

**ARTICLE I
GENERAL PROVISIONS**

SECTION 101 ENACTING CLAUSE

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

SECTION 102 SHORT TITLE

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

SECTION 103 EFFECTIVE DATE

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

SECTION 104 VALIDITY AND CONFLICT

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

SECTION 105 PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES

The purpose and intent of this ordinance is to accomplish the following goals:

1. To promote, protect and facilitate any or all of the following: the public health, safety, morals and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; airports and national defense facilities; the provision of adequate light and air; access to incident solar energy; police protection; vehicle parking and loading space; transportation; water; sewerage; schools; recreational facilities; public grounds;

the provision of safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation; loss of health, life or property from fire, flood, panic or other dangers.
3. To provide for the use of land within the Municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings and a reasonable range of multi-family dwellings in various arrangements, and mobile homes and mobile home parks.
4. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwellings types and non-residential uses.

ARTICLE II DEFINITIONS

SECTION 201 RULES

The following rules shall apply to this Ordinance:

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

SECTION 202 DEFINITIONS

Accessory Building or Accessory Use: A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory use includes:

Children's playhouse, garden house, or private greenhouse

Garage, shed, or building for domestic storage.

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

Parking of boats, boat trailers, and travel trailers and recreational vehicles not used as a dwelling on the premises, provided said equipment is parked using same set back requirements of accessory structures.

Private garage

Utility sheds not exceeding 300 square feet (16 feet high).

Adult Establishment: Any business where not more than twenty-five (25%) of the goods or other items on display, or presentation time of live or recorded performances are characterized by depiction, description or display of, or use in connection with "specified sexual activities", as defined below, conduct, or where more than twenty-five (25%) percent of the revenue of the business is from such goods or presentations. Such goods or other items include, but are not limited to, theaters, motion picture displays, night clubs, bars or similar establishments, nude modeling studios.

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

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

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

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

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

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

Basement: A story partly underground, but having at least one-half of its height above the average level of the adjoining ground.

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

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

Board: The Zoning Hearing Board of the municipality.

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

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

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

Building or Set-Back Line: The line within a property defining the required minimum distance between any building and the adjacent right-of-way or property line. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, paved areas or terraces. Measure from roof drip line of proposed building or addition to nearest parallel property line. Set-backs are defined by each zoning district.

Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat

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

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

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

Communications Antenna : Any device used for the transmission or reception of radio, television, wireless, telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omni directional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commissions (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

Communications Equipment Building: An unmanned building or cabinet containing communications equipment required for the operation of Communications Antennas and covering an area on the ground not greater than 250 square feet.

Communications Tower: A structure other than a building, such as a monopole, self-supporting or guyed tower designed and used to support Communications Antennas.

County: The County of Somerset, Pennsylvania.

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

Day Care:

1. **Day Care Center** - A facility in which care is provided for seven (7) or more children, at any one time, where the child care areas are not being used as a family residence.
2. **Family Day Care Home** - Any premises other than the child's own home, operated for profit or not for profit, in which child day care is provided at any one time for four, five, or six children, who are not relatives of the caregiver.

3. Group Day Care Home - A facility in which care is provided for more than 6 but less than 12 children, at any one time, where the child care areas are being used as a family residence.
4. For purposes of this Ordinance, a child is a person under 16 years of age.

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

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

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

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

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

1. The Jennerstown Borough Council;
2. The Jennerstown Borough Zoning Hearing Board

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

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

Dwelling:

1. Detached House: A dwelling unit occupying the whole of a freestanding residential structure. (Also known as Single Family Dwelling and includes mobile homes, modular homes and manufactures homes)
2. Twin or Semi-Detached House: A residential structure occupied by two (2) dwelling units with a common wall. (Also known as Two Family Dwelling)

3. Duplex: A residential structure divided vertically or horizontally into two (2) dwelling units
4. Row House or Town House: A structure with two (2) or more party walls of three (3) or more units not having any horizontal divisions between units.
5. Apartment (as defined above)
6. Boarding house (as defined above)

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

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

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

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

Floor Area: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior wall, or from the centerline of common walls separating buildings.

Foundation: It is the basic support of the building or structure.

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

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

Governing Body: The Jennerstown Borough Council.

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

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

Height of a Communications Tower: The vertical distance measured from the ground level to the highest point on a Communications Tower, including antennas mounted on the tower.

Home Occupation: An accessory use of a dwelling unit as set forth in Section 512..

Hospital: The term “hospital” shall include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any place for the diagnosis, treatment or other care of human ailments, and shall be deemed to be limited to such places.

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

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

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

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

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

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

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

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

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

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

Lot Area: Total horizontal area included within lot lines excluding space within any street or right-of-way, but including the area of any easement.

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

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

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

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

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

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

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

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

Mobile Home Lot: A parcel of land in a mobile home park for the placement of a single mobile home and the exclusive use of its occupants 100' x 200' minimum.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of

mobile homes. The property may be owned by an individual, a firm, trust, partnership, public or private association or corporation. Recreational vehicles shall not be included.

Motel: See Hotel, Motor, herein.Municipality- The Borough of Jennerstown.

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

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

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

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

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

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

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

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

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

Parking Space: An off-street space available for the parking of one motor vehicle.

Permanent Foundation: The outer wall must consist of 8” concrete block or equivalent to support the weight of Mobile Home and meet uniform construction code regulations.

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

Planning Commission: The Planning Commission of the Municipality.

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

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

Public Meeting: A forum held pursuant to notice under the act of July 3, 1986 (PL 388, No. 84); know as the “Sunshine Act.”

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

Public Utility Transmission Tower: A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

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

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

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

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

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

Shed: A building or structure used as a storage place or workshop.

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

Special Exception: A land use or structure which is specifically permitted in a zoning district but is subject to meeting expressed standards and /or criteria as written in Article VII of this Ordinance.

Specified Sexual Activities: Human genital in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genital, pubic region, buttock or female breast.

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

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

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

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

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

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

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

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

Variance: Permission granted by the Zoning Hearing Board, following a hearing that has been properly advertised for a zoning adjustment.

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

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

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

Yard: Side: A yard between the principal building and the side lotline.

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

Zoning Approval: A statement issued by and signed by the Zoning Officer authorizing the use of construction of a structure and indicating on its face that the proposed use or structure complies with the Zoning Ordinance or with a decision and order of the Zoning Hearing Board or a court of competent jurisdiction rendered in connection with an application relative to use of the premises involved. Permit issued by Zoning Officer stating you meet minimum set back requirement.

Zoning Hearing Board: A multiple member board, appointed by elected official of the Municipality to hear and decide appeals under its jurisdiction as stipulated in Municipal Planning Codes, Section 909.1 (a).

Zoning Permit: A permit issued by the zoning officer showing that zoning ordinance and set back requirements have been met.

Zoning Permit Fee: A fee charged to facilitate issuance of a zoning permit which such fee is established from time to time by the governing body by resolution.

**ARTICLE III
DISTRICT REGULATIONS**

SECTION 301 ESTABLISHMENT OF DISTRICTS AND ZONING DISTRICT MAP

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

R-1 District	Single-Family Residential District (Low Density)
R-2 District	Multi-Family Residential District (High Density)
C District	Commercial District
U District	Urbanized District
I District	Industrial District
A District	Agricultural District
S District	Conservation District

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

SECTION 302 INTERPRETATIONS OF DISTRICT BOUNDARIES

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, alleys, street lines, highway right-of-way lines, or streams, such centerlines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow or are parallel to the centerlines of streets, highways, or the right-of-way of same, such district boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning District Map.
- D. Where the boundary of a district follows a stream or other body of water, another Municipality or Municipality boundary, the boundary shall be deemed to be the limits of jurisdiction of the Municipality, unless otherwise indicated.
- E. Where the Boundary of a district follows a railroad right-of-way, such district boundaries shall be construed to the centerline of the right-of-way.

