front yard shall be measured between the front building line and the front street line. The width of the front yard, at any point between the front building line and the front street line, shall not be less than the width required at the front building line in any zoning district, except that, where the front street line abuts a cul-de-sac street, the width at the front street line shall be not less than 75 percent of the width required at the front building line.

Yard, rear—an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building. A building shall not extend into the required rear yard.

Yard, side—an open unoccupied space on the same lot with the building between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line. A building shall not extend into the required side yards.

Zero lot line—the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning Officer—the duly constituted municipal official designated to administer and enforce this Chapter. The Zoning Officer shall administer this Chapter in accordance with its literal terms. The Zoning Officer may be the Building Inspector and serve both offices of ~~West Hanover~~ Millerstown Borough. [A.O.]

Zoning permit—a permit stating that the purpose for which a building or land

is to be used is in conformity with the uses permitted and all other requirements under this Chapter for the zone in which it is located or is to be located.

(*Ord. 78, 11/7/1985, §14; as amended by A.O.*)

Part 3**Designation of Districts****§27-301. Zone Districts.**

For the purpose of this Chapter, Millerstown Borough is hereby divided into the following districts:

- A. Con–Conservation District.
- B. RS–Residential Suburban District.
- C. RT–Residential Town District.
- D. VM–Village Mixed Use District.
- E. C–Commercial District.
- F. I–Industrial District.
- G. FW–Floodway District.
- H. FF–Flood-Fringe District.

(*Ord. 78, 11/7/1985, §21*)

§27-302. Zoning Map.

1. The boundaries of the districts shall be as shown on the Official Zoning Map which is on file in the Borough Office. This map shall be known as the “Zoning Map of Millerstown Borough” and is hereby made a part of this Chapter. A copy of the Official Zoning Map accompanies this Chapter.

2. The boundaries of the FW and FF Districts shall serve as overlays to the underlying districts as shown on the Official Zoning Map, and, as specifically described in the Floodway Data Table and 100-year flood delineation in the Flood Insurance Study prepared for the Borough by the Flood Insurance Administration dated, November, 1980, or any recent revision thereafter. The said study and accompanying maps and all notations, reference and other data shown thereon are hereby incorporated by reference into this Chapter as if all were fully described herein.

(*Ord. 78, 11/7/1985, §22*)

§27-303. Boundaries Between Districts.

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following municipality limits shall be construed as following such municipality limits.

4. Boundaries indicated as approximately following the center lines of streams, rivers or other bodies of water shall be construed as following such center lines.

5. Boundaries indicated as parallel to or extension of features indicated in subsections .1 through .4 above shall be so construed. Distances not specifically

indicated on the Official Zoning Map shall be determined by the scale of the map.
(*Ord. 78, 11/7/1985, §23*)

§27-304. Interpretation of Boundaries.

1. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in circumstances not covered by subsections .1 through .2 herein, the Zoning Hearing Board shall interpret the district boundaries.

2. When a district boundary line divides a lot held in single and separate ownership at the effective date of this Chapter, the regulations of either abutting district may be construed by the owner to be applicable to the portion off such lot in the other abutting district for a distance of not more than 50 feet beyond the district boundary line; however, if such construction or applications shall result in a residual land area which shall thereby be rendered unusable, then the regulations of the district in which the greater portion of the affected lot lies shall be deemed to apply to the entire lot.

(*Ord. 78, 11/7/1985, §24*)

Part 4**Con-Conservation District****§27-401. Intended Purpose.**

These district regulations are designed to protect areas in the Borough for the preservation and conservation of the natural environment and permit and encourage the retention of forested and open land; floodplain areas of streams, creeks and drainageways; and non-intensive land uses located to constitute a harmonious and appropriate part of the physical development of the Borough.

(Ord. 78, 11/7/1985, §31)

§27-402. Permitted Uses.

1. Public conservation areas and structures for the conservation of open land, water, soil wildlife resources and historical preservation.
2. Churches or similar places of worship, parish houses, convents.
3. Single-family detached dwelling units, seasonal cottages, hunting and fishing cabins.
4. Public park and recreation areas, game refuges and similar non-intensive uses.
5. Radio and television towers.
6. Electric and telephone public utility transmission and distribution facilities, including substations.
7. Municipal buildings and facilities, including water pumping stations, reservoirs and similar structures.
8. Public camps, camping grounds and facilities.
9. Uses which, in the opinion of the Zoning Officer, are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purposes of these districts.
10. Customary accessory uses and buildings incidental to any permitted uses, including:
 - A. Private swimming pools, subject to Borough and State regulations.
 - B. Private garages, playhouses, garden houses or greenhouses not used for commercial purposes.
 - C. Home occupations, providing there is not external evidence of such use except one announcement sign of not more than 144 square inches in area.
 - D. Signs, as provided for in Part 13 of this Chapter.

(Ord. 78, 11/7/1985, §32)

§27-403. Height Regulations.

The height of a principal building shall be not greater than 35 feet; and no accessory building shall exceed 20 feet in height.

(Ord. 78, 11/7/1985, §33)

§27-404. Area Regulations.

The lot area per dwelling unit shall be not less than 3 acres, except under the cluster option.

(*Ord. 78, 11/7/1985, §34*)

§27-405. Width Regulations.

The lot width at the required front building line shall be not less than 100 feet on an interior lot and the same on each side facing a street on a corner lot.

(*Ord. 78, 11/7/1985, §35*)

§27-406. Yard Regulations.

Each lot shall have front, side and rear yards of not less than the depth and width indicated below:

A. Front yard depth—35 feet.

B. Side yards (2) width for single-family detached, 20 feet each interior lot. On a corner lot, the side yard abutting the street shall be not less than 35 feet in width.

C. Rear yard depth—35 feet.

(*Ord. 78, 11/7/1985, §36*)

§27-407. Coverage Regulations.

The coverage shall be no more than 20 percent.

(*Ord. 78, 11/7/1985, §37*)

§27-408. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(*Ord. 78, 11/7/1985, §38*)

Part 5**RS-Residential Suburban District****§27-501. Intended Purpose.**

The RS-Residential Suburban Districts are designed to accommodate and protect the amenities of certain areas in the Borough where the development pattern has already been established with single-family residential dwellings of a low-density character and to stabilize these areas as a development feature of the Borough.

(*Ord. 78, 11/7/1985, §41*)

§27-502. Permitted Uses.

1. Single-family detached dwelling units.
2. Single-family cluster dwelling units subject to §27-1012.
3. Churches and similar places of religious worship.
4. Nurseries and kindergartens, providing that the area, height, width, yard and coverage regulations for a dwelling in this district are met.
5. Public parks, playgrounds and open space.
6. Agriculture, horticulture, truck gardening and nurseries, but not including roadside displays or advertising signs.
7. Keeping of riding horses, providing that not less than one acre of land area is provided for each horse exclusive of the lot size required for each dwelling and that sanitary stables are maintained not less than 100 feet of any lot line or principal building.
8. Public libraries; community activity buildings; and municipal, State or Federal buildings.
9. Elementary and secondary schools and institutions of higher education; provided, however, that the lot upon which located contains a minimum of 5 acres plus 500 square feet of land area per pupil capacity.
10. Recreation areas and structures operated by membership clubs for the benefit of their members and not for gain; provided that the residential character of the neighborhood is preserved to give no impression of a commercial use.
11. Country clubs and golf courses; provided, however, that the lot upon which located contains a minimum of 100 acres.
12. Cemeteries and memorial gardens.
13. Necessary public utility buildings, provided, they do not material storage, storage for trucks, repair facilities or housing quarters for repair crews.
14. Medical and dental clinics and nursing homes; provided the care of drug addicts, chronic alcoholics or persons suffering from insanity or diseases requiring isolation is not included.
15. Uses which, in the opinion of the Zoning Officer are of the same general character as those listed as permitted uses and which will not be detrimental to the

intended purposes of these districts.

16. Customary accessory uses and buildings incidental to any permitted uses, including:

- A. Private swimming pools, subject to Borough and State regulations.
- B. Private garages, playhouses, garden houses or greenhouses not used for commercial purposes.
- C. Home occupations, provided there is no external evidence of such use except one announcement sign of not more than 144 square inches in area.
- D. Signs, as provided for in Part 13 of this Chapter.

17. Customary accessory uses and buildings incidental to any of the above permitted uses.

(Ord. 78, 11/7/1985, §42)

§27-503. Height Regulations.

The height of a principal building shall be not greater than 35 feet; and no accessory building shall exceed 20 feet in height.

(Ord. 78, 11/7/1985, §43)

§27-504. Area Regulations.

Where no public sewer exists, the lot area shall be 1 acre per dwelling unit. Where public sewer exists, the lot area per dwelling unit shall be not less than 15,000 square feet except under the cluster option. If dwellings are to be clustered, the development must be a minimum of 5 acres and maintained a density of two dwelling units per acre.

(Ord. 78, 11/7/1985, §44)

§27-505. Width Regulations.

The lot width at the required front building line shall be not less than 75 feet on an interior lot and the same on each side facing a street on a corner lot.

(Ord. 78, 11/7/1985, §45)

§27-506. Yard Regulations.

Each lot shall have front, side and rear yards of not less than the depth and width indicated below:

- A. Front yard depth—25 feet.
- B. Side yards (2) width for single-family detached, 15 feet each interior lot. On a corner lot, the side yard abutting the street shall be not less than 25 feet in width.
- C. Side yards (1) for clustered housing, no minimum is required when developed as zero side yard building setback on at least one side. The other side must be at least 15 feet.
- D. Rear yard depth—25 feet.

(Ord. 78, 11/7/1985, §46)

§27-507. Coverage Regulations.

The coverage shall be no more than 30 percent.

(*Ord. 78, 11/7/1985, §47*)

§27-508. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(*Ord. 78, 11/7/1985, §48*)

Part 6**RT-Residential Town District****§27-601. Intended Purpose.**

The RT-Residential Town Districts are designed to accommodate higher density development and are composed of areas of the Borough where such development is now located. The regulations for these districts are intended to protect and stabilize the prevailing characteristics and promote a safe and healthful environment for family life. (Ord. 78, 11/7/1985, §51)

§27-602. Permitted Uses.

1. Single-family detached dwelling units.
2. Single-family cluster dwelling units subject to §27-1012.
3. Single-family semi-detached dwelling units.
4. Single-family attached dwelling units.
5. Multiple-family dwellings.
6. Group dwellings.
7. Churches and similar places of religious worship.
8. Day care centers, nurseries and kindergarten schools, providing that the area, height, width, yard and coverage regulations for a single-family dwelling are met.
9. Public parks, playgrounds and open space.
10. Public libraries; community activity buildings; and municipal, State and Federal buildings.
11. Elementary and secondary schools and institutions of higher education; provided, however, that the lot upon which located contains a minimum of 5 acres plus 500 square feet of land area per pupil capacity.
12. Recreation areas and structures operated by membership clubs for the benefit of their members and not for gain, provided that the residential character of the neighborhood is preserved to give no impression of a commercial use.
13. Cemeteries and memorial gardens.
14. Necessary public utility buildings, provided they do not include material storage, storage for trucks, repair facilities or housing quarters for repair crews.
15. Medical and dental clinics and nursing homes; provided the care of drug addicts, chronic alcoholics or persons suffering from insanity or diseases requiring isolation is not included.
16. Private parks and recreation areas operated by membership clubs for the benefit of their members and not for gain.
17. Conversion of established single-family dwellings into two or more dwelling units, provided both sanitary sewer and water systems are available, each lot or parcel of land so used has an area of not less than 4,500 square feet and a width of not less than 25 feet at the building line and no more than three dwelling units are added. Each

dwelling unit within converted buildings shall have not less than 2,000 square feet of land area per dwelling unit and a minimum of 700 square feet of floor area per each unit but, in no case, shall the total land area be less than 4,500 square feet.

18. Funeral homes.

19. Uses which, in the opinion of the Zoning Officer, are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purposes of these districts.