SECTION 303 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT (LOW DENSITY)

The “R-1” Single-Family Residential District is composed of certain quiet, low density residential areas of the Borough, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to protect the amenities of certain areas of the Borough where the pattern has already been established with single-family developments on relatively large lots; to promote and encourage a suitable environment for family life, and to prohibit all activities of a commercial or industrial nature except home offices of doctors or ministers and certain home occupations, controlled by specific limitations governing the size and extent of such non-residential activities. Therefore, development is limited to a relatively low concentration with relatively large lot sizes, and permitted uses are limited basically to single-family dwelling, and certain public facilities which serve the residents of the district.

A. Permitted Uses

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

1. Single-family detached dwelling
2. Temporary building use for construction purposes, not to exceed a period of one year.
3. Public playgrounds, community parks and open space. Playing fields are prohibited.
4. Mobile homes on a permanent foundation.

B. Accessory Uses

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

1. Private garage;
2. Off-street parking;
3. Cultivation of plants, non-commercial;
4. Private swimming pool appurtenant to a dwelling when meeting the requirements of this Chapter;
5. Signs as provided under this Chapter;

6. Parking of boats, boat trailers, and trailers not used as dwellings on the premises;
7. Such permitted accessory uses as listed in the definition of Accessory Use and which are incidental to residential use;
8. Similar type uses not specifically listed herein when authorized by the Zoning Hearing Board.

C. Uses by Special Exception

1. Home Occupation;
2. Family Day Care Home.

D. Non-Permitted Uses

1. Surface Mining;
2. Management of livestock;
3. Commercial and Industrial establishments;
4. Mobile Home Parks;
5. Associated Deep Mining Facilities.

E. Setbacks

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

1. Yard Setbacks
 - a. Front Yard – Not less than twenty-five (25) feet.
 - b. Rear Yard – Not less than ten (10) feet.
 - c. Side Yard – Not less than ten (10) feet.
2. Corner Lots
 - a. Front Yard – Not less than twenty-five (25) feet.

- b. Side Yard abutting Side Street – Not less than twenty five (25) feet.
- c. Interior Side Yards: Not less than ten (10) feet.
- d. Rear Yard – Not less than ten (10) feet.

Note: Landscape area is included in setback dimensions.

Exception:

When more than fifty percent (50%) of the lots within a block contain existing structures, the front yard setback may be reduced to conform to the setback lines of the existing structures as determined by the zoning hearing board.

Small utility sheds not exceeding 300 square feet (16feet high) may be placed on any residential lot within a minimum setback of five (5) feet from all property lines not abutting a street or alley.

F. Height

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

- 1. Single-family detached dwelling – thirty-five (35) feet.
- 2. Accessory Building- Twenty (20) feet
- 3. Other permitted building: Thirty-five (35) feet.

G. Lot Area

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

- 1. Single-family detached dwelling, a minimum of seventy-five hundred (7,500) square feet and width at the building line of not less than seventy-five (75) feet.

H. Dwelling Standards

Every single-family dwelling hereafter erected or altered shall have a floor area of not less than One Thousand One Hundred (1,100) square feet.

I. Off-Street Parking

Shall be provided as required or permitted under this Chapter.

J. All buildings shall comply with site plan requirements as outlined in Article V, Section 504 of this Ordinance.

SECTION 304 “R-2” MULTI-FAMILY RESIDENTIAL DISTRICT (HIGH DENSITY)

The “R-2” Multi-Family Residential District is composed of certain higher density residential area of the Borough representing a compatible mingling of single, duplex, and multi-unit dwellings, as well as professional offices. The regulations for this district are designed to stabilize and protect the essential characteristics of the district; to promote and encourage a suitable environment for family life; and to prohibit all activities of a commercial and industrial nature except those having some aspects of residential use, such a professional business offices and funeral homes; and controlled by specific limitations governing the size and extent of such semi-commercial activities..

A. Permitted Uses

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

1. Any use permitted in “R-1” District.
2. Townhouses.
3. Three-Story Apartments, Apartment House or Apartment.
4. Professional Offices.
5. Schools (public and private) and Churches.
6. Public and private outdoor recreation areas and facilities.
7. Public Buildings or facilities owned and operated by government entities.
8. Home Occupations.
9. Funeral Homes

B. Accessory Uses

As permitted in “R-1” District

C. Uses by Special Exception

1. Day Care Facilities.
2. Bed and Breakfast Establishments.

D. Non-Permitted Uses

1. Surface Mining.
2. Associated Deep Mining Facilities.
3. Management of livestock
4. Mobile Home Parks,

E: Setbacks

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

1. As permitted in “R-1” District.
2. Multi-family dwelling, townhouse, multi-story buildings, and non-residential buildings – all yards to be equal to building height, or
 - a. Front Yard – Not less than twenty-five (25) feet.
 - b. Rear Yard – Not less than ten (10) feet.
 - c. Side Yard – Not less than ten (10) feet except where abutting a street, then twenty five (25) feet.

Exception:

When more than fifty percent (50%) of the lots within a block contain existing structures, the front yard setback may be reduced to conform to the setback lines of the existing structures when authorized by the zoning hearing board.

Utility sheds not exceeding 300 square feet (16 feet high) may be placed on any residential lot within a minimum setback of five (5) feet from all property lines not abutting a street or alley.

F. Height

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

1. As permitted or required in the “R-1” District.
2. Church or similar place of worship forty-five (45) feet for principal building, seventy-five (75) feet for steeples and towers.
3. Multi-family dwellings, townhouses, and apartment buildings shall not exceed forty-five (45) feet in height.

4. G. Lot Area

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

1. Single and two-family dwellings – As permitted in “R-1” District.
2. Multiple-family dwellings – Not less than two thousand- five hundred (2500) square feet per dwelling unit or apartment.
3. Townhouses – Not less than two thousand-seven hundred (2700) square feet per unit and width at the building lines of not less than seventy-five (75) feet for a row dwelling containing three (3) or more dwelling units, but not to exceed six (6).
4. Church or similar place of worship – minimum 1 1/2 acres.
5. Public or private school.
 - a. Elementary School: five (5) acres plus one (1) acre for every one hundred (100) students at design capacity.
 - b. Junior High School: eight (8) acres plus one (1) acre for every one hundred (100) students at design capacity
 - c. High School: twelve (12) acres plus one (1) acre for every one hundred (100) students at design capacity.
6. Non-residential buildings – As required in the “C” District.

H. Dwelling Standards

1. Single and two-family dwellings – As permitted in “R-1” District.
2. Each townhouse dwelling unit shall have a total minimum floor area of not less than one thousand (1,000) square feet.
3. Each dwelling unit in a multi-family structure (apartment) shall have a minimum floor area of not less than four hundred (400) square feet.

I. Off-Street Parking

Shall be provided as required or permitted under this Chapter.

J. Site Plan Requirements

New construction including additions and improvements to existing structures shall comply with site plan requirements as outlined in Article V Section 504 of this Chapter.

SECTION 305 “C” COMMERCIAL DISTRICT

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

A. Permitted Uses

1. Administrative office for commercial and industrial organization;
2. Amusement establishment, including bowling alleys, dance halls, similar place of recreation when conducted wholly within a completely enclosed building;
3. Auto accessory store, automobile and truck sales and incidental service;
4. Bakery shop, including the baking and processing of food products;

5. Bank, financial institution, savings and loan association, drive-in or main office;
6. Barber shop, beauty shop;
7. Blueprinting, Photostatting establishment;
8. Business, charitable, professional offices;
9. Bus passenger terminal;
10. Cabinet shop;
11. Camera and photographic supply shop, retail sales and service;
12. Car wash;
13. Day care facilities;
14. Department store;
15. Dry-cleaning or pressing establishments, when employing facilities for the cleaning or pressing of dry goods received on the premises from retail trade only and including no wholesale cleaning or pressing business and when using nonflammable solvents as approved by the fire department;
16. Dry goods store, haberdashery, wearing apparel store;
17. Electrical appliances store, sales, service, repair, but excluding appliance assembly or manufacture;
18. Food Stores;
19. Funeral home, mortuary;
20. Furniture store, upholstery shop;
21. Furrier, conducted as a retail operation for trade on the premises only;
22. Garden supplies, seed store, nursery;
23. Health club;
24. Hotel, motor hotel, motel, club or restaurant;