20. Customary accessory uses and buildings incidental to any permitted uses, including:

A. Private swimming pools, subject to Borough and State regulations.

B. Private garages, playhouses, garden houses or greenhouses not used for commercial purposes.

C. Professional and other home occupations, provided there is no external evidence of such use except one announcement sign of not more than 144 square inches in area.

(Ord. 78, 11/7/1985, §52)

§27-603. Height Regulations.

The height of a principal building shall be no greater than 30 feet except a building may exceed the maximum permitted height by 1 foot for each additional foot by which the width of each yard exceeds the minimum yard regulation. No accessory building shall exceed 20 feet in height.

(Ord. 78, 11/7/1985, §53)

§27-604. Area and Width Regulations.

1. *Residential Uses.* The lot area per dwelling unit and lot width at the building setback line shall not be less, and the lot coverage shall not be greater than indicated below:

Dwelling Type	Lot Area Per Dwelling Unit (square feet)	Lot Width Interior Corner		Coverage
		(feet)	(feet)	
Single-family detached	4,500	25	25	35%
Single-family semi-detached	2,500	25	25	35%
Single-family attached	2,000	20	30	40%
Garden apartments, group dwellings, multi-family	1,800	–	–	40%
Apartments	1,800	–	–	40%

At least 20 percent of the lot area shall be maintained in a vegetative cover.

2. *Nonresidential Uses.* For a permitted nonresidential use, the lot area shall be based on required setbacks, coverage, parking/access, loading/unloading, and other

applicable standards, but in no instance shall be less than 4,500 square feet. The minimum lot width for an interior lot shall be 25 feet, and a corner lot shall be not less than 25 feet. Maximum coverage shall not exceed forty 40 percent with at least 20 of the lot area maintained with a vegetative cover.

(Ord. 78, 11/7/1985, §54)

§27-605. Yard Regulations.

Each lot shall have front, side and rear yard setbacks of not less than the depth and width indicated below:

A. *Front Yard.* The minimum front yard setback for all categories except apartments shall be 15 feet. Where buildings exist on both sides of the lot to be developed, the setback shall be at least the average of the buildings constructed on both sides.

B. *Side Yard.* On an interior lot for all categories, except apartments or interior attached dwellings, the minimum side yard shall be at least 8 feet. On a corner lot, the side yard abutting a street or alley shall be not less than 15 feet.

C. *Rear Yard.* The minimum rear yard setback for all categories except apartments shall be 15 feet.

D. For apartments of one or two stories, there shall be a front yard, two side yards, and a rear yard of at least 25 feet. For each story over two, 5 feet of width or depth shall be added to each yard.

(Ord. 78, 11/7/1985, §55)

§27-606. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(Ord. 78, 11/7/1985, §56)

Part 7**VM-Village Mixed Use District****§27-701. Intended Purpose.**

The purpose of this district is to preserve the existing residential/commercial character of the land in the district and its residential services and to exclude those uses which would not be compatible with the existing development; to provide for the public convenience and to avoid overcrowding of the land and undue congestion on the streets.

(Ord. 78, 11/7/1985, §61)

§27-702. Permitted Uses.

1. Single-family detached dwelling units.
2. Single-family cluster dwelling units subject to §27-1012.
3. Single-family semi-detached dwelling units.
4. Single-family attached dwelling units.
5. Multiple-family dwellings.
6. Group dwellings.
7. Churches and similar places of religious worship.
8. Medical and dental clinics; providing the care of drug addicts, chronic alcoholics or persons suffering from insanity or diseases requiring isolation is not included.
9. Conversion of established single-family dwellings into two or more dwelling units, provided both sanitary sewer and water systems are available, each lot or parcel of land so used has an area of not less than 4,500 square feet and a width of not less than 25 feet at the building line and no more than three dwelling units are added. Each dwelling unit within converted buildings shall have not less than 2,000 square feet of land area per dwelling unit and a minimum of 700 square feet of floor area per each unit but, in no case, shall the total land area be less than 4,500 square feet.
10. Stores and shops for retail business such as restaurants, foods, drug, clothing, hardware, variety, antique shops; personal service shops, such as barber, beauty, shoe and similar retail services; provided, such shops are conducted entirely within a building and do not provide drive-in and in-car service.
11. Banks and financial offices.
12. Business and professional offices.
13. Municipal building and use.
14. Public utilities and facilities.
15. Automobile service stations when erected and conducted as follows:
 - A. No repair work is performed out-of-doors.
 - B. Pumps, lubricating and other devices are located at least 15 feet from any street line or highway right-of-way.
 - C. All fuel, oil or similar substances are stored at least 25 feet distant from

any street or lot line.

16. Uses which, in the opinion of the Zoning Officer are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purposes of these districts.

17. Customary accessory uses and buildings incidental to any permitted uses, including:

A. Private swimming pools, subject to Borough and State regulations.

B. Private garages, playhouses, garden houses or greenhouses not used for commercial purposes.

C. Professional and other home occupations, provided there is no external evidence of such use except one announcement sign of not more than 144 square inches in area.

(Ord. 78, 11/7/1985, §62)

§27-703. Height Regulations.

The height of a principal building shall be no greater than 30 feet except a building may exceed the maximum permitted height by 1 foot for each additional foot by which the width of each yard exceeds the minimum yard regulation. No accessory building shall exceed one 20 feet in height.

(Ord. 78, 11/7/1985, §63)

§27-704. Area and Width Regulations.

1. *Residential Uses.* The lot area per dwelling unit and lot width at the building setback line shall not be less, and the lot coverage shall not be greater than indicated below:

Dwelling Type	Lot Area Per Dwelling Unit (square feet)	Lot Width Interior Corner		Coverage
		(feet)	(feet)	
Single-family detached	4,500	25	25	35%
Single-family semi-detached	2,500	25	25	35%
Single-family attached	2,000	20	30	40%
Garden apartments, group dwellings, multi-family	1,800	–	–	40%
Apartments	1,800	–	–	40%

At least 20 percent of the lot area shall be maintained in a vegetative cover.

2. *Nonresidential Uses.* For a permitted nonresidential use, the lot area shall be based on required setbacks, coverage, parking/access, loading/unloading, and other applicable standards, but in no instance shall be less than 4,500 square feet. The minimum lot width for an interior lot shall be 25 feet, and a corner lot shall be not less than 25 feet. Maximum coverage shall not exceed forty 40 percent with at least 20

percent of the lot area maintained with a vegetative cover.

(Ord. 78, 11/7/1985, §64)

§27-705. Yard Regulations.

Each lot shall have front, side and rear yard setbacks of not less than the depth and width indicated below:

A. *Front Yard.* The minimum front yard setback for all categories except apartments shall be 15 feet. Where buildings exist on both sides of the lot to be developed, the setback shall be at least the average of the buildings constructed on both sides.

B. *Side Yard.* On an interior lot for all categories, except apartments or interior attached dwellings, the minimum side yard shall be at least 8 feet. On a corner lot, the side yard abutting a street or alley shall be not less than 15 feet.

C. *Rear Yard.* The minimum rear yard setback for all categories except apartments shall be 15 feet.

D. For apartments of one or two stories, there shall be a front yard, two side yards, and a rear yard of at least 25 feet. For each story over two, 5 feet of width or depth shall be added to each yard.

(Ord. 78, 11/7/1985, §65)

§27-706. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(Ord. 78, 11/7/1985, §66)

Part 8**C-Commercial District****§27-801. Intended Purpose.**

These districts are designed to accommodate the needs of transient highway travelers from surrounding communities as well as to serve as retail centers for the residents of the Borough. This district is intended for a wide range of shopping and service functions which can provide adequate shopping activities.

(*Ord. 78, 11/7/1985, §71*)

§27-802. Permitted Uses.

1. Retail sales including building materials, garden supplies, hardware, general merchandise, food, automotive dealers, service stations, apparel and accessories, furniture and home furnishings, eating and drinking places, drugs, liquor, and used merchandise.

2. Financial uses including banking, credit agencies, securities, insurance and real estate.

3. Hotels and other lodging places.

4. Personal services including laundries, dry cleaning, photographic studios, beauty shops, barber shops, shoe repair, and funeral homes.

5. Business services including advertising, credit reporting, mailing, reproduction, services to buildings, personnel services, and computers.

6. Auto repair services.

7. Miscellaneous repair services including electrical, clocks, jewelry, furniture, and welding.

8. Amusement and recreation services including motion picture theaters.

9. Health services.

10. Legal services.

11. Social services.

12. Wholesale and retail business or storage in connection with and/or compatible to permitted uses.

13. Residence facilities only incidental to and accessory to any permitted use for occupancy by caretakers, watchmen, guards or firefighters only.

14. Accessory uses customarily incident to permitted uses.

15. Communication.

16. Electric services.

17. Natural gas distribution.

18. Apartments which may be in combination with the above uses subject to the lot, yard, area, density height regulations, and off-street parking requirements of §§27-604, 27-605 and 27-606.

(Ord. 78, 11/7/1985, §72)

§27-803. Height Regulations.

No building shall exceed three stories or 40 feet in height, except the height of any building may exceed 40 feet in height by 1 foot for each additional foot by which the width of each yard exceeds the minimum yard requirements of §27-805.

(Ord. 78, 11/7/1985, §73)

§27-804. Lot Area.

There is no minimum lot area. The size of the lot area shall be determined by the size of the building/buildings, yard and parking requirements.

(Ord. 78, 11/7/1985, §74)

§27-805. Yard Regulations.

Each lot shall have front, side and rear yard setbacks of not less than the depth and width indicated below:

A. *Front Yard.* The minimum front yard setback for all categories shall be 15 feet. Where buildings exist on both sides, of the lot to be developed, the setback shall be at least the average of the buildings constructed on both sides.

B. *Side Yards.* Two-width, 8 feet each side of a principal building, provided that when a written agreement is provided by adjoining property owners, no side yard shall be required where two or more commercial uses abut side to side. However, in no case shall party walls be permitted between properties of separate ownership. In the case of a series of abutting structures abutting and paralleling a public right-of-way, and open and unobstructed passage for vehicles and pedestrians, of at least 20 feet in width, shall be provided at grade level at intervals of not more than 400 feet.

C. *Rear Yard.* The minimum rear yard setback for all categories except apartments shall be 15 feet.

(Ord. 78, 11/7/1985, §75)

§27-806. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(Ord. 78, 11/7/1985, §76)

Part 9**I-Industrial District****§27-901. Intended Purpose.**

The regulations applying to industrial districts are intended to maximize industrial potential while insuring compatibility with the surrounding less intense use district. (Ord. 78, 11/7/1985, §81)

§27-902. Permitted Uses.

1. Food and kindred products.
2. Textile mill products.
3. Apparel and other textile products.
4. Lumber and wood products.
5. Furniture and fixtures.
6. Converted paper products.
7. Printing and publishing.
8. Footwear.
9. Fabricated metal products.
10. Machinery.
11. Electric and electronic equipment.
12. Instruments and related products.
13. Wholesale trade.
14. Executive offices.
15. Residence facilities only incidental to and accessory to any permitted use for occupancy by caretakers, watchmen, guards or firefighters only.
16. Accessory uses customarily incident to permitted uses.

The above uses are permitted only on the condition that they are not obnoxious or offensive by reason of the emission of odor, dust, smoke, noise, gas, vibration, illumination, refuse matter, or water carried waste.

(Ord. 78, 11/7/1985, §82)

§27-903. Height Regulations.

No building shall exceed three stories or 40 feet in height, except the height of any building may exceed 40 feet in height by 1 foot for each additional foot by which the width of each yard exceeds the minimum yard requirements of §27-805.

(Ord. 78, 11/7/1985, §83)

§27-904. Lot Area.

There is no minimum lot area. The size of the lot area shall be determined by the size of the building/buildings, yard and parking requirements.

(Ord. 78, 11/7/1985, §84)

§27-905. Yard Regulations.

Each lot shall have front, side and rear yard setbacks of no less than the depth and width indicated below:

A. *Front Yard.* The minimum front yard setback for all categories except apartments shall be 15 feet. Where buildings exist on both sides of the lot to be developed, the setback shall be at least the average of the buildings constructed on both sides.

B. *Side Yards.* Two, width of 8 feet each side of a principal building; provided, that when a written agreement is provided by adjoining property owners, no side yard shall be required where two or more commercial uses abut side to side. However, in no case shall party walls be permitted between properties of separate ownership. In the case of a series of abutting structures abutting and paralleling a public right-of-way, and open and unobstructed passage for vehicles and pedestrians, of at least 20 feet in width, shall be provided at grade level at intervals of not more than 400 feet.

C. *Rear Yard.* The minimum rear yard setback for all categories except apartments shall be 15 feet.

(Ord. 78, 11/7/1985, §85)

§27-906. Buffer Yard.

Buffer yards are required where abutting any residential district or use and shall be not less than 20 feet, with a landscaped strip of not less than 10 feet in width planted and maintained with vegetative screening materials. The side or rear yards can be included as part of the buffer yard.

(Ord. 78, 11/7/1985, §86)

§27-907. Minimum Off-Street Parking Requirements.

Off-street parking shall be provided in accordance with the provisions of Part 12 of this Chapter.

(Ord. 78, 11/7/1985, §87)

Part 10**General Regulations**

The following regulations shall qualify or supplement the district regulations appearing elsewhere in this Chapter:

§27-1001. Use Regulations.

1. *Agriculture Farms and Gardening.* The tilling of the soil, raising of crops, horticulture and gardening shall be permitted in any district; provided, that only gardening, incidental to residential uses, shall be permitted on improved lots located in a subdivision plan approved by the Borough.

2. *Animals and Horticulture.* In districts where permitted operations involving the use of buildings and land for farming, nurseries, greenhouses, and livery, shall be subject to the following safeguards and regulations:

A. Storage of manure or odor or dust-producing substance shall not be permitted within 300 feet of any lot line.

B. Greenhouse heating plant, coal fired, shall not be operated within 100 feet of any Residential District boundary. When natural gas or fuel oil are used, the distance may be reduced to 50 feet.

C. Buildings used for dog kennels and animal hospitals, including exercise yards, shall not hereafter be erected within 75 feet of any lot line.

3. *Apartment (Conversion).* Any residential agriculture building existing at the effective date of this Chapter may be converted to a dwelling for more than one family; provided, that:

A. The minimum habitable floor area is provided as required in this Chapter.

B. The lot area per family shall conform to the regulations for the district in which located.

C. There is no exterior evidence of change in the building except as required by the State or local building or housing codes or regulations.

D. Fire escapes, where required, shall be in the rear of the building and shall not be located on any wall facing a street.

E. Parking shall be provided in accordance with the provisions of Part 12.

F. The plans for the conversion of said building shall be submitted to the Codes Enforcement Officer for review and approval.

4. *Clubs, Lodges, and Fraternal Organizations.* In districts where permitted, these and similar uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members; provided, that no sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located.

5. *Garden Apartments.* In districts where permitted all garden apartments shall comply with the following:

- A. There shall be not more than 18 dwelling units per building.
- B. No garden apartment building shall be in excess of three stories in height.
- C. Lot area per dwelling unit shall not be less than the area required by the district regulations when served by both public water and sanitary sewers.

6. *Manufacturing*. In order that the Zoning Officer may have a reasonable basis upon which to approve a proposed industrial operation for conformity to the requirements of this Chapter, the following data shall be submitted with an application for a permit:

- A. Plot plan.
- B. Architectural plan.
- C. Description of operation.
- D. Engineering and architectural plans for water supply and sewage disposal.
- E. Plans for prevention or control of noise, vibration, glare, fire hazards, air pollution, water pollution, and traffic.
- F. Proposed fuel.
- G. Number of shifts and maximum employment per shift.
- H. Additional pertinent data as may be required by the Zoning Officer.
- I. Where two or more buildings are proposed, as a land development, plats shall be prepared and submitted to the Borough in accordance with the requirements of the Perry County Subdivision and Land Development Ordinance for action by the Borough Council.

7. *Home Occupations*. In districts where permitted, home occupations are subject to the following conditions:

- A. The home occupation shall be carried on completely within the dwelling unit or accessory building.
- B. Not more than two persons other than the occupants of the dwelling unit shall be employed.
- C. Not more than one-half the floor area of a main building shall be devoted to home occupation.
- D. Articles sold or offered for sale shall be limited to those produced on the premises and/or accessory to the principal use.
- E. There shall be no exterior display or sign (except as permitted in the regulation on signs in this Chapter), no exterior storage of materials, and no other exterior indication of the home occupation or variation of the residential character of the main building.
- F. No offensive noise, vibration, smoke or other particulate matter, heat, humidity, glare or other objectionable effects shall be produced.
- G. A home occupation is limited to a professional of a medical or osteopathic physician, dentist, podiatrist, chiropractist, lawyer, engineer, architect, artist, teacher, dressmaker, barbershop, beauty parlor, real estate office or insurance office.

8. *Medical or Dental Clinical Buildings*. Where permitted in a residential district

a building for use as a medical or dental clinic may be erected and used subject to the following conditions:

A. The building shall be occupied and used only by persons licensed to practice the healing arts in the Commonwealth of Pennsylvania and their staffs.

B. The lot area shall not be less than 1 acre. The front yard depth shall be 25 feet, the side yard width shall be 20 feet, the rear yard depth shall be 25 feet.

C. Parking shall be provided on the basis of three parking spaces per doctor, plus one additional space for every employee. The size and locations of these spaces shall be in accordance with the provisions of Part 12, "Off Street Parking."

D. An architectural sketch of the building and a plot plan showing the size and location of the building, parking areas, driveways and the plan for sewage disposal shall be submitted to the Borough Council for review and approval.

E. Where two or more buildings are proposed as a land development, plats shall be prepared and submitted to the Borough in accordance with the requirements of the County's Subdivision and Land Development Ordinance for approval.

9. *Municipal Uses.* In any district, a building may be erected, altered, or extended and land may be developed which is arranged, intended, or designed for municipal uses, including municipal recreation use.

10. *Swimming Pools, Private.* Private swimming pools shall be a permitted accessory use in any district and shall comply with the following conditions and requirements:

A. The pool is intended, and is to be used, solely for the enjoyment of the occupants of the principal use of the property on which it is located.

B. It may not be located, including any walks, or paved areas or accessory structures adjacent thereto, closer than 10 feet to any property line of the property on which located.

C. A dwelling or an accessory building may be used as part of such enclosure.

D. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching and locking device for keeping the gate or door securely closed at all times when not in actual use, except that the door of the dwelling which forms a part of the enclosure need not be so equipped.

E. The property or the immediate area in which any outdoor pool capable of containing water 18 inches or more in depth shall be completely surrounded by a fence or wall not less than 4 feet in height which may be so constructed to have openings, holes, or gaps not larger than 2 inches in a horizontal dimension. Should the wall of the pool be above ground, the height of the required fence may be reduced so that the total height of the wall of the pool and the fence shall be not less than 4 feet. When located in a required yard, any portion of the fence which exceeds 4 feet in height shall have openings equal to 50 percent or more of the area, over 4 feet in height. When located in a yard, such fence shall not exceed 8 feet in height.

11. *Townhouses.* In district where permitted all townhouses shall comply with the following:

A. There shall be not more than 12 units in a row.

B. Lot area per dwelling unit shall not be less than the area required by the district regulations when served by both public water and sanitary sewer.

C. When public water and sewer is not provided, the lot size shall be increased in area as required by applicable State municipal regulations governing on-lot disposal systems.

12. *Automobile or Gasoline Service Stations.* In districts where permitted, service stations shall be subject to the following safeguards and regulations:

A. Driveways shall be located as provided in Part 12.

B. All driveways and service areas shall be paved with a surfacing material as approved by the municipality.

C. Driveway areas and service areas shall be distinguished from sidewalk areas by painted lines.

D. Motor vehicles shall not be permitted to be parked or to stand on sidewalk areas.

E. Minimum frontage on an interior lot shall be not less than 125 feet and on a corner lot on a side street not less than 100 feet and the front street not less than 125 feet.

F. Gasoline pumps shall meet the same setback requirements as a commercial structure in those districts where permitted.

13. *Prohibited Uses.*

A. The primary living and sleeping quarters of dwelling units shall not be permitted in cellars.

B. The following uses are prohibited in all districts throughout the municipality:

(1) The incineration, reduction, or storage of garbage, offal, animals, fish, or refuse, unless by the authority of or under the supervision of the municipality.

(2) Dumps and dumping of any kind unless by the authority of or under the supervision of the Borough.

(3) The stripping of top soil for sale, exclusive of the process of grading a lot preparatory to the construction of a building for which a zoning permit has been issued.

(4) Junkyards.

(5) Race tracts for stock cars, midget cars, and other motorized vehicle racing.

(6) The operation of any business which has as a substantial or a significant portion of its stock-in-trade obscene materials, or offers live entertainment appealing to the prurient interest (includes adult book stores).

(7) *Massage Parlor.* The operation of any massage parlor in which any of the following activities are carried on:

(a) The treatment of any person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered

physical therapist, which order shall be dated and shall specifically state the number of treatments. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police. The requirements of this provision shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

(b) The massage of, or physical contact with, the sexual or genital parts of one person by any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any persons, or the vulva or breasts of a female.

(c) The failure to conceal with a fully opaque covering the sexual or genital parts of the body of any person.

C. Any uses not listed in this Chapter by name is deemed to be a prohibited use in Millerstown Borough.

14. *Public Utility Facilities.* Public utility facilities shall be permitted in any district without regard to the use and area regulations; provided, however, that buildings or structures erected for these utilities shall be subject to the following regulations:

A. Front, side, and rear yards shall be provided in accordance with the regulations of the district in which the facility is located.

B. Height shall be as required by the district regulations.

C. Unhoused equipment shall be enclosed with a chain link fence 6 feet in height topped with barbed wire.

D. *Housed Equipment.* When the equipment is totally enclosed within a building no fence or screen planting shall be required; however, the yard areas shall be in conformity with the district in which the facility is located.

E. *Screen Planting.* The required fence for unhoused equipment shall be surrounded by an evergreen planting as approved by the Borough Council.

F. The external design of the building shall be in conformity with the buildings in the districts.

G. *Access for Unhoused Equipment.* Where vehicular access is across the front yard, the gate shall be constructed of solid materials having not less than 50 percent solid in ratio to open space.

H. Plans of the facility shall be submitted to the Planning Committee for review and approval.

15. *Churches, Hospitals, Municipal Buildings, and Other Public and Semi-public Buildings:*

A. In districts where permitted, these uses shall meet the following requirements:

(1) The lot area shall be determined on the basis of building size, yard requirements listed below, and parking requirements but in no case shall the lot area be less than 1 acre.

(2) *Lot Coverage.* Lot area covered by all buildings including accessory buildings shall not be greater than 30 percent of the area of the lot.

(3) *Width Regulations.* The lot width at the required building line shall be based on the building size, and yard requirements, but in no case shall the lot width be less than 100 feet in width.

(4) *Yard Regulations.* Each lot shall have yards not less than the following depths or widths:

(a) Front yard depth—25 feet.

(b) Side yard—two in number, width, not less than 20 feet on an interior lot. On a corner lot the side yard abutting the street shall be not less than 25 feet in width.

(c) Rear yard depth—25 feet.

(5) *Heights.* The height of a building shall be not more than 35 feet, except as provided in §27-1102.

B. *Off-Street Parking.* Parking shall be provided in accordance with the provisions of Part 12 hereof. Portions of the required front yard setback may be used for off-street parking.

(1) Service and access drives shall be at least 15 feet wide and not over 25 feet wide and shall be permitted to cross required yard areas provided that the center line of the permitted drive shall not be a lesser angle to the street line than 60 degrees.

(2) If greater controls are established for the district in which these uses are to be located, such control or controls shall take precedent over any or all of the foregoing.

C. Existing structures cannot be remodeled, converted or otherwise used for schools, hospitals, churches or other public uses until such plans are presented to the Code Enforcement Officer together with approvals as may be necessitated by State and Local law and rules and regulations of the Department of Labor and Industry, the State ~~Department of Environmental Resources~~ Department of Environmental Protection and others. If the Codes Enforcement Officer finds any such plans and proposals are not in conflict with the intent and purposes of this Chapter, such uses may be permitted. [A.O.]