25. Household appliance store, sales and service;
26. Interior decorating business, including upholstering and making of draperies, slip covers and similar articles when conducted as a part of the retail operations and secondary to the main use;
27. Jewelry store;
28. Medical clinic, hospital, or nursing home;
29. Office, business or professional;
30. Paint, wallpaper sales;
31. Photographers studio, art gallery, including the developing of film when conducted as a part of the retail business on the premises;
32. Plumbing, heating, similar business showroom, including shop or repair facilities; provided that work is carried out and storage is accommodated in an enclosed building;
33. Post office;
34. Printing shop;
35. Public Buildings or facilities owned and operated by the Borough;
36. Restaurant, cafeteria and snack bar, including the sale of alcoholic beverages;
37. Self-Service Laundry
38. Service station, public garage, or other motor vehicle services, provided all pumps, underground storage tanks, lubricating and other devices are located not less than twenty-five (25) feet from any street right-of-way;
39. Shoe store;
40. Shopping center;
41. Sporting goods store;
42. Theater, indoor;

43. Travel agency;
 44. Typewriter, office equipment sales and services;
 45. Variety store;
 46. Similar type retail or service use not specifically listed herein when authorized by the Zoning Hearing Board;
 47. Residential Uses as permitted in R-1 and R-2 Districts;
 48. Bed and Breakfast establishments.
 49. Mobile Home Parks
 50. Mobile Homes
- B. Accessory Uses
- Accessory uses customarily incidental to any of the above uses, and including:
1. Off-street parking and loading facilities, as regulated in this Ordinance;
 2. Fence or wall;
 3. Signs as regulated in this Chapter;
 4. Cultivation of plants, non-commercial, where used for landscaping or Buffer Areas.
- C. Uses by Special Exception
1. Similar type retail or service use not specifically listed herein when authorized by the Zoning Hearing Board.
- D. Non-Permitted Uses
1. Industrial;
 2. Mining
- E. Setbacks
1. No building or structure shall hereafter be erected or altered unless the minimum setback is met as follows:

- a. Front – thirty-five (35) feet.
 - b. Rear – thirty-five (35) feet.
 - c. Side – thirty-five (35) feet.
2. Where a commercial structure is proposed adjacent to an “R-1 or R-2” District, a ten (10) foot buffer area which includes landscaping shall be provided. Buffer Area is located within setback dimensions.

Exception: Accessory building less than four-hundred (400) square feet may be erected or constructed a minimum twenty (20) feet of all property lines and roadways except when abutting a street or alley it goes back to 35 feet.

F. Height

The maximum height of buildings hereafter erected or altered shall be forty-five (45) feet.

G. Off-Street parking and Loading Facilities

Shall be provided as required or permitted under this Chapter.

H. Floor Area Standards

Every structure hereafter erected or altered shall have a total floor area of not less than one thousand-one hundred (1100) feet. Does not apply to accessory buildings.

I. Signs

Shall be provided as required under Article V Section 507 of this Chapter.

J. Site Plan Requirements

All buildings shall comply with the site plan requirements as outlined in Article V Section 504 of this Ordinance

SECTION 306 “U” URBANIZED DISTRICT

The “U” Urbanized District is intended to preserve the “town” character of Jennerstown Borough by allowing for the compatible mingling of residential, commercial and professional offices uses. Development is limited to a relatively medium

concentration (typical of the existing lot sizes and densities), and permitted uses are typically single and two unit dwellings, plus certain additional residential uses such as schools, parks, churches, commercial convenience services and professional offices which serve the Borough residents.

A. Permitted Uses

1. Residential Uses as permitted in R-1 & R-2 Districts;
2. Public parks and playgrounds;
3. Public schools, parochial schools, private schools;
4. Convenience store or family grocery no more than 4, 000 square feet;
5. Churches or similar places of worship;
6. Pole building;
7. Public Buildings or facilities owned and operated by government entities;
8. Public libraries, police and fire protection;
9. Professional Offices;
10. Neighborhood Retail Stores or Shops or Complex;
11. Banks, Savings and Loan Associations;
12. Restaurants, cafes, taverns or other places serving food and beverages;
13. Social Clubs;
14. Neighborhood Services;
15. Home Occupations;
16. Bed and Breakfast Establishments;
17. Service Station;
18. Vehicle Repair Garage;
19. Car Wash;

20. Laundromat;
21. Nursery;
22. Tourist Information Center.

B. Uses by Special Exception

1. Similar type retail or service use not specifically listed herein when authorized by the Zoning Hearing Board.

C. Accessory Uses

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

1. Off-street parking and loading facilities, as regulated in this Ordinance;
2. Fence or wall;
3. Signs as regulated in this Ordinance;
4. Cultivation of plants, non-commercial, where used for landscaping or Buffer Areas.

D. Non-Permitted Uses

1. Industrial;
2. Mining.
3. Mobile Home Parks

E. Setbacks

No building or structure shall hereafter be erected or altered unless the minimum setback is met as follows:

1. Front – fifteen (15) feet;
2. Rear – ten (10) feet;
3. Side – five (5) feet.

Where more than fifty percent (50%) of the lots within a block in either direction fronting a street contain existing structures, the front yard setback may be reduced to conform to set back line of existing structures.

F. Height

Single or two family detached dwellings, non-residential buildings, and churches or similar places of worship are limited to forty-five (45) feet for principal buildings and seventy-five (75) feet for steeples or towers.

G. Floor Area Standards

Every one-story structure hereafter erected or altered shall have a total floor area of not less than nine hundred (900) square feet. Does not apply to accessory buildings.

H. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

I. Signs

Shall be provided as required or permitted under this Ordinance.

J. Site Plan Requirements

All buildings shall comply with the site plan requirements as outlined in Article V, Section 504 of this Ordinance.

SECTION 307 "I" INDUSTRIAL DISTRICT

The "I" Industrial District is intended to permit and encourage industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Borough, contribute to the soundness of the economic base of the Borough, provide opportunities for local employment close to residential areas, thus reducing travel to and from work and otherwise further the purposes set forth in the initial Sections of this Ordinance. The limitations on use, height, and lot coverage are intended to provide for moderate light industrial development in an urban environment.

A. Permitted Uses

1. In this district, the land and structures may be used, and structures may be erected, altered, enlarged and maintained for light industrial uses listed hereunder, provided:
 - a. No explosive materials or processes are involved.
 - b. No smoke, fumes, odor, dust, noise, vibration or glaring light is noticeable from outside any lot in this district.
 - c. The use is not offensive by reason of emission or refuse matter or water-carried waste.
 - d. There may be retail sale or products on the premises, when such sale is clearly incidental to the permitted industrial use.

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

Food and kindred products;
Apparel and other products;
Lumber and wood products;
Storage yards;
Furniture and fixtures;
Paper and allied products;
Printing and publishing;
Plastic materials and synthetics;
Miscellaneous petroleum and coal products;
Leather and leather products;
Stone, clay and glass products;
Fabricated metal products;
Non-electrical machinery;
Electrical equipment;
Transportation equipment;
Trucking and warehousing;
Wholesale trade;
Communications Antennas mounted on an existing Public Utility
Transmission Tower, building or other structure, including existing
Communications Towers, and Communications Equipment Buildings.

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

2. Residential uses as permitted in “R” Districts;
3. Commercial uses as permitted in “C” and “U” Districts.

B. Accessory Uses

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

C. Uses by Special Exception

1. Junk yards;
2. Mining and other excavating;
3. Adult Uses.
4. Communications Towers subject to the Standards for Communications Towers;
5. Communications Equipment Buildings.

D. Setbacks

No building shall be hereafter erected or altered unless the minimum setback is met as follows:

1. Front – seventy-five (75) feet.
2. Side – twenty-five (25) feet.
3. Rear – fifty (50) feet.

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

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

Setbacks for Residential uses follow standards set forth in “R” Districts. Setbacks for Commercial uses follow standards set forth in “C” District.

E. Height

The maximum height of buildings hereafter erected or altered shall be a maximum of forty-five (45) feet or three (3) stories.

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

F. Lot Area

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

G. Off-Street Parking and Loading Facilities

All parking shall be provided as required under this Ordinance.

H. Signs

Shall be provided as required under this Ordinance.