16. *Dish Antennas.* Dish antennas shall be a permitted accessory use in any district and shall comply with the following conditions and requirements:

A. All dish antennas shall meet the yard setback and height limitations for the zoning district in which they are located.

B. Distance of any guy anchorage or similar device shall be at least 10 feet from any property line.

C. Dish antennas shall not be located in the front yard area of any lot.

D. The applicant shall present documentation of the possession of any required license by and Federal, State, or local agency.

E. No antenna shall be in excess of a height equal to the distance from the base of the antenna to the nearest overhead electrical power line which serves more than one dwelling or place of business, less 5 feet.

F. Applications for a permit must include construction drawings showing proposed method of installation, structural engineering analysis, and site plan depicting antenna on the property. At the request of the Codes Enforcement Officer, documentation of a maintenance program may be required.

G. The owner of such an antenna shall assume complete liability in case of personal or property damage.

H. Limit two on lot in residential districts.

(Ord. 78, 11/7/1985, §91; as amended by A.O.)

§27-1002. Height Regulations.

1. Height regulations shall not apply to spires, belfries, cupolas, penthouses, or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, utility poles or towers, silos, and ornamental or necessary mechanical appurtenances.

2. For all residential uses accessory buildings shall not exceed 20 feet in height.

3. No structure shall be hereafter erected less than one story in height except for earth sheltered dwellings.

(Ord. 78, 11/7/1985, §92)

§27-1003. Area Regulations.

1. Unless the regulations of the district in which they are located require greater lot areas of lot widths, the following regulations shall apply:

A. Lots not served by a sanitary sewer system or other systems approved by the ~~Pennsylvania Department of Environmental Resources~~ Department of Environmental Protection, shall be not less than 100 feet wide at the building setback line nor less than one acre in area, per dwelling unit. [A.O.]

B. On a lot held in single and separate ownership which does not fulfill the regulations for the minimum area and yard dimensions for the district in which it is located, a building may be erected, altered, and used thereon providing the yard space is not less than the minimum specified herein, and further that the proposed sanitary sewer system and water system is approved by the ~~Department of Environmental Resources~~ Department of Environmental Protection. [A.O.]

C. The area, width, and depth of lots shall provide adequate open space for off-street loading, unloading, and/or parking space. Septic tanks and drain fields shall be provided with open space in addition to the open space required for off-street parking, other paved areas, and the area covered by the main building and buildings and structures accessory thereto.

(Ord. 78, 11/7/1985, §93, as amended by A.O.)

§27-1004. Yard Regulations.

1. Where the street or streets (or private road) upon which the lot abuts is less than 50 feet in width, the side yard abutting the street (or private road) shall be measured from a line parallel to and 25 feet from the center line of the street (or private road).

2. *Front Yards.*

A. When a vacant lot is situated between two lots each occupied by a principal building (within 25 feet of the side lot line of such vacant lot) which extends into the required front yard, the front yard of such vacant lot may be the average depth of the front yards of such two adjacent occupied lots.

B. Where a vacant lot adjoins only one lot occupied by a principal building (within 25 feet of the common side lot line) which extends into the required front yard of such occupied lot, the front yard depth of such vacant lot may be the average depth of the front yard of such adjacent lot and the front yard required for the district in which such vacant lot is located.

C. However, the second vacant lot from the original occupied lot must have at least the minimum front yard depth required in the district.

D. An accessory building shall not be erected or substantially altered within any front yard.

E. Parking shall not be permitted in front yards in residential districts.

3. *Side Yards.*

A. On a corner lot, the side yard abutting the street shall have a width equal to the depth of the front yard required in the district and shall be subject to all front yard requirements of this Chapter.

B. On a lot in a district where residential structures are permitted, held in single and separate ownership at the effective date of this Chapter, with a lot width less than required for the zone district, only one single-family dwelling may be erected, and side yards shall be provided according to the following requirements:

(1) On interior lots with a width of 50 feet or more, two side yards shall be provided as required by the district regulations.

(2) On corner lots with a width of 50 feet or more, two side yards shall be provided. The exterior side yard may be reduced by the number of feet by which the lot width is less than the district requires, but may not be reduced to less than the required interior side yard. The interior side yard shall be provided as required by the district regulations.

(3) On lots less than 50 feet but not less than 27 feet in width, two side yards shall be provided, each equaling 20 percent of the lot width.

(4) For attached dwellings, constructed to a depth of more than two rooms, a court not less than 6 feet in width shall be provided, abutting the side wall for all rooms beyond the second room.

C. On a lot, in a commercial or industrial district, held in single and separate ownership at the effective date of this Chapter, with a lot width less than required for the zone district, the required side yards shall be determined by the Zoning Hearing Board upon application for a variance based on the same criteria as listed under paragraph .B(2) above for residential structures.

D. An accessory building may be erected within one of the side yards or within the rear yard provided:

(1) Such accessory building shall not be located in the front yard.

(2) Where such side or rear yard is along an alley the accessory building

shall be located not less than 5 feet from the alley.

(3) Where such side or rear yard is adjacent to another lot, the accessory building shall be not less than 3 feet from any lot line.

(4) When an accessory building is erected within the side or rear yard adjacent to a side street on a corner lot, the accessory building shall be not less than the required front yard depth from the exterior side lot line.

E. A carport, open on 3 sides, may be erected within one of the side yards when attached to a main building existing at the effective date of this Chapter, providing the following minimum side yard remains:

(1) For lots 50 feet in width—minimum side yard 4 feet.

(2) For lots between 50 feet and 60 feet in width—minimum side yard 6 feet.

(3) For lots greater than 60 feet in width—minimum side yard 8 feet.

For dwellings constructed following the adoption of this Chapter, no open porch or carport may invade any required side yard.

4. *Buffer Yards.*

A. Where a commercial or manufacturing use adjoins a residential district, and where a residential use adjoins a limited access highway, a buffer yard of not less than 30 feet in width shall be provided for the district in which it is located.

B. All buffer yard areas shall be planted and maintained with a plant material and, in C and I Districts, a screen planting shall be planted and maintained to the full length of side and rear lot lines which do not abut streets.

C. In R Districts, screen planting shall be planted and maintained in the required buffer yards.

D. Buffer yards shall not be used for parking.

E. Buffer yards, other than interior side buffer yards, may be crossed by access roads, service drives, and utility easements not more than 35 feet in width, provided that the angle of the center line of the road, drive, or easement crosses the lot line and buffer yard at not less than 60 degrees.

F. If a front yard of 30 feet or more in depth is provided, the buffer yard may coincide with the front 30 feet of the front yard.

5. *Projection in Yards.*

A. Cornices, eaves, gutters, bay windows, or chimneys may project into the front, side, or rear yard of a lot, not more than 24 inches.

B. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into any yard.

C. Apparatus or architectural structures needed for the efficient operations of solar energy systems, including but not limited to overhangs, insulating walls and roofs, solar collectors, or reflectors may project not more than 4 feet into any required yard.

6. *Obstruction to Vision.*

A. Walls, fences, signs, or other structures shall not be erected or altered, and hedges, trees, or other plant material shall not be planted or maintained, which

may cause danger to traffic on a street or road by obstructing the view.

B. On corner lots, no walls, fence, sign, or other structures in excess of 3½ feet in height shall be erected or altered, and no hedge or other plant material in excess of 3½ feet in height shall be permitted within 25 feet in any direction of the intersection of the street right-of-way.

7. *Fences and Walls.*

A. Fences and walls may be erected, altered, and maintained within the yards; provided, that any such fence or wall in the front yard shall not exceed 3½ feet in height, and any fence or wall in the side or rear yard may be 6 feet or more in height; provided, that any fence or wall exceeding 6 feet in height shall contain openings therein equal to 50 percent of the area of that portion of the wall or fence exceeding 6 feet.

B. All yards used for the storage of any material needed for the operation or conduct of a manufacturing or commercial enterprise shall be enclosed by a solid wall, uniformly painted board fence, or screen planting, on all sides which face upon a lot in a more restricted zone.

(Ord. 78, 11/7/1985, §94)

§27-1005. Habitable Floor Area.

The minimum habitable floor area of a dwelling unit hereafter erected shall be 600 square feet. In the case of apartment houses, the minimum habitable floor area shall be not less than 300 square feet per apartment, except those apartments designed for and occupied exclusively by one person, which apartments shall each contain not less than 150 square feet of habitable floor area.

(Ord. 78, 11/7/1985, §95)

§27-1006. Illumination.

1. The illumination of any sign shall be arranged in such a manner that the direct rays of the light source shall not enter any residential building or fall within the right-of-way of any street or highway.

2. The illumination of the exterior grounds of commercial and industrial establishment shall be arranged in such a manner that the direct rays of the light source shall not enter any residential building or fall within the right-of-way of any street or highway.

(Ord. 78, 11/7/1985, §96)

§27-1007. Reduction of Lot Dimensions.

The area, width, or depth of any lot shall not be reduced by subdivision, sale, or development so that the lot width, lot area, lot area per dwelling unit, courts and yards, or other spaces are smaller, or so that the coverage is greater, than prescribed herein.

(Ord. 78, 11/7/1985, §97)

§27-1008. Performance Standards.

Hereafter, all uses of land, building and structures or industrial processes shall be prohibited that may be noxious or injurious by reason of the production or emission of

dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions; provided, however, that any uses may be permitted except those specifically prohibited in the district regulations or general provision, if adequate provisions and safeguards to protect the health, safety, morals, and the general welfare of the community are established by a written agreement, subject to the securing of a permit therefore and subject to the carrying out of such provisions, restrictions, and safeguards.

(*Ord. 78, 11/7/1985, §98*)

§27-1009. Earth Sheltered Housing.

Earth sheltered dwellings shall be permitted in any zone in which residential uses are permitted, subject to the provisions of the district in which located and further subject to the following provisions.

A. The maximum grade on any berms or fill established for earth-sheltering shall be a ratio of 3 feet horizontal distance to 1 foot of vertical height or the natural angle of repose for the soil, whichever is less. Such grades shall not extend beyond any property line except when the adjacent property is also to be constructed with earth-sheltering and written permission is obtained from the owner. Berms or retaining wall constructed for earth-sheltering shall not be placed in any easement.

B. The main floor level, which is hereby defined as being the level containing the main living, eating, and cooking areas, shall be at or above the street grade for units facing onto a street, and not more than one-half story below street grade if facing away from the street unless the natural slope would normally accommodate a full walk-out story.

C. Where earth cover is proposed to be placed on the roof, a minimum soil depth of 18 inches, with 24 inches preferred, shall be provided. Earth covering on walls for which retaining walls are established shall be equivalent to that provided by a 33 percent slope. Retaining walls more than 5 feet in height shall be certified by a structural engineer. Retaining walls constructed in a series or a slope, regardless of height, shall be founded within the stable slope angle for the soil type present.

D. Each dwelling unit shall have an entrance on the street side of the dwelling generally at or above the street grade and incorporated in a facade not less than 10 feet deep and 20 feet wide.

E. Grading shall avoid successive concentration of drainage onto adjoining properties unless that is the established drainage pattern or proper easements are obtained.

(*Ord. 78, 11/7/1985, §99*)

§27-1010. Solar Access Protection.

1. When a solar energy collection system is installed on a lot, accessory structures or vegetation on an abutting lot shall not be located so as to block the solar collector's access to solar energy. The portion of the solar collector that is protected is that portion which:

A. Is located so as not to be shaded between the hours of 10 a.m. and 3 p.m. by a hypothetical 12-foot obstruction located on the lot line.

B. Has an area of not greater than one-half of the first floor area of the structure, or the largest of the structure, served.

2. This subsection does not apply to accessory structures or vegetation existing in an abutting lot at the time of installation of the solar energy collection system, or on the effective date of this Chapter, whichever is later. This subsection controls any accessory structure erected on, or vegetation planted in, abutting lots after the installation of the solar energy collection system.

3. A statement that a solar energy collection system is to be installed on a lot shall be filed and recorded with the Borough on the day the building permit for the solar system is issued, and the date of installation shall be the date of recordation. The solar facility must be completed and have a final inspection, approved by the Building Inspector, within 1 calendar year from the date of installation.

(*Ord. 78, 11/7/1985, §100*)

§27-1011. Wind Power.

Windmills, windwheels and wind energy conversion systems (WECS) shall be permitted in any zoning district subject to the following conditions:

A. The structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied structure and located a minimum distance of the tower height plus 10 feet from any occupied dwelling, and shall not be more than 75 feet in height.

B. The minimum distance between the tower and any property line shall be not less than twice the height of the tower.

C. The minimum distance between grade and the lowest point of the rotor blade shall be 20 feet.

D. All electric line/utility wires shall be buried underground.

E. Any mechanical equipment associated and necessary for operations, including a building for batteries and storage cells, shall be enclosed with a 6-foot fence. The supporting structure shall also be enclosed with a 6-foot fence, unless the base of the tower is not climbable for a distance of 12 feet.

F. When a building is necessary for storage cells or related mechanical equipment, the building shall not exceed 140 square feet in area nor 8 feet in height and must be located at the base of the supporting structure.

G. One windmill/windwheel/WECS shall be permitted per property.

H. The resultant energy harnessed from the wind shall be used on the property it is located on and not used as a commercial enterprise.

I. The supporting structure and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the supporting structure and related structures shall be dismantled and removed from the property within 60 days.

J. The applicant shall demonstrate that any noise from the wind generating unit shall not exceed 45 dB(A), measured at the property line.

(1) A “decibel” shall mean a unit for measuring the relative intensity of sounds. More specifically, a unit for expressing the ratio of two amounts of acoustic signal power equal to 10 times the common logarithm of this ratio.

(2) “A’ weighted sound level” shall mean the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micro-pascals using the “A” weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).

(Ord. 78, 11/7/1985, §101)

§27-1012. Cluster Option.

This option permits the same maximum number of dwellings as would result on a tract from applying conventional lot size standards, but allowing increased density of dwelling clusters, while retaining open spaces.

A. *Districts in Which Permitted.* A cluster of zero lot line development for one-family dwellings only may be permitted in the RS, RT and VM Districts. Where the regulations included herein conflict with regulations included in the individual districts or other sections of the ordinance, the regulations included herein shall apply.

B. *Regulations for Zero Lot Line Dwellings.*

(1) *Uses Permitted.* Single-family dwellings and accessory uses permitted in the RS, RT and VM Districts.

(2) Minimum size of development—2 acres.

(3) *Minimum Lot Size.* No minimum is required if developed as a condominium; otherwise the lot size shall conform to the district in which it is located for a single-family detached dwelling.

(4) *Number of Units Per Cluster.* The maximum number of units per cluster is 8 units.

(5) *Setback Requirements.*

(a) Front yard—same as district in which it is located.

(b) Side yard—one side yard must be zero. The other side yard may also be zero. If the second side yard is not zero, it must be at least 20 feet.

(c) Rear yard—same as district in which it is located.

(6) Maximum lot coverage—25 percent.

(7) *Building Height.* No principal building shall exceed 2½ stories or 30 feet in height; and no accessory building shall exceed one story or 15 feet in height.

(8) *Minimum Off-Street Parking Requirements.* One parking space shall be included for each dwelling unit. Garages may be included as parking spaces.

(9) *Open Space Requirement.* A minimum of 50 percent of the area shall have a vegetative (trees, bushes or grass) cover.

C. *Common Open Space and Maintenance of Facilities.* Common open space is not required but may be permitted. If common open space is provided, provisions must be approved by Borough Council as to its ownership and maintenance.

D. *Land Development Plan Review*. Any proposed zero lot line development plans must be submitted to the County in conformance to the Perry County Subdivision and Land Development Ordinance.

(Ord. 78, 11/7/1985, §102)

Part 11**Nonconforming Buildings and Uses**

All lawful uses of land or of a building, sign, or other structure existing on the effective date of this Chapter may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such use may not conform to the use, height, area, yard, and other regulations of the district in which it is located, provided such nonconforming conditions shall comply with the following:

§27-1101. Continuation.

1. The Zoning Officer shall identify and register all of the premises occupied by a lawful nonconforming use or building existing at the effective date of this Chapter and issue a Certificate of Nonconformance which shall be for the purpose of insuring to the owner the right to continue a nonconforming building or use.

2. Except as otherwise provided in this Section, the lawful use of land or buildings existing at the date of the adoption of this Chapter may be continued, although such use or building does not conform to the regulations specified by this Chapter for the zone in which such land or building is located; provided, however, that no nonconforming lot shall be further reduced in size.

(Ord. 78, 11/7/1985, §111)

§27-1102. Abandonment.

A nonconforming use shall be adjudged as abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of 1 year from the date of cessation or discontinuance. Such use shall not thereafter be reinstated, and the structure shall not be re-occupied except in conformance with this Chapter.

(Ord. 78, 11/7/1985, §112)

§27-1103. Restoration.

If any nonconforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to an extent of more than 75 percent of the building, then such destruction shall be deemed complete destruction and the structure may not be rebuilt, restored or repaired except in conformity with the regulations of this Chapter, unless the structure can be rebuilt on the site of the original foundation. Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Zoning Officer.

(Ord. 78, 11/7/1985, §113)

§27-1104. Reversion.

A nonconforming use, if once changed into a conforming use, shall not be changed back again into a nonconforming use.

(Ord. 78, 11/7/1985, §114)

§27-1105. Alterations.

A nonconforming building may be altered or improved, provided that the alteration or improvement does not amount to a substantial increase of a nonconforming use; but, if such alterations or improvements involve any increase in lands so used or in the cubic content of the building so used, the permit for the alteration or improvement shall be issued only upon special exception granted in accordance with law. In addition, the following criteria shall apply:

A. The proposed alteration shall be within the lot limits which existed on the property in question at the time of the adoption of this Chapter.

B. The proposed alteration shall not exceed 25 percent of the gross floor area occupied by the nonconforming use at the time of the enactment of this Chapter.

C. The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.

D. The extension or enlargement shall conform to the height, area, yard, and coverage regulations of the district in which it is located.

E. The extension or enlargement of the building or use shall be provided with off-street parking and loading spaces as required by Part 12, "Off Street Parking."

F. The extension or enlargement does not replace a conforming use.

G. A nonconforming use may be changed to another nonconforming use of the same or more-restricted classification. Whenever a nonconforming use has been changed to a more restricted classification or to a conforming use, such use shall not hereafter be changed to a use of less restricted classification.

(Ord. 78, 11/7/1985, §115)

§27-1106. Construction Approved Prior to Ordinance.

1. Where a building permit has been issued 90 or more days prior to the effective date of this Chapter and the proposed building or use does not conform to the requirements of this Chapter, the proposed building or use shall be considered the same as a lawful building or use and shall be regulated by the requirements of this Chapter.

2. Where a building permit has been issued less than 90 days prior to the effective date of this Chapter and the proposed building or use does not conform to the requirements of this Chapter, the proposed building or use shall be considered the same as a lawful building or use and shall be regulated by the requirements of the Part, only if at least one of the following conditions has been met prior to the effective date of this Chapter:

A. Construction other than excavation has been started.

B. A contract for construction other than excavation has been let.

(Ord. 78, 11/7/1985, §116)

§27-1107. District Changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

(Ord. 78, 11/7/1985, §117)

§27-1108. Discontinued Nonconforming Use of Open Land.

All nonconforming signs, billboards, junk storage areas, storage areas and similar nonconforming uses of open land not involving a substantial investment in permanent buildings, when discontinued for a period of 6 months or damaged to an extent of 60 percent or more of replacement costs, shall not be continued, repaired or reconstructed.

(Ord. 78, 11/7/1985, §118)

Part 12

Off-Street Parking, Loading/Unloading Access

§27-1201 General Parking Regulations.

1. Off-street parking facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term “parking space” includes either covered garage space or uncovered parking space located off the public right-of-way.

2. Outdoor parking space shall be deemed to be part of the open space of the lot which it is located.

3. A garage or carport may be located wholly or partly inside the walls of the principal building, or attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory or building requirements. The garage may be constructed under a yard or court provided that the level of such yard or court shall conform to the general level of the other yards or courts on the lot. The space above an underground garage shall be deemed to be part of the open space of the lot on which it is located.

(Ord. 78, 11/7/1985, §121)

§27-1202. Facilities Required.

Any of the following buildings hereafter erected or enlarged and any building hereafter converted into one of the following buildings and any open area hereafter used for commercial or industrial purposes shall be provided with not less than minimum parking spaces as set forth below.

(Ord. 78, 11/7/1985, §122)

§27-1203. Off-Street Parking Space Requirements.

Uses	Minimum Required Parking
A. Residential	
1. Single and Two-Family Dwellings	1 for each family or dwelling unit
2. Multiple Dwellings	1.5 spaces per dwelling unit
3. Hotels, Motels, Tourist Houses, Boarding and Lodging Houses	1 space for each guest room
4. Rooming Houses	1 for each 1 bedroom
B. Commercial	
1. Automobile Laundry	5 for each laundry machine
2. Automobile Sales and Service Garages	1 for each 400 sq. ft. of floor area

Uses	Minimum Required Parking
3. Banks	1 for each 200 sq. ft. of floor area
4. Bowling Alleys	5 for each alley
5. Dance Halls, Swimming Pools, Roller Rinks, Clubs, Lodges and other similar places and other commercial buildings	1 for each 100 sq. ft. of floor area or of water area in swimming pool
6. Driving Ranges and Miniature Golf	1 for each tee
7. Food Supermarkets	1 for each 200 sq. ft. of floor area
8. Funeral Homes, Mortuaries	5 for each parlor
9. Furniture or Appliance stores	1 for each 200 sq. ft. of floor area
10. Medical and Dental Offices	5 spaces for each doctor or dentist
11. Office Buildings	1 space for each 400 sq. ft. of floor area
12. Restaurants, Beer Parlors and Night Clubs	1 for each 2.5 seats
13. Retail Stores and Shops	1 for each 120 sq. ft. of floor area
14. Service Stations	2 for each service bay
15. Sports Arenas, Auditoriums, Theaters, Assembly Halls	1 for each 3.5 seats
16. Trailer or Monument Sales, or Auctions	1 for each 2,500 sq. ft. of lot area
C. Industrial	
1. Manufacturing Plants, Research or Testing Laboratories, Bottling Plants	1 for each 1,000 sq. ft. of floor area, plus 1 for each 2 employees in the maximum working shift. The total parking area shall be not less than 25% of the building floor area
2. Wholesale Establishments or Warehouse	1 for each 2 employees on maximum shift. The total parking area shall be not less than 25% of the building floor area
D. Public and Semi-Public Areas	
1. Churches and Schools	1 for each 3.5 seats in an auditorium, or 1 for each 17 classroom seats, whichever is greater
2. Community Buildings and Social Halls	1 for each 100 sq. ft. of floor area
3. Hospitals, Nursing and Convalescing Homes	1 for each 3 beds, plus 1 for each employee

(Ord. 78, 11/7/1985, §123)

§27-1204. Location of Parking Space.

Parking spaces for multiple dwelling buildings, commercial or industrial uses shall be readily accessible to, and within a reasonable distance from the buildings served thereby. Such spaces shall be on the same lot and in the same zoning district as the principal building, or open area conforming to the following regulations:

A. The required parking spaces shall be situated within 600 feet of the principal building or open space in question.

B. Such spaces shall be in the same ownership as the principal use to which they are accessory and shall be subject to deed restrictions acceptable to the Zoning Hearing Board, binding the owner and his heirs or assigns to maintain the required number of parking spaces throughout the life of the principal use.

(Ord. 78, 11/7/1985, §124)

§27-1205. Design Standards.

The minimum dimensions of parking facilities to be provided shall be as follows:

A. In all districts net parking space per vehicle shall be not less than 10 feet wide and 20 feet long, except when more than 10 parking spaces are required. Then a maximum of 40 percent of the parking spaces may be provided for compact vehicles. Each compact parking space shall not be less than 8 feet wide by 18 feet long. All compact parking shall be arranged and located in the same area and be marked to indicate spaces designated for compact parking.