I. Site Plan Requirements

All buildings shall comply with the site plan requirements as outlined in Article V, Section 504 of this Ordinance.

J. Special Conditions

In addition to the site plan requirements as required herein, any other authority approval required, when applicable, such as Department of Health, Penn Dot, Department of Environmental Protections, Department of Labor and Industry, and similar organizations shall be obtained before applying for zoning approval or an occupancy permit. Said authorization shall accompany plans at the time they are submitted to the Borough for review.

K. Non-Permitted Uses

Mobile Home Parks

SECTION 308 “FP” FLOOD PLAIN DISTRICT

See Flood Plain Ordinance # 386

SECTION 309 “A” AGRICULTURAL DISTRICT

The purpose of the “A” Agricultural District is to identify those areas where agricultural activities should be encouraged or preserved and for providing for uses and development as are compatible with this objective.

A. Permitted Uses

1. Agriculture;
2. Horticulture;
3. Forestry and selective timbering;
4. Greenhouses;
5. Nurseries;
6. Sales of “home grown” products;
7. Single Family Residence.
8. Home Occupations;

B. Accessory Uses:

As permitted in “R-1” District

C. Uses by Special Exception:

1. Communications towers subject to the Standards for Communication Towers as Special Exceptions set forth in Section 520 and Communications Equipment Buildings.
2. Animal Husbandry, Stables, Kennels, Hatcheries

D. Non-Permitted Uses

1. Surface Mining;

2. Associated Deep Mining Facilities;
3. Mobile Home Parks;

E. Setbacks

All setbacks are fifty (50) feet. If abutting any residence, this shall include any fences, buffer areas, or other type of activity within the 50 foot set back.

F. Height

1. Single-family dwellings – forty-five (45) feet;
2. Agricultural structures – sixty (60) feet or six (6) stories.

G. Lot Area

The minimum lot area for every building hereafter erected or altered shall be one (1) acre.

SECTION 310 “S” CONSERVANCY DISTRICT

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

A. Permitted Uses

1. Farming, general gardening, and growing of trees and nursery stock;
2. Recreation area, when operated by a non-profit organization;

3. Tourist attractions and historic or culturally significant areas, when operated by a non-profit organization;
 4. Public reservoirs and their associated watersheds.
- B. Non-Permitted Uses
1. Industrial Uses;
 2. Surface Mining;
 3. Commercial Uses.
 4. Mobile Home Parks
- C. Accessory Uses
- As authorized by the Zoning Hearing Board.
- D. Used by Special Exception:
1. Single-Family Dwellings;
 2. Home Occupations
- F. Setbacks
- All setbacks are fifty (50) feet.
- F. Height
1. Single-family detached dwelling - thirty-five (35) feet.
 2. Agricultural structures - sixty (60) feet.
 3. Accessory building - twenty (20) feet.
 4. Any other permitted building - thirty-five (35) feet.
- G. Lot Area
- The minimum lot area for every building hereafter erected or altered shall be (1) acre
- H. Dwelling Standards
- As permitted in the "R-1" District.

I. Off-Street Parking and Loading Facilities

Shall be provided as required or permitted under this Ordinance.

ARTICLE IV

PLANNED RESIDENTIAL DEVELOPMENT PROVISIONS

SECTION 401 PURPOSE

Planned unit development is a technique wherein residential structures (semi-detached, detached, and multi-story) are arranged in closely related groups. It may also include land uses of a cultural, recreational, and commercial character to the extent that they are designed to serve the residents. Instead of spreading houses uniformly over the entire tract, cluster development occurs, creating higher densities in certain areas and preserving natural features in others. Under such planning, lot size is reduced and the land thus saved is used for common greens or open space.

SECTION 402 GRANT OF POWER

- A. The Borough Council shall review requests for planned residential developments. A planned residential development may be permitted in a R-2 Residential District.
- B. The standards, conditions, and regulations for a planned residential development shall be consistent with the provisions contained in Article VII, PA Municipalities Planning Code, Act 247 as amended.
- C. The procedures pertaining to the application for, hearing on and tentative and final approval of a planned residential development shall be consistent with the provisions contained in Article VII, PA Municipalities Planning Code, Act 247 as amended

ARTICLE V

SUPPLEMENTARY REGULATIONS

SECTION 501 CONFORMANCE AND PERMITS

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

SECTION 502 CONSTRUCTION OR ALTERATION

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

SECTION 503 SUBSTANDARD DWELLINGS

No structure shall be used or occupied as a dwelling if such structure is in need of such major structural repairs or if the premises do not have connection with municipal sewage system or alternative sanitary sewage facilities approved by the Sewage Enforcement Officer (SO) and municipal water system or alternative water system approved by Jennerstown Borough.

SECTION 504 USES REQUIRING SITE PLAN AND/OR SITE PLAN APPROVAL

A. All uses of Property for One and Two-family Dwellings

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

1. The size and shape of the property including property line dimensions, corners, easements, right-of-ways, names of adjacent properties, and sidewalks.

2. The size, shape, heights, area, and locations of all principal and accessory buildings. Dimensions from all buildings to adjacent property lines shall be indicated.

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

In addition to the above requirements, uses of all property other than one and two-family dwellings in R-1, R-2, C, U, and I districts, shall in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this ordinance, be in accordance with a site plan approved by the Zoning Officer. In addition, all public or semi-public buildings, all special exceptions shall be in accordance with a site plan approved by the Zoning Officer and Zoning Hearing Board, as is necessary in cases where exceptions are granted. The site plan shall show in addition to any specific requirements set forth in the district regulations herein, the following:

1. The location of principal and accessory buildings.
2. Traffic circulation features within the site.
3. The location of vehicular access onto the site, or State Highway Occupancy Permit if onto a State Road.
4. Utilities connections: water, electric (show voltage), sewage, gas, phone.
5. The height and bulk of structures.
6. The provisions for off-street parking and loading facilities.
7. The provision for open space.
8. Drainage Structures: culverts, catch basins, inlets, ditches, drain tile.
9. Drainage flow, catch basin size, and location of storm sewers and discharge points from the site.
10. The landscaping, paving, fencing, walls and signs on the site.
11. Location, size, and content of all underground and above ground storage tanks.

12. Provide floor plans for all structures to be developed as part of this project.
13. Sidewalks.

SECTION 505 EXISTING LOTS OF RECORD

A building may be erected upon a lot on an approved plan of record existing on or prior to the adoption of this Ordinance, which lot has insufficient area and dimensions to meet the lot area and minimum size requirements, provided that all other provisions of this Ordinance can be met including setback requirements.

SECTION 506 FENCES AND WALLS

- A. A fence or wall may be built to a height of 8 feet along or within the property line, provided said fence or wall does not obstruct the field of vision for vehicular street traffic. A fence may not be installed less than 5 feet from street surface..
- B. A fence or wall greater than eight (8) feet in height must comply with the setback equal to the height not exceeding 15 feet, and does not obstruct field of vision.

SECTION 507 SIGNS

A. General Provisions

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

1. A Zoning permit shall be required for any sign erected except as otherwise specified.
2. All signs shall be constructed and maintained in a safe orderly manner. No sign shall be placed in such a position that it will cause danger to vehicular or pedestrian traffic by obscuring view or causing distraction.
3. Any sign, if illuminated, shall be non-flashing, shall be of enclosed lamp design, and shall be lighted in a manner not detrimental to any adjacent property or public right-of-way.
4. No sign, except traffic signs and other official signs, may be erected or extend onto any public street or right-of-way.

5. Any sign attached to or painted on a building may protrude a maximum distance of twelve (12) inches from the wall to which it is attached, may cover a maximum 25 percent of the total area of the wall to which it is attached, and shall not extend beyond any point of the line of the building to which the sign is attached.
6. No sign that is a part of or is supported by a building shall be erected upon the roof of such a building.
7. The Zoning Officer shall approve all sign and billboards erected pursuant to this Article and may direct Borough employees to remove unauthorized signs at owners' expense.
8. Double-faced signs shall be considered one (1) sign under this provision.
9. Temporary portable signs shall be defined as a sign which is not permanent, is capable of being carried and/or easily moved.
- 10.. No signs shall be permitted which are posted, stapled, or otherwise permanently attached to public utility poles or trees with the street line.
11. Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs may be repainted or repaired, providing such repainting or repairing does not exceed the dimensions of the existing sign.

B. Provisions for R-1, R-2 and "A" Agricultural Districts

In residential districts and agricultural districts, the following signs shall be permitted and the following regulations shall apply:

1. All signs erected in a residential zone shall be on-premise signs and refer, advertise, or direct attention only to activities conducted on the site; except that a temporary directional sign may be erected for special events, if prior approval is granted by the owner of the property on which the sign is to be erected under the same conditions provided for temporary promotional signs as provided in this Article.
2. One temporary sign of contractors, realtors, architects, and mechanics provided that such signs shall not exceed six (6) square feet and shall be removed within thirty (30) days following completion of work. There shall be a ten (10) foot setback unless sign is four (4) square feet or less, and then no set back is required. This does not require a permit or fee.

3. One (1) identification sign for each professional and accessory use indicating the name, profession, or activity of the occupant of a dwelling or structure and similar type signs provided that such signs do not exceed an area of four (4) square feet per occupant and meet the five (5) foot setback..
4. One (1) identification sign for motels, office buildings, churches, schools, restaurants, mobile home parks, funeral homes and other places of business permitted in respective residential zones provided that such signs shall not exceed an area of thirty two (32) square feet and are set back a minimum distance of ten (10) feet from the nearest property line.
5. The height of any sign may not exceed twenty (20) feet, as measured from the ground level to the top of the sign.

C. Sign Provisions for “U” Urbanized District

In an Urbanized District, the following signs shall be permitted and the following regulations shall apply:

1. Signs may be permitted within the Front Yard Setback Area (between the building setback line and the property line).
2. All signs erected in the front yard must be set back a minimum distance of five (5) feet from all property lines.
3. Any sign within the setback area must be erected in a manner to permit the free and unobstructed vision of persons entering or leaving the property and adjacent property via motor vehicle.
4. One (1) sign, up to thirty-two (32) square feet, may be permitted within the setback line for the business advertised on the sign. A group of two or more businesses on one parcel or tract is permitted one (1) shared sign per street within the setback line, up to 30 square feet per tenant, not to exceed a total of sixty (60) square feet.
5. Temporary promotional signs or displays may be erected with the setback line subject to the following regulations:
 - a. A special permit must be obtained for all signs to be erected or displayed during the temporary promotion; such permit shall be valid for a period not to exceed thirty (30) days.

- b. The applicant for such a permit shall submit drawings, and/or narrative description of the size and location of all signs and/or display material to be utilized in the temporary promotion.
- c. The maximum number of six (6) signs or displays may be used in a temporary promotion and combined area of such signs or displays shall not exceed thirty (30) square feet.

D. Sign Provisions for “I” Industrial Districts and “C” Commercial Districts

In “I” Districts and Commercial Districts, the following signs shall be permitted and the following regulations shall apply.

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

SECTION 508 OFF-STREET PARKING AND LOADING FACILITIES

All off-street parking and loading facilities shall be indicated on the site plan as follows:

A. Extent of Control

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

B. Schedule of Off-Street Parking Requirements

1. One and two family dwellings 2 spaces for each unit
2. Bowling alleys, recreation centers, public swimming pools, skating rinks and outdoor recreation facilities 1 space for every (4) customers at maximum capacity and one (1) space for every two (2) persons regularly employed during peak periods
3. Club house and meeting places of veterans, business, civic, fraternal, labor and similar organizations One (1) parking space for every (50) square feet of gross floor area in the auditorium, assembly hall, and dining hall of such buildings plus one (1) additional space for every two (2) persons regularly employed during peak shift on the premises
4. Drive-in restaurant facilities Five (5) spaces per one hundred (100) square feet of floor space
5. Funeral Homes Parking or storage space for all vehicles directly in the conduct of the business plus one (1) parking space for every two (2) persons regularly employed on the premises during peak shift and one (1) space for every six (6) permanent seats in the establishment. One (1) parking space will be provided for every three (3) non-permanent seating arrangements (i.e., folding chairs)
6. Indoor retail businesses Parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each two-hundred fifty (250) square feet of building area used for retail or business purposes
7. Libraries, museum, post office, and similar establishments Parking or storage space for all vehicles used directly in the operation of such establishment plus one (1) parking space for each two hundred fifty (250) square feet of total floor area
8. Offices Three (3) parking spaces for every one thousand (1,000) square feet of office space, plus one (1) parking space for each employee

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| 9. Outdoor retail business | Parking or storage space for all vehicles used directly in the conduct of such business plus two (2) parking spaces for each person employed plus one (1) parking space for every five hundred (500 feet of lot area used for business purposes. |
| 10. Restaurants, indoor, and other eating and drinking establishments | One (1) parking space for each table or booth, plus one (1) parking space for every two (2) stools at bar or counter, plus one (1) parking space for every two (2) employees on peak shift |
| 11. Transportation terminals | One (1) parking space for every one hundred (100) square feet of waiting room space plus one (1) additional space for every two (2) persons regularly employed on the premises during peak shift |
| 12. Hospital and nursing homes | One (1) parking space for each four (4) beds intended for patients, excluding bassinets, plus one (1) per two employees on peak shift plus one (1) per hospital vehicle and one (1) per doctor |
| 13. Elementary, junior and senior high schools (includes private and parochial schools) | One (1) parking space for every six (6) seats available at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity. Plus one (1) space shall be provided for each person regularly employed at such school plus two (2) additional spaces for each classroom |
| 14. Medical and dental clinics | Three (3) parking spaces for each doctor plus one (1) additional space for every two (2) regular employees |

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| 15. | Motels and Hotels | One (1) parking space for each sleeping room offered for tourist accommodation plus one (1) space for each dwelling unit on the premises plus one (1) additional space for every two (2) persons employed by the establishment. |
| 16. | Public garages
Service stations | Indoor and outdoor parking or storage space for all vehicles used directly in the conduct of such business plus one (1) parking space for each person regularly employed on the premises. |
| 17. | Theaters, auditoriums, stadiums,
and places of public assembly | One (1) parking space for every four (4) seats available at maximum capacity |
| 18. | Places of worship | One (1) parking space for every four (4) permanent seats |
| 19. | Manufacturing/Industrial | One (1) parking space for every three (3) employees during peak period, adequate parking/storage space for all vehicles used directly in the conduct of such industrial use. |

C. Design and Development Standards

1. Design

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

a. Angle Parking

- Parking Width - 9'
- Depth – 21'
- Aisle Width/One-way – 20'
- Aisle Width/Two-way – 24'

Parallel Parking

- Parking Width – 8'

Stall Depth – 22’
Aisle Width/One-way – 12’
Aisle Width/Two-way – 18’

- b. Entrance and exit ways shall have a minimum width of 12 feet for each lane of traffic entering or leaving the side but shall at no time exceed 30 feet in width at the street line.
- c. All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.
- d. Entrance and exit ways and interior access ways shall be designed so as to prevent the blocking of vehicles entering or leaving the site.
- e. Parking areas and lot designs shall comply with Americans with Disabilities Act requirements.

2. Location

Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.

3. Surfacing

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

4. Lighting

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

5. Storm Drainage

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

SECTION 509 LANDSCAPING

A. Buffer Areas

1. All land developments shall provide buffering when topographical or other barriers do not provide reasonable screening and there is a need to shield neighboring properties from any adverse external effects of development or to shield the proposed development from negative impact of adjacent uses.
2. Where intensive land uses abut dissimilar uses (i.e., commercial adjacent to residential), a sight-obscuring buffer strip a minimum of ten (10) feet in width shall be provided.
3. Garbage collection areas shall be screened on three sides by the installation of fencing or other acceptable screening.
4. Plant materials used in buffer areas shall be sufficiently large and planted in such a fashion that a year round visual screen at least eight (8) feet in height is produced within five (5) years.

B. Parking Lot Landscaping

1. Whenever a parking lot abuts a public street, a structurally sound wall or planting strip may be installed.
2. All landscaping on the street frontage shall be placed so that it will not obstruct sight distance.