B. In all districts except for single-family dwellings, there shall be no less than 20 feet of open space between the curb line or edge of any parking area and the outside wall of any building.

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

Angle of Parking	Parking Bay Width	Depth from Curb ¹	Aisle Width	
			One-Way	Two-Way
90 degrees	10 feet	20 feet	24 feet	24 feet
60 degrees	10 feet	22 feet	18 feet	20 feet
45 degrees	10 feet	21 feet	15 feet	20 feet
30 degrees	10 feet	19 feet	12 feet	20 feet

D. All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.

E. Parking areas shall be designed so that each motor vehicle may proceed to and from parking space provided for it without requiring the moving of any other

¹Depth from curb is the perpendicular measurement from curb or edge of the parking lot toward the interior portion of the lot to be occupied by the parked vehicles and not including any part of the drive.

motor vehicle.

F. The width of entrance and exit drives shall be a minimum of 12 feet for one-way use only, a minimum of 20 feet for two-way use; except where 90-degree parking is used in which case the minimum shall be not less than 24 feet; and a maximum of 24 feet at the street line.

G. Setback for parking areas shall be provided as follows:

(1) All parking spaces and access drives shall be at least 20 feet from any multiple dwelling building, commercial building and industrial building on the lot.

(2) All parking spaces and access drives shall be at least 5 feet from any exterior lot line, except where buffer yards are required in which case such parking spaces and access drives may not encroach on the buffer yard area.

(3) Except at entrance and exit drives parking areas shall be physically separated from any public and/or private streets by a minimum 5-foot planting strip. In no case shall parking areas be designed to require or encourage cars to back into a public or private streets in order to leave the parking areas.

H. Separate parking areas on a parcel or development shall be physically separated from one another by 8-foot planting strips.

I. A structure or planting material shall be provided of sufficient height and density to screen off-street parking lots from the public streets view and from the ground level of adjoining residential districts.

(Ord. 78, 11/7/1985, §125)

§27-1206. Handicapped Parking.

Handicapped parking spaces shall be provided and shall comply with the location, size, marking, and ingress and egress requirements set forth therein. Each reserved parking space for the physically handicapped person shall be not less than 12 feet wide. The number of accessible parking spaces required are as follows:

Total Parking in Lot	Required Number of Accessible Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total

Total Parking in Lot	Required Number of Accessible Spaces
Over 1000	20 plus 1 for each 100 over 1000

(Ord. 78, 11/7/1985, §126)

§27-1207. Drainage, Surfacing and Maintenance Standards.

1. The area of the parking lots, including drive ways, shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Borough Engineer to the extent necessary to prevent dust, erosion, or excessive water flow across streets or adjoining property.

2. Parking areas shall be kept clean and free from rubbish and debris.

(Ord. 78, 11/7/1985, §127)

§27-1208. Lighting.

Any lighting used to illuminate off-street parking or loading areas shall be arranged so that the direct rays from the luminaries will not fall on any residential beyond the property line.

(Ord. 78, 11/7/1985, §128)

§27-1209. Loading and Unloading Space.

1. In addition to the off-street parking space required above, all commercial and industrial establishments, hospitals or sanitariums and other similar uses shall provide adequate off-street area for loading and unloading of supplies to and from vehicles.

2. At least one loading berth shall be provided; however, should the gross floor area of the main building and buildings accessory thereto used for commercial and/or industrial purposes exceed 10,000 square feet, one additional loading berth shall be provided for each 10,000 square feet of gross floor area. The off-street loading berth shall be not less than 10 feet wide, and 35 feet in length, and 14 feet in height.

3. Hotels shall have at least one loading berth, with an additional loading berth when the gross floor area exceeds 50,000 square feet.

(Ord. 78, 11/7/1985, §129)

§27-1210. Driveways and Curbs.

Access to the lot shall comply with the following regulations:

A. Access shall be by not more than two driveways for each 100 feet frontage on any street.

B. In single- and two-family residential districts no two of said driveways shall be closer to each other than 12 feet and no driveway shall be closer to a side property line than 3 feet, and no flare shall cross an extended side property line.

C. Each driveway shall be not more than 35 feet in width, measured at right angles to the center line of the driveway, except as increased by permissible curb return radius. The entire flare of any return radius shall fall within the right-of-way.

D. Driveways shall not cross the street right-of-way line within 40 feet of the street right-of-way line of an intersecting street and in no case less than 10 feet from the point of tangency when the intersecting street lines are joined by a curve. Notwithstanding the above and when deemed necessary for safety by the Borough Council this dimension shall be increased for driveways into shopping centers, other commercial, industrial, public or institutional uses.

E. Driveways shall not cross the street right-of-way within 5 feet of a fire hydrant, catch basin or drain inlet.

F. Driveways shall not cross the street right-of-way within 40 feet of another driveway on the same lot, excepting in the case where dual access drives are deemed necessary to permit safe ingress and egress, these dimensions may be reduced to not less than 12 feet between two access drives.

G. Driveways shall not cross the street right-of-way in all multi-family, commercial and industrial districts within 20 feet of a property line unless two adjoining property owners mutually agree in a legally recorded instrument to a common driveway.

H. For non-dwelling uses, where there is an existing curb and gutter or sidewalk on the street (or private road), a safety island along the entire frontage of the property shall be provided, except for the permitted driveways. On the two ends and street (or private road) side of each such island shall be constructed a concrete curb, the height, location, and structural specifications of which shall be approved by the Borough Engineer.

I. For non-dwelling uses, where there is no existing curb and gutter or sidewalk, a curb, fence, or pipe rail not exceeding 2 feet or less than 8 inches in height shall be constructed along the entire length of the property line, except in front of the permitted driveways.

J. *General Safety Requirements; Sight Distance.* Driveways shall be located in safe relationship to sight distance and barriers to vision, and shall not exceed a slope of 10 percent within 12 feet of the street line. Where drives enter a bank through a cut, unless a retaining wall is used, the side slopes of the cut shall be graded to not more than ½ foot vertical to 1 foot horizontal within 10 feet of the point the drive intersects with the right-of-way line.

K. *Submission of Plan.* A scale drawing of proposed off-street parking and loading areas, access drives, and walks shall be submitted as part of the required plot plan. Any plan requiring access onto a State highway shall be approved by the Pennsylvania Department of Transportation in addition to the Borough Council approval.

(Ord. 78, 11/7/1985, §130)

§27-1211. Location of Gasoline Pumps.

Gasoline pumps and all other service equipment shall be located within the setback requirements of the zoning district where permitted and shall be so located that vehicles stopped for service will not extend over the property line.

(Ord. 78, 11/7/1985, §131)

Part 13**Signs****§27-1301. Intended Purpose.**

This Chapter is designed to regulate and govern the use, erection, alteration, repair and maintenance of all exterior signs and outdoor display structures together with their accessories and auxiliary devices so as to protect property values, lessen congestion of land and air spaces, provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow.

(Ord. 78, 11/7/1985, §141)

§27-1302. Signs Prohibited in All Districts.

The following signs shall not be permitted, erected, constructed or maintained in any zoning district, notwithstanding anything contained in this Chapter or elsewhere. Such signs which are prohibited shall be removed or brought into conformity with the provisions of this Chapter within 90 days after this Chapter is enacted.

A. Signs which incorporate in any manner any flashing or moving illumination, or with illumination which varies in intensity or color, and signs which have any visible revolving parts or visible mechanical movement of any description, or other apparent visible movement achieved by electrical pulsations or by actions of normal wind currents. Hanging signs which simply swing in the wind and clock, time or temperature signs and barber poles shall not be considered as a prohibited sign if it complies with the other provisions of this Chapter.

B. Light sources which cast light on signs shall be shielded by opaque material so that the bulbs, floodlights or tubes are not visible off the property on which the signs are located.

C. Signs advertising activities that are illegal under Federal, State or local laws, regulations or ordinances as applied to the location of a particular sign or the location of such activities.

D. Signs which by reason of size, location, movement, content, coloring or manner of illumination, obstruct the vision of drivers either when leaving or entering a public street from another street or driveway, obstruct or detract from the visibility or effectiveness of any traffic control device or traffic sign on a public street.

E. Signs which make use of words such as “stop,” “look,” “one-way,” “danger,” “yield,” “go slow,” “caution,” or any similar words, phrases, symbols, lights or characters in such a manner as to interfere with, mislead or confuse traffic, or which imitate an official traffic sign or signal.

F. Signs which advertise an activity, business, product or service no longer produced or conducted. In such case, such sign shall be removed within 30 days after the same is no longer produced or conducted.

G. Signs which are placed or located within the public right of way, except as provided elsewhere in this Chapter.

H. Signs painted on, pasted or attached to, or supported by utility poles, trees, fences, a stone, cliff or other natural object.

I. Signs which consist of pennants, spinners, banners, streamers or searchlights, except for occasions such as grand openings and then only with permission of the Building Official for a use limited to a period of 15 days.

J. String lights other than temporary holiday decorations or special events or functions of public service, charitable, religious, educational and civic organizations, which are unshielded from off the premises on which they are located.

K. Sign which obstructs free ingress to, or egress from a fire escape, door, window or other exitway.

L. Signs which are structurally unsafe or in a state of disrepair.

(Ord. 78, 11/7/1985, §142)

§27-1303. Signs in Residential Districts.

The following type of signs, and no other, shall be permitted in Residential Districts:

A. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided:

(1) The size of any such sign is not in excess of 6 square feet.

(2) Not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

B. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other person interested in such sale or development, may be erected and maintained, provided:

(1) The size of any sign is not in excess of 20 square feet.

(2) Not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

C. Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided:

(1) The size of any such sign is not in excess of 6 square feet, and not in excess of 4 feet in length, and not more than one such sign is erected on each 500 feet of street frontage.

D. Signs bearing the word "sold" or the word "rented," with the name of the person effecting the sale or rental, provided the conditions in subsection .1 hereof, are complied with.

E. Signs of mechanics, painters, and other artisans during the period such persons are performing work on the premises on which such signs are erected,

provided:

- (1) The size thereof is not in excess of 8 by 12 feet.
- (2) Such signs are removed promptly upon completion of the work.

F. Signs indicating the private nature of a driveway, or trespassing signs, provided that the size of any such sign shall not exceed 2 square feet.

G. Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature, provided:

- (1) The size of any such sign is not in excess of 20 square feet.
- (2) Not more than two signs are placed on a property in single or separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

H. Signs advertising home occupations, which shall be not larger than 144 square inches, bearing the name and occupation (words only) of the practitioner. Such signs may be illuminated if such lighting is shielded or indirect but shall not include neon signs.

I. Signs indicating direction may be erected along streets to direct vehicles or pedestrians to premises or businesses not located on such streets, but the access to which is from such streets. The following regulations shall apply:

- (1) Directional signs shall be ground signs with a maximum area of 6 square feet on a single-faced, or 12 square feet on a double-faced sign.
- (2) The content of directional signs shall be limited to the name of the establishment and direction and distance information.
- (3) Directional signs shall not be located more than 500 feet from an entrance or other street leading to the advertiser, and shall be located in advance of such street or entrance and on the same side of the road as the advertiser's premises.
- (4) When more than two directional signs are requested at a signal location, all information shall be combined in one sign which shall not exceed an area of 12 square feet for a single-faced sign, or 24 square feet for a double-faced sign.

J. One nameplate and one house number sign for each dwelling unit, professional office or home occupation, provided it does not exceed 1 square foot and identifies only the name and title of the occupant. It shall not extend beyond a vertical plane 2 feet inside the lot from the street line. If lighted, it will be illuminated without objectionable glare. No displays or change in facade shall indicate from exterior that the building is being used in whole or in part for any purpose other than that of a dwelling.

K. Signs up to 2 feet square in area on each side which are necessary for the identification, protection and operation of public utility facilities.

(Ord. 78, 11/7/1985, §143)

§27-1304. Business Identification Signs.