SECTION 510 SWIMMING POOLS

A. Private Swimming Pools

All private swimming pools in the ground or a prefabricated installation above the ground shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1-1/2) feet.

No such swimming pool shall be permitted or filled unless it complies with the following conditions and requirements:

1. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.

2. It may not be located, including any walks or paved areas or accessory structures thereto, closer than five (5) feet to any property line of the property on which it is located.
3. The swimming pool or the entire property on which it is located shall be so walled or substantially fenced so as to prevent uncontrolled access by children from the street or from adjacent properties, said fence and wall to be not less than six (6) feet in height and maintained in good condition. All private pools require a zoning permit and fee in an amount as established from time to time by resolution of Borough Council.

B. Community or Club Swimming Pools

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

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

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

SECTION 511 DRIVEWAY LOCATIONS

- A. Access drives that open upon any state right-of-way must meet PennDOT requirements.
- B. Drainage culverts may be installed in new driveways to permit the unrestricted flow of storm water runoff. No driveway may be constructed which interferes with or increases storm drainage runoff to adjacent properties or streets
- C. Permit required and fee in an amount as established from time to time by resolution of Borough Council.

SECTION 512 HOME OCCUPATIONS

- A. This section attempts to recognize the need for people to conduct appropriate small scale business activities at home. Provisions for home occupations in this section are also intended to achieve compatibility with other permitted uses and the residential character of the neighborhood and insure that the home occupation is only an accessory use of the property.
- B. Standards A home occupation shall be permitted in R-1 and R-2 Multi-Family Residential Districts, "U" Urbanized Districts, and "A" Agricultural Districts where the following criteria are satisfied:
 - 1. The home occupation shall be an accessory use conducted only within the enclosed living area of the dwelling unit or the garage.
 - 2. The exterior appearance of the residential dwelling in which the home occupation is located shall not be altered in a manner which would cause the premises to differ from their residential character by the use of colors, materials, construction or lighting.
 - 3. The home occupation shall not be advertised by the use of signs on the lot on which the home occupations takes places unless they are four (4) square feet or less.
 - 4. There shall be no outside storage of any kind related to the home occupation.
 - 5. The home occupation shall not generate traffic (vehicular or pedestrian), noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

6. The home occupation will not involve the use of commercial vehicles for the delivery of materials to or from the premises except for normal home delivery services.
7. Parking generated by the conduct of a home occupation shall occur only in permitted parking areas and somewhere other than in the required front yard.
8. No home occupation shall cause an increase in the use of water, sewer or garbage services so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
9. No home occupation shall display stock for trade on the premises and no article may be sold or offered for sale except as may be produced on the premises or utilized in conjunction with a home occupation, the main purpose of which is to provide a service.
10. Zoning permit fee required in an amount as established from time to time by resolution of Borough Council.

SECTION 513 TEMPORARY BUILDINGS AND USES

- A. The following types of temporary buildings and uses may be allowed for a maximum period of one year unless otherwise specified:
 1. A temporary building or yard for construction offices, material or equipment, provided such use is on or adjacent to the construction site and is adequately equipped with sanitary facilities.
 2. A real estate sales office used for the sale of lots or housing units in a development, provide such office is in or adjacent to the development and is adequately equipped with sanitary facilities.
 3. Temporary housing, including mobile homes, for households displaced from their residences due to fires, floods or other disasters, provided the temporary housing is adequately equipped with sanitary facilities.
 4. A carnival of the type with or without mechanical rides, religious services, show, exhibition or other gathering, if adequate sanitary facilities are provided. These uses may remain no more than twenty-one (21) days. No religious services, shows, exhibits or other gatherings may be permitted in residential districts.

5. A property owner or his designated representative may initiate a request for a temporary use by filing an application with the Borough. The application will be accompanied by a set of findings which demonstrates that applicable zoning and other ordinance requirements will be satisfied.

SECTION 514 JUNK YARD STANDARDS AND CRITERIA

A junk yard shall be permitted as a special exception only in the "I" Industrial District subject to the following regulations:

- A. All junk yards shall be enclosed with a sight-obscuring fence a minimum of seven (7) feet in height with gates. Gates shall be securely locked except during business hours when an adult attendant is on the premises.
- B. All material stored within junk yards shall be stored and set back at least twenty-five (25) feet from any adjoining premises and at least fifty (50) feet from the right-of-way of any public road or highway.
- C. Burning or melting of any junk, rubbish, or refuse is prohibited.
- D. All material shall be stored and arranged so as to permit access by fire fighting equipment and to prevent accumulation of stagnant water. Materials or scrapped automobiles shall not be piled to a height or more than eight (8) feet from the ground.
- E. All fluids shall be drained from junk or scrapped automobiles into containers and removed from the premises within twelve (12) hours from arrival on the premises.
- F. All fluid wastes must comply with state and federal regulations for disposal (transmission fluid, etc.).
- G. No garbage or organic waste shall be permitted to be stored in any junk yard.

SECTION 515 SURFACE MINING AND EXCAVATING STANDARDS AND CRITERIA

Mining activities are permitted only in the "I" Industrial District as a Special Exception and subject to the following criteria:

- A. Time of operation – Mining operations may be permitted to operate 24 hours/day providing said operations do not interfere with closely adjacent residential areas. If mining operations are to be in close proximity (three hundred (300) feet) to residential areas, mining operations shall be limited to daylight hours.

- B. Use of local roads and streets – Mine vehicles are prohibited from using local streets in residential areas at night.
- C. Weight limits for coal hauling vehicles – The use of locally maintained Borough roadways by mining vehicles that exceed the weight limits of said municipal roads is strictly prohibited. Any utilization of Borough roadways by mining vehicles shall be accompanied by a bond, issued by the mining operator, covering all costs involved in repairing and/or replacing damaged roadways caused by said mining vehicles.
- D. Proximity to residential areas – All mining operations shall maintain, at a minimum, a three hundred (300) foot distance from all residential structures and/or areas.
- E. Proximity to municipal watershed – All mining operations shall maintain a minimum distance of three hundred (300) feet from all municipal watershed areas, and a minimum distance of one hundred (100) feet from any watercourse (stream or river).
- F. Diminution and/or pollution of ground water – Any decrease and/or pollution of ground water used by local residents shall be remedied by the mining operator (at his expense) thereby insuring a drinkable and dependable water supply to the residents whose water supply was affected by said mining operations.
- G. Backfilling of strip cuts – All strip mining operations shall be properly backfilled according to Pennsylvania Department of Environmental Protection regulations.
- H. The Zoning Hearing Board may impose such other reasonable conditions and safeguards as may be necessary to protect the public health, safety, and welfare in accordance with the spirit and purpose of the Zoning Ordinance.

SECTION 516 MOBILE HOME PARK STANDARDS AND CRITERIA

- A. Setbacks – All mobile homes shall be located at least fifty (50) feet from any mobile home park boundary line abutting upon a public street or highway and at least fifty (50) feet from other park property boundary lines. There shall be a minimum distance of fifty (50) feet between mobile home foundation and the abutting street.
- B. Lot Area – The minimum area for every mobile home park hereafter developed shall be five (5) acres.

- C. Plot Plan – Each application shall be accompanied by three copies of a plot plan drawn at a scale of one inch equals twenty-five feet (1” = 25’), prepared by a Pennsylvania licensed surveyor, engineer, architect, or landscape architect showing limits and square footage of the proposed size of driveways, parking areas, playgrounds, service buildings, other buildings, mobile home lots, together with required setbacks from rights-of-way and property lines. All mobile home lots shall be numbered in sequence on the plot plan.
- D. Minimum Distance between Mobile Homes – No mobile home shall be placed within fifty (50) feet of another, provided that with respect to mobile homes parked end-to-end, the distance between mobile homes so parked shall not be less than fifty (50) feet.
- E. Mobile Home Stands – The area of each mobile home stand shall be improved to provide adequate support for the placement and tie down of the mobile home, thereby securing the superstructure against uplift, sliding, rotations, and overturning.
- F. Streets and Driveways – The street or driveway on which an individual mobile home lot fronts shall be not less than thirty-five (35) feet in width. In cases where driveways dead-end, there shall be constructed at each dead-end a cul-de-sac with a minimum turning radius of forty (40) feet. All streets and driveways shall be paved in accordance with standards and specifications required for local streets in the Borough subdivision regulations or other Borough requirements. Where any mobile home park has an entrance from a state highway, approval of said entrance from the PA Department of Transportation must be secured before said development is approved.
- G. Storage Tanks – Gasoline, liquefied petroleum, gas, or oil storage tanks shall be so installed as to comply with all County, State, and National Fire Prevention Code Regulations.

SECTION 517 STORM WATER MANAGEMENT

See STORM WATER ODRINANCE # 379

SECTION 518 ADULT USES

- A. The purpose of this section is to regulate the adverse secondary effects of sexually oriented business in the interest of the public health, safety and welfare, including, but not limited to, protection of property values, separation of incompatible land uses, location of such uses near major highways, and prevention of blight and crime; and, provisions of this section have neither the purpose nor the effect of

imposing limitations or restriction on the content of any communicative materials, including sexually oriented materials; and , it is not the intent nor the effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

- B. Adult uses shall be allowed in the “I” Industrial District as a Special Exception only, provided that the following locations standards and site appearance criteria are complied with:
1. No structure containing adult use shall be allowed within 1,000 feet of the nearest property line of any other adult establishment, a church, cemetery, school, daycare center, or residential structure, and shall not be located in excess of 300 feet from the front property line. Distance measurements shall be made from the main entrance of the building of the adult establishment.
 2. No sexually explicit materials or advertising shall be visible from outside the building.

SECTION 519 TELECOMMUNICATIONS TOWERS

- A. Regulations Governing Communications Antennas and Communications Equipment Buildings
1. Building mounted Communications .Antennas shall be permitted to exceed the height limitations of the applicable Zoning District by no more than twenty (20) feet.
 2. Omni directional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
 3. Directional or panel Communications Antennas shall not exceed five (5) feet in height and three (3) feet in width.
 4. Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.

5. Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Municipal Engineer for compliance with this Section.
6. Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and Communications Equipment building can be accomplished.
7. Communications Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
8. Communications Antennas shall not cause radio frequency interference with other communications facilities located in Jennerstown Borough.
9. A Communications Equipment Building shall be subject to the height and setback requirements of the applicable Zoning District for an accessory structure.
10. The owner or operator of a Communications Antenna shall be licensed by the Federal Communications Commission to operate such antennas.

B. Standards for Communications Towers as Special Exceptions

1. Any applicant proposing construction of a new Communications Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Communications Tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
 - a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
 - b. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.

- c. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
 - e. A commercially reasonable agreement could not be reached with the owners of such structures.
2. Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least 10 feet with a dust-free, all weather surface for its entire length.
 3. A Communications Tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the Zoning District.
 4. Recording of a plat of subdivision or land development shall not be required for a leased parcel on which a Communications Tower is proposed to be constructed, provided the Communications Equipment Building is unmanned.
 5. The applicant shall demonstrate that the proposed height of the Communications Tower is the **minimum** height necessary to perform its function.
 6. In all Zoning, Districts except "I" Industrial, the maximum height of any Communications Tower shall be one hundred- fifty (150) feet; provided, however, that such height may be increased to no more than two hundred (200) feet, provide the required setbacks from adjoining property lines (not lease lines) are increased by one (1) foot for each one (1) foot of height in excess of one hundred fifty (150) feet. In the "I" Industrial Zoning District, the maximum height of any Communications Tower shall be one hundred eighty (180) feet.
 7. The base of a Communications Tower shall be landscaped so as to screen the foundation and base and Communications Equipment Building from abutting properties.

8. The Communications Equipment Building shall comply with the required yards and height requirements of the applicable Zoning District for an accessory structure.
9. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association.
10. The applicant shall submit a copy of its current FCC license; the name, address and emergency telephone number of the Communications Tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower and Communications Antenna.
11. All guy wires associated with Communications Towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
12. The site of a Communications Tower shall be secured by a fence with a maximum height of fifteen (15) feet to limit accessibility by the general public.
13. No signs or lights shall be mounted on a Communications Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
14. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period.
15. One off-street parking space shall be provided within the fenced area.

ARTICLE VI

ADMINISTRATION AND ENFORCEMENT

SECTION 601 ZONING OFFICER

A. Zoning Enforcement

A Zoning Officer or a third party company shall be appointed by the Borough to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the Borough.

B. Duties and Powers of Zoning Officer

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

1. Receive application for and issue zoning permits and sign permits
2. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land, shall be retained as long as they remain in existence.
3. Make inspections as required to fulfill his/her duties. He/She shall have the right to enter any building or structure (with permission of property owner), or enter upon any land at any reasonable hour in the course of his/her duties.
4. Issue permits for special exception uses and for variances only after such uses and /or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.
5. Keep a record of all non-conforming uses, buildings, and lots.
6. Be responsible for keeping this Ordinance and the Zoning Map up to date so as to include all amendments thereto.
7. Institute civil enforcement proceedings as a means of enforcement.

C. Notice of Violations

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

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

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

SECTION 602 ZONING PERMIT

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

A. Form of Application

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

1. Actual dimensions and shape of the lot to be built upon.
2. The exact size and location on the lot of buildings, structures, or signs existing and/or proposed extension thereto.
3. The number of dwelling units, if any, to be provided.
4. Parking spaces and/or loading facilities provided.
5. Height of structure, building or sign.
6. Statement indicating proposed or existing use.
7. Locate and identify pins or survey required by property owner.

A copy of all such plans or sketches shall be retained by the Zoning Officer for his/her permanent records and one copy for the Borough files..

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

B. Expiration of Zoning Permit

Zoning permit shall expire one (1) year from date of issuance, if work described in any permit has not begun. If work described in any zoning permit has begun, said permit shall expire after two (2) years from date of issuance thereof.

SECTION 603 CERTIFICATE OF USE AND OCCUPANCY

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

A. Form of Application

The application for certificate of use and occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of Certificate of Use and Occupancy

1. The Zoning Officer shall inspect any structure, building sign, and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the building permit, he/she shall issue a certificate of use and occupancy.
2. Certificate of use and occupancy shall be granted or refused in writing, within ten (10) days from the date of application.

SECTION 604 SCHEDULE OF FEES

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

SECTION 605 REMEDIES:

In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Ordinance, the Municipality, or with their approval the Zoning Officer, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Enforcement Notice

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

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

An enforcement notice shall state at least the following:

1. The name of the owner of record and any other person against whom the Borough intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Section.
4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
5. The recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.
6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

SECTION 606 VIOLATIONS/JUDGMENTS

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall upon being found guilty in a criminal proceeding commenced by the Borough pay a judgment not more than five hundred dollars (\$500) plus all court costs including reasonable attorney fees incurred by the Borough as a result thereof.. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the district justice. Each day that a violation continues shall constitute a separate violation, unless the district justice determines that there was a good faith basis for the defendant to have believed there was no violation, in which event there shall be deemed to have been only one such violation. All judgments and costs collected for the violation of the Zoning Ordinance shall be paid over to the Municipality.
- B. District Justices shall have initial jurisdiction over proceedings brought under this Section.
- C. Nothing contained in this Section shall be construed or interpreted to grant to any persons or entity other than the Municipality the right to commence any action for enforcement pursuant to this Section.

ARTICLE VII

ZONING HEARING BOARD

SECTION 701 CREATION, ORGANIZATION AND EXPENDITURES

A. Creation and Membership

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

B. Removal of Members

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

C. Organization

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

If, by reason of absence or disqualification of a member, a quorum is not reached the chairman of the Board shall designate the alternate member to sit on the Board

to provide a quorum. The alternate member shall continue to serve on the Board in all proceedings involving the case of which the alternate was initially appointed until the board has made a final determination of the matter or case.

D. Expenditures

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

SECTION 702 FUNCTIONS

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

A. Variances

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

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

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

B. Special Exceptions

Where the governing body, in the Zoning Ordinance, has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.