The following types of signs may be permitted in commercial and industrial districts unless otherwise provided:

A. One wall sign to a property; provided, it is attached to the wall of a building and projects horizontally not more than 12 inches therefrom, is not less than 10 feet above the sidewalk and occupies not more than 20 percent of the total area of the front of the principal building. It shall not project more than 3 feet above the roof line or parapet wall.

B. One projecting sign, provided it shall not project beyond a vertical plane 5 feet inside the lot from the street line.

C. One free-standing sign not to exceed 100 square feet in area. It shall not extend beyond a vertical plane 5 feet inside the lot from the street line and shall not exceed a height of 35 feet.

(Ord. 78, 11/7/1985, §144)

§27-1305. Business and Professional Office Identification Signs.

The following types of signs may be permitted in the business-professional-residential district for nonresidential principal buildings.

A. One wall sign to a building; provided, it is attached to the wall of a building and projects horizontally not more than 12 inches therefrom, is not less than 10 feet above the sidewalk and occupies not more than 10 percent of the total area of the front of the principal building. It shall not project more than 3 feet above the roof line or parapet wall.

B. One projecting sign, provided it shall not project beyond a vertical plane 15 feet inside the lot line from the street line.

C. One free-standing sign not to exceed 80 square feet in area. It shall not extend beyond a vertical plane 15 feet inside the lot from the street line and shall not exceed a height of 35 feet.

(Ord. 78, 11/7/1985, §145)

§27-1306. Billboards.

Advertising sign boards, including poster panels, bulletins, and the like, may be erected and maintained in the Industrial District. Such signs shall meet the following restrictions and controls.

A. Billboards shall not exceed 300 square feet in surface area and must be spaced at intervals of not less than 1,000 feet along the same side of any street or highway.

B. No billboard shall be located within 100 feet of any street intersection.

C. No advertising sign shall be permitted to be erected upon the roof of any building and advertising signs shall be required to setback 30 feet from the front lot line or to the established building line, whichever is less.

D. No advertising sign shall be permitted to be erected within 50 feet of an adjoining residential district if visible from and designed to face into such district.

E. Advertising signs, if lighted, shall be indirectly illuminated, and all such signs shall conform to the height regulations for building in the district in which they are located.

(Ord. 78, 11/7/1985, §146)

§27-1307. General Regulations.

The following regulations shall apply to all permitted sign uses:

A. Sign must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.

B. Signs shall not be placed in such a position that they will cause danger to traffic on a street by obscuring the view.

C. Signs, other than an official traffic sign, shall not be erected within the line of any street.

D. Signs projecting beyond the property lines shall be not less than 10 feet above the public sidewalk areas.

E. Signs shall not project above the height limit permitted in any district in which they are located.

F. No sign shall be permitted which rotates and/or causes interruption or flashing of light.

G. All signs erected within the right-of-way of a State highway shall be in accordance with the regulations of the Pennsylvania Department of Transportation.

H. A permit shall not be required for the erection, alteration, or maintenance of any signs permitted in a residential district.

I. A permit shall be required for the erection, alteration, or reconstruction of billboards, or advertising sign boards, including poster panels, bulletins, and the like.

J. All signs shall be removed when the circumstances leading to their erection no longer applies.

K. All nonconforming signs, billboards, or advertising sign boards, including poster panels, bulletins, and the like, shall be made to conform to all pertinent regulations, or be removed within 3 years after the effective date of this Chapter, except that business identification signs on legal nonconforming uses, may be continued and maintained as a part of the legal nonconforming use.

(Ord. 78, 11/7/1985, §147)

Part 14**Floodplain Management****§27-1401. General Provisions.**

1. The purpose of these provisions is to set forth, by separate Part, zoning related floodplain management regulations deemed necessary to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

A. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.

B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in floodplain areas to be protected and/or floodproofed against flooding and flood damage.

D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

2. These provision shall apply to all lands within the jurisdiction of Millerstown Borough and shown on the Official Zoning Map as being located within the boundaries of any identified Floodplain District.

3. No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Chapter.

4. The degree of flood protection sought by the provisions of this Chapter 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 restricted by debris. This Chapter does not imply that areas outside the identified floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages. Further, these provisions shall not create liability on the part of Millerstown Borough or any officer or employee thereof for any flood damages that result from reliance on these provisions or any administrative decision lawfully made thereunder.

(Ord. 78, 11/7/1985, §151)

§27-1402. Establishment of Flood Districts.

1. *Basis of Flood Districts.* For the purposes of this Chapter, the various floodplain districts shall include those areas identified as being subject to the 100-year flood in the Flood Insurance Study (FIS) prepared for ~~West Hanover Township~~ Millerstown Borough by the Federal Insurance Administration (FIA) dated June, 1979.

[A.O.]

2. *Delineation of Flood Districts.*

A. The Floodway District (FW) is delineated for purposes of this Chapter using the criteria that a certain area within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than 1 foot at any point. The areas included in the Floodway District are specifically defined in the Floodway Data Table contained in the above-referenced FIS and shown on the accompanying Flood Boundary and Floodway Map.

B. The Flood-Fringe District (FF) shall be that area of the 100-year floodplain not included in the Floodway District (FW). The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced FIS and as shown on the accompanying Flood Boundary and Floodway Maps.

3. *Overlay Concept.*

A. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions.

B. Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Districts and those of any underlying district the more restrictive provisions shall apply.

4. *Zoning Map.* The boundaries of the Floodplain Districts are established as incorporated into the Millerstown Borough Zoning Map. Refer to Part 3, "Designation of Districts," §§27-301 and 27-302, as contained in this Chapter.

5. *Flood District Boundary Changes.* The delineation of any of the Floodplain Districts may be revised by the Millerstown 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, Susquehanna River Basin Commission, or other qualified agency or individual documents the need or possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

(Ord. 78, 11/7/1985, §152; as amended by A.O.)

§27-1403. Flood District Provisions.

1. *Introduction.*

A. All uses, activities, and development occurring within any floodplain district shall be undertaken, only, in strict compliance with the provisions of this Chapter and with all other applicable codes and ordinances.

B. 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.

C. Prior to any proposed alteration or relocation of any stream, watercourse, etc. within the municipality, a permit shall be obtained from the ~~Department of Environmental Resources, Bureau of Dams and Waterway Management~~

Department of Environmental Protection. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Pennsylvania ~~Department of Community Affairs~~ Department of Community and Economic Development. [A.O.]

2. *Floodway District (FW)*. In the Floodway District (FW) any new construction and/or development that would cause any increase in flood heights shall be prohibited.

A. *Permitted Uses*. In the Floodway District (FW) the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

(1) Agriculture uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas.

(3) Accessory residential uses such as yard areas, gardens, play areas, and pervious parking areas.

(4) Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, etc.

(5) Structures, except for mobile homes, accessory to the uses and activities in subsection .2.A, above.

(6) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses.

(7) Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities and structural development shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances.

B. *Uses Specifically Prohibited*. Refer to subsections .1.B and .2.C(1)(a) for the kinds of development which are specifically prohibited within the Floodway District (FW).

3. *Flood-Fringe District (FF)*.

A. *Permitted Uses*. In the Flood-Fringe District (FF) the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances.

B. *Special Provisions for Certain Uses and Development*. Refer to subsections .1 and .2 for special requirements and procedures for certain kinds of development within the Flood-Fringe District (FF).

(Ord. 78, 11/7/1985, §153; as amended by A.O

§27-1404. Special Provisions for Certain Kinds of Development within Floodplain Districts.1. *Development Which May Endanger Human Life.*

A. In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and the regulations adopted by the ~~Department of Community Affairs~~ Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following materials or substances on the premises, shall be subject to the provisions of this Section, in addition to all other applicable provisions: [A.O.]

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides or nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.).
- (13) Phosphorus.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.
- (17) Pesticides (including insecticides, fungicides and rodenticides).
- (18) Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any Floodway District (FW) any structure of the kind described in paragraph .A., above, shall be prohibited.

C. Where permitted in any Flood-Fringe District, any structure of the kind described in paragraph .A, above, shall be:

- (1) Elevated or designed and constructed to remain completely dry up to at least 1½ feet above the 100-year flood.
- (2) Designed to prevent pollution from the structure or activity during the course of a 100-year flood.

D. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards

for completely dry flood-proofing contained in the publication “Flood-Proofing Regulations” (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

2. *Activities Requiring Special Permits.*

A. In accordance with the Pennsylvania Flood Plain Management Act and regulations adopted by the ~~Department of Community Affairs~~ Department of Community and Economic Development as required by the Act, the following obstructions and activities are permitted only by special permit, if located partially or entirely within any identified floodplain district: [A.O.]

- (1) Hospitals—public or private.
- (2) Nursing homes—public or private.
- (3) Jails.
- (4) New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

B. *Special Permit Application Requirements and Procedures.* Refer to the Millerstown Borough Building Permit Ordinance for application requirements and review procedures for development requiring a special permit.

C. *Technical Requirements for Development Requiring a Special Permit.* In addition to any other applicable requirements, the following provisions shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and any otherwise applicable provision, the more restrictive provision shall apply.

(1) No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

(a) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:

1) The structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood elevation.

2) The lowest floor elevation will be at least 1½ feet above the 100-year flood elevation.

3) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the 100-year flood.

(b) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

(2) All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the

~~Department of Community Affairs~~ Department of Community and Economic Development. [A.O.]

3. *Special Requirements for Mobile Homes.*

A. Within any Floodway District (FW), mobile homes shall be prohibited.

B. Where permitted within any Flood-Fringe District, all mobile homes and any additions thereto shall be:

(1) Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3-1975) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following:

(a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.

(b) Frame ties shall be provided at each corner of the mobile homes, with five additional ties per side at intermediate locations for units 50 feet or more in length, and 4 additional ties per side for units less than 50 feet in length.

(c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(2) Elevated in accordance with the following requirements:

(a) The stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be 1½ feet or more above the elevation of the 100-year flood.

(b) Adequate surface drainage is provided.

(c) Adequate access for a hauler is provided.

(d) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than 10 feet apart; reinforcement shall be provided for pilings that will extend for 6 feet or more above the ground level.

(e) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Township officials for mobile home parks.

(Ord. 78, 11/7/1985, §154; as amended by A.O.)

§27-1405. Existing Structures in Floodplain Districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions:

A. No expansion or enlargement of an existing structure and/or use shall be allowed within any floodway district that would cause any increase in flood heights.

B. Any modification, alteration, reconstruction, or improvement of any kind

to an existing structure and/or use to an extent or amount of 50 percent or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use 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.

(Ord. 78, 11/7/1985, §155)

§27-1406. Variances Within Floodplain Districts.

1. *General.* If compliance with any of the requirements of this Chapter would result in an exceptional hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

2. *Variance Procedures and Requirements.* Requests for variances shall be considered by the Zoning Hearing Board in accordance with the following:

A. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the 100-year flood elevation.

B. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit (§27-1404.2) or to Development Which May Endanger Human Life (§27-1404.1).

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

D. In granting any variance, the Zoning Hearing Board shall 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 Chapter.

E. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:

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

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

F. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:

(1) There is good and sufficient cause.

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

(3) 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 ordinance and regulations.

(4) Refer to criteria presented in §27-1503.D.

(5) 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.

G. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

(Ord. 78, 11/7/1985, §156)

§27-1407. Permit.

A building permit shall be required for all construction and development within any Floodplain District, which shall include, but not be limited to, buildings or other structures, paving, grading, filling, excavation, mining, dredging, or drilling activities.

(Ord. 78, 11/7/1985, §157)

Part 15**Administration and Enforcement****§27-1501. Appointment and Powers of Zoning Officer.**

For the administration of this Chapter, a Zoning Officer, who may not hold any elective office in the Borough, shall be appointed. The Zoning Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter.

(Ord. 78, 11/7/1985, §161)

§27-1502. Enforcement.

It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter and such power and authority as is necessary for enforcement is hereby conferred upon the Zoning Officer. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Chapter, record and file all applications for permits with accompanying plans and documents, and make such reports as the Borough Council may require. Permits for construction and uses which are a variance to requirements of this Chapter shall be issued only upon written order of the Zoning Hearing Board.

(Ord. 78, 11/7/1985, §162)

§27-1503. Zoning Appeals.

The Borough Council shall appoint a Zoning Hearing Board which shall be composed of three members, organized, empowered and conducted in accordance with Article IX of The Pennsylvania Municipalities Planning Code, 53 P.S. §10901, existing or hereafter as amended and supplemented (the "Code"). The duly established Zoning Hearing Board shall have the following functions:

A. *Hearings.* The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10908. Notice shall be given to the public, the applicant, the County Planning Commission, the Zoning Officer, such other persons as the Zoning Hearing Board shall designate and any person who has made timely request for the same. Notices shall be given at such time and in such manner prescribed by adopted rules of the Zoning Hearing Board. The Borough Council may establish reasonable fees, based on cost, to be paid by the applicant and persons requesting any notice or materials not required by ordinance.

B. *Appeals.* The Zoning Hearing Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of this Chapter or map or any valid rule or regulation governing the action of the Zoning Officer. The Zoning Hearing Board shall prescribe the form of application to be used. Nothing contained herein shall be construed to deny the appellant the right to proceed directly in court where appropriate.

C. *Challenge to Validity.* Except as provided in paragraph .D below, relating

to variances, the Zoning Hearing Board shall have no power to pass upon the validity of any provision of this Chapter or the Zoning Map. Recognizing that challenges to the validity of an ordinance or map may present issues of fact and interpretation which may lie within the special competence of the Zoning Hearing Board and to facilitate speedy disposition of such challenges by a court, the Zoning Hearing Board may hear all challenges wherein the validity of this Chapter or Zoning Map presents any issue of fact or interpretation not hitherto properly determined at a hearing before another competent agency or body and shall take evidence and make a record thereon as provided in paragraph .A above. At the conclusion of the hearing, the Zoning Hearing Board shall decide all contested questions of interpretation and make findings on all relevant issues of fact, which shall become part of the record on appeal to court.

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

(1) 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 neighborhood or district in which the property is located.

(2) 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.

(3) Such unnecessary hardship has not been created by the appellant.

(4) 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, nor be detrimental to the public welfare.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and represent the least modification possible of the regulation in issue.

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

E. *Parties Appellant Before the Zoning Hearing Board.* Appeals under paragraph .B, above, and proceedings to challenge an ordinance under paragraph .C, above, may be filed with the Zoning Hearing Board, in writing, by any officer or agency of the Borough or any person aggrieved. Requests for variance under paragraph .D above may be filed with the Zoning Hearing Board by any land owner or any tenant with the permission of such land owner.

(1) *Time Limitations.* The time limitations for raising certain issues and

filing certain proceedings with the Zoning Hearing Board shall be the following:

(a) No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Zoning Hearing Board later than 30 days from the time such ordinance, map or amendment takes effect, unless the person raising such issues alleges and proves that he failed to receive adequate notice. Notice given to his predecessor in interest shall be deemed adequate notice to him.

(b) No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any applications for development, preliminary or final, has been approved by the appropriate Borough officer, agency, or body if such proceeding is designed to secure reversal or limit the approval in any manner, unless such person alleges and proves that he failed to receive adequate notice of such approval. If such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

(2) *Stay of Proceedings.*

(a) Upon filing of any proceeding referred to in this time and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order, or approval of the Zoning Officer or any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.

(b) When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. The questions of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

(Ord. 78, 11/7/1985, §163)

§27-1504. Permits.

1. *Requirement of Permits.* A building and/or zoning permit shall be required prior to: (A) erection, addition, or alteration of any building or portion thereof; (B) the use or change in use of a building or land; and (C) the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or for a change in land use, until a permit has been duly issued therefore. No such building permit or zoning permit shall be required in case of normal

maintenance activities, minor repairs, and alterations which do not structurally change a building or structure.

2. *Application for Permits.* All applications for permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate and such information as may be necessary to determine compliance with this Chapter and all other ordinances. One copy of such plans shall be returned to the owner when such plans have been reviewed and acted upon by the Zoning Officer. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

3. *Issuance of Permits.* No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration, complies with all the provisions of this Chapter, as well as the provisions of all other applicable ordinances. A permit issued hereunder shall become void 12 months after issuance date, unless a request for extension has been submitted to and approved by the Zoning Officer. Such request shall be filed with the Zoning Officer at least 30 days prior to the permit expiration date.

4. *Temporary Permits.* A temporary permit may be authorized by the Borough Council for a structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permits shall be issued for a specified period of time not to exceed 6 months, and may be renewed once for an additional 6-month period.

(Ord. 78, 11/7/1985, §164)

§27-1505. Fees.

1. The Borough Council shall establish a schedule of fees, charges and expenses, as well as a collection procedure for zoning permits, certificates of occupancy, appeals, variances, conditional uses, special exceptions, amendments, bonds and other matters pertaining to this Chapter. The schedule of fees shall be posted in the office of the Zoning Officer.

2. Such fees shall be payable to the Borough and, until all applicable fees, charges and expenses have been paid in full, the applications shall be considered incomplete and no action shall be taken on any application or appeal.

(Ord. 78, 11/7/1985, §165)

§27-1506. Records.

1. It shall be the duty of the Zoning Officer to keep a record of all applications for building and zoning permits, a record of all permits issued and a record of all certificates of occupancy which he countersigns, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted and the same shall be available for the use of the Borough Council.

2. The Zoning Officer shall prepare a monthly report for the Council summarizing for the period since his last previous report all zoning permits issued and certificates

countersigned by him and all complaints of violations and the action taken by him consequent thereon. A copy of each such report shall be filed with the office of the Chief Assessor of Perry County at the same time it is filed with the Borough Council.

(Ord. 78, 11/7/1985, §166)

§27-1507. Certificate of Use.

1. A certificate of use shall be a statement issued by the Zoning Officer setting forth either that a building, structure, parcel, or use of land complies with the provisions of this Chapter.

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

3. A certificate of use for the use or occupancy of vacant land or for a change in the use of land, or for a change in the use of an existing building, either for a whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the applications for a building or zoning permit shall be issued or denied within 15 days of a final inspection by the Zoning Officer.

4. A certificate of use for changing or extending a nonconforming use, existing at the effective date of this Chapter or of an amendment thereto, shall be applied for and issued before any such nonconforming use shall be changed or extended. Such Certificate shall be issued within 15 days after a final inspection and approval by the Zoning Officer.

5. A record of all certificates of use shall be kept on file in the office of the Zoning Officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

(Ord. 78, 11/7/1985, §167)

§27-1508. Violations.

Failure to comply with any provision of this Chapter, failure to secure a permit or Zoning Hearing Board certification, when required, or failure to secure a certificate of use, shall be a violation of this Chapter.

A. *Notice of Violation.* When written notice of a violation of any of the provisions of this Chapter has been served by the Zoning Officer on the owner, agent, occupant, or contractor, such violation shall be discontinued immediately.

B. *Penalties.* It shall be unlawful to erect, construct, reconstruct, alter and maintain or use any building or structure or to use any land in violation of any provisions of this Chapter or amendment thereto. Any person who or which shall violate the provisions of this Chapter or amendment thereto shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$500 or less than \$50. In default of payment of the fine, such person, the members of such partnership, or the officers of such corporation shall be liable to imprisonment for not more than 60 days. Each day that a violation is continued shall constitute a separate offense. All fines collected for violations of this Chapter shall be paid to the Borough.

C. *Remedies.* In case any building, structure, or land is erected, constructed,

reconstructed, altered, converted, maintained or used in violation of this Chapter or amendment thereto, the Borough Council or, with its approval, 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 use, or to prevent in or about such premises, any act, conduct, business, or use constituting a violation.

(*Ord. 78, 11/7/1985, §168*)

§27-1509. Appeals and Applications.

An appeal, or application for an amendment or variance from the terms of this Chapter shall be filed with the Zoning Officer, and shall contain:

- A. The name and address of the applicant.
- B. The name and address of the owner of the real estate to be affected by such proposal.
- C. A brief description and location of the real estate to be affected by such proposal.
- D. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
- E. A statement of the Section of this Chapter under which the appeal or application is filed and reasons why it should be granted; or, a statement of the Section of this Chapter governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal.
- F. An accurate description of the present improvements and the additions intended to be made under this application, indicating the size and use of such proposed improvements and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, as required to accompany applications for permits, indicating the location and size of the lot and locations of improvements now erected, and proposed to be erected thereon.

(*Ord. 78, 11/7/1985, §169*)

Zoning Map Amendments

Ord.	Date	Description
Ord. 81	11/5/1987	<p>Amending <i>Ord. 78</i>:</p> <p>A. From an RS-Residential Suburban District to a VM-Village Mixed Use District located on the south side of Sunbury Street between Stephen Street (unopened) on the west, the James H. Wilt property (formerly Joseph L. DeLancey, et ux) on the east and to a lot depth on the south varying from 237.10 feet to 180 feet.</p> <p>B. From an RS-Residential Suburban District to a VM-Village Mixed Use District located on the south side of Sunbury Street between the James H. Wilt property (formerly Joseph L. DeLancey, et ux) on the west, James Street on the east and to a lot depth of 8 feet on the south.</p>
Ord. 95	7/30/1992	<p>Amending <i>Ord. 78</i>—from RS Residential Suburban to RT Residential Town located on the east side of High Street at its intersection with Grave Street bounded as follows: On the North by lands n/f of Joseph R. McNaughton; on the East by lands n/f of Darwin D. Roush and lands n/f of Charles R. Miller; on the South by Lot 6 and 7 of the Greenwood Hill Subdivision; and on the West by lands of Millerstown Cemetery Association and High Street, known as Lot No. 23 designated as Residue on said Subdivision Plan and containing 1.633 acres, more or less.</p>
Ord. 166	6/23/1997	<p>From a VM Village Mixed Use District to an I Industrial District located on the North side of East Sunbury Street and more particularly described as follows:</p> <p>Beginning at a point along the north side of Sunbury Street at the corner of other lands now or formerly of Nace; thence along the right of way line for East Sunbury Street and lands now or formerly of Nace, South 68 degrees 10 minutes 00 seconds West 89.96 feet to a point; thence by the same South 67 degrees 54 minutes 57 seconds 89.50 feet to an existing iron pin at lands now or formerly of Down P. Fields; thence by lands now or formerly of Fields, North 18 degrees 18 minutes 48 seconds West 250 feet to a point; thence by the boundary between lands now or formerly of Fields and land now or formerly of Gregory J. Gordon, South 67 degrees 25 minutes 36 seconds West 350 feet to a point; thence continuing by lands now or formerly of Gordon and lands now or formerly of the Greenwood School District, North 18 degrees 18 minutes 48 seconds West 150 feet to an existing iron pin; thence continuing by lands now or formerly of Gordon and lands now or formerly of Dale Nace, North 67 degrees 25 minutes 36 seconds East 520.16 feet to a concrete monument; thence continuing by lands now or formerly of Dale Nace, South 18 degrees 18 minutes 48 seconds East 21 feet to a point; thence continuing by lands now or formerly of Nace North 68 degrees 20 minutes 20 seconds East 357.50 feet to a point on line of lands now or formerly of William J. Moore, Sr.; thence by lands now or formerly of Moore, South 18 degrees 18 minutes 48 seconds East 210 feet to an existing concrete monument; thence by lands now or formerly of J. Leroy Secrist, lands now or formerly of Edward J. Bums and lands now or formerly of Nace, South 68 degrees 02</p>

Ord.	Date	Description
Ord. 203	--/2012	<p data-bbox="550 216 1326 338">minutes 20 seconds West 39.50 feet to an iron pin; thence continuing by lands now or formerly of Nace, South 18 degrees 18 minutes 48 seconds East 171.24 feet to a point near the right of way for Sunbury.</p> <p data-bbox="550 359 1326 451">Reflecting a change in a portion of the Zoning Map allowing for a change in a portion of the industrial zone to the Village Mixed Use Zone.</p>

MILLERSTOWN BOROUGH ZONING