1. General Procedures

An application for special exception filed with the Zoning Officer shall be referred to the Municipality or Zoning Officer for investigation as to the manner in which the proposed location and character of the special exception will affect the community and how the required standards are to be achieved. The Municipality or Zoning Officer shall report the results of its study to the Zoning Hearing Board within thirty (30) days following receipt of the application. If no such report has been filed with the Zoning Hearing Board within this time period, the Zoning Hearing Board may assume the Municipality or Zoning Officer has acted favorably but in any event the recommendation of the Municipality or Zoning Officer shall be advisory, and not binding upon the Zoning Hearing Board.

The Zoning Hearing Board shall conduct a public hearing on the appeal under Section 704 (Hearings) of this Article, and in accordance with Public Notice requirements defined in Article II, Section 202.

If the proposed special exception is located in the district wherein such use may be permitted and meets the specified standards and criteria, the Zoning Hearing Board may approve the Special Exception if it is deemed that no harm shall befall the neighboring property. The Board may also levy reasonable conditions or safeguards as deemed appropriate.

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

Any expansion of such special exception involving the enlargement of the buildings, structures, or land area shall be subject to the procedure described in this section.

SECTION 703 MEDIATION OPTION

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

SECTION 704 HEARINGS

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

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as the governing body shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- B. The governing body may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearing may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other consultants, or expert witness costs.

- C. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- D. The hearing shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicants, as the case may be, in addition to the Municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- E. The parties to the hearing shall be the Municipality, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- F. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- G. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- J. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material and shall not inspect the site or its surroundings after the commencement

of hearings with any party or his representative unless all parties are given an opportunity to be present.

- K. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five-(45) days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulations that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection A of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the applicant to appeal the decision to a court of competent jurisdiction.

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

SECTION 705 JURISDICTION

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of this Zoning Ordinance, except those brought before the governing body of the Municipality.
 2. Challenges to the validity of this Zoning Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance. Where the Ordinance appealed from is the initial Zoning Ordinance of the Municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
 3. Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any non-conforming use, structure, or lot.
 4. Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any Flood Plain Ordinance
 5. Applications for variances from the terms of the Zoning Ordinance.
 6. Applications for special exceptions under the Zoning Ordinance or flood plain provisions of this Ordinance
 7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.
 8. Appeals from the zoning officer's determinations under Sections 916.2 of the PA Municipalities Planning Code, Procedure to Obtain Preliminary Opinion.
 9. Appeals from the determination of the zoning officer or municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving subdivision or planned residential development applications.
- B. The governing body of the Municipality shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
1. All applications for approvals of planned residential developments.

2. Applications for conditional use under the express provisions of the Zoning Ordinance pursuant to Section 603 (c) (2) of the PA Municipalities Planning Code.
3. Applications for curative amendments to a Zoning Ordinance pursuant to Sections 609.1 and 916.1 (a) (2) of the PA Municipalities Planning Code.
4. All petitions for amendments to the Zoning Ordinance, pursuant to the procedures set forth in Section 609 of the PA Municipalities Planning Code. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.
5. Appeals from the determination of the zoning officer or the municipal engineer in the administration of the Zoning Ordinance with reference to sedimentation and erosion control and storm water management insofar as the same relate to applications for subdivision or land development under planned residential development.

ARTICLE VIII

AMENDMENTS

SECTION 801 AMENDMENTS AND CHANGES

A. **Amendments and Changes**

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

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

1. The Zoning Officer may initiate action by filing a written report to the governing body of the Municipality.
2. The governing body may initiate action on their own; or
3. Any landowner may submit a request for an amendment.

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

1. **Form and Content**

Petitions for change of district boundaries or reclassification of districts as shown on the Official Zoning Map shall be on forms supplied by the Municipality. A narrative description which: (1) defines the limits of the requested change by street name or recognizable physical feature; (2) states the specific reason for the requested change; and (3) states the specific use, type of development, and type of structure to be erected under the proposed change. A map and/or preliminary site plans of the area to be rezoned shall also be submitted to the Municipality for reference and review. All information shall then be submitted to the Municipal Zoning Officer for review and recommendations.

2. Preliminary Review by Zoning Officer

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

B. Action by Municipality

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

C. Municipal Zoning Officer Review

In the case of amendments not initiated by the Municipality, the Municipality shall have been informed of the amendment at least thirty (30) days prior to the hearing.

D. Somerset County Planning Commission Review

The Municipality shall submit the proposed amendment to the Somerset County Planning Commission for recommendations at least thirty (30) days prior to the public hearing.

E. Conduct of Public Hearing

1. A public hearing is held by the governing body pursuant to public notice.

2. If the proposed amendment is altered substantially or is revised to include land not previously affected, another public hearing must be held pursuant to public notice.
3. Notice of the amendment must be published at least (10) days prior to enactment.
4. Following the final public hearing, the governing body may vote to adopt the amendment.
5. To be a legally-enacted amendment, notice of the proposed enactment must be published in a newspaper of general circulation as outlined in this Section.

F. Final Report by Municipality

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

G. Publication

Notice of the proposed enactment shall include the time and place of the meeting where passage will be considered, and a reference to the place where copies of the amendment may be examined without charge or obtained at cost. The Municipality shall publish the proposed amendment once in a newspaper of general circulation in the Municipality. Such notice shall state the time, place of the meeting, and the particular nature of the matter to be considered at the meeting. The publication shall not be more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text or the title and brief summary, prepared by the Municipal Solicitor. If the full text is not included, a copy will be supplied to the newspaper and the time public notice is published, and an attested copy of the proposed Ordinance will be filed at the Somerset County Law Library. If substantial changes are made to the amendment after this publication, the Municipality, at least ten (10) days prior to enactment, shall re-advertise a brief summary setting forth all provisions and changes, according to the aforementioned notice requirements enactment in a newspaper of general circulation in the Municipality.

H. Final Action by the Municipality

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

SECTION 802 LANDOWNER CURATIVE AMENDMENT

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

- A. Notification – The municipal Zoning Officer shall be notified of the proposed amendment at least thirty (30) days prior to the public hearing.
- B. Publication – Publication requirements of Section 801 of this ordinance shall apply.
- C. Public Hearings – The hearing shall be conducted in accordance with Section 604 of this Ordinance, and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, refer to the governing body of the Municipality.
- D. Invalidation Limitation – If the Municipality does not accept the landowners curative amendment and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance or map, but only for those provisions which specifically relate to the landowners curative amendment and challenge.

- E. Enactment Considerations – If it is determined that the challenge has merit, the governing body may accept the landowner’s curative amendment, with or without revision, or may adopt an alternative amendment which cures the challenged defects. In addition to the curative amendments, plans, and information submitted by the landowner, the governing body shall also consider the following:
1. The impact of the proposal on roads, sewer facilities, water supplies, and other public facilities;
 2. The impact of residential proposal on regional housing needs and their effectiveness in providing housing units of the type available to and affordable by classes of persons otherwise excluded by the challenged provisions of the Ordinance or map;
 3. Site suitability in relation to physiographic features;
 4. The impact of the proposed use on physiographic and environmental considerations.
 5. The impact of the proposed use on agricultural preservation, public health, and public welfare considerations.

SECTION 803 MUNICIPAL CURATIVE AMENDMENTS

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

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

1. By resolution make specific findings setting forth the declared invalidity which may include specific uses, class of uses, or references to the entire Ordinance; and
2. Begin to prepare and consider a curative amendment to correct the declared invalidity.

B. Within One Hundred Eighty (180) days of the declaration and proposal, the Municipality shall enact a curative amendment or validate, or reaffirm the validity of its Zoning Ordinance pursuant to the procedures outlined in Section 801 of this Ordinance.

C. After using the procedure, the Municipality may not again utilize this method for a 36-month period following the date of a curative amendment, or reaffirmation of its Zoning Ordinance, unless a new duty or obligation is imposed on the Municipality by a change in statute or Pennsylvania Appellate Court decision after the date of declaration and proposal. In this case, the Municipality may use the provision of this Section to fulfill said duty or obligation.

D. Any other procedures or provisions as required by the PA Municipalities Planning Code.

SECTION 804 FEES

Any person other than the governing body of municipality requesting an amendment of the Zoning Ordinance (including a curative amendment) shall pay a fee of one thousand dollars (\$1000) at the time the request is filed with the Municipality. This fee shall cover the cost of advertising of the aforesaid notice, the cost of stenographic service, necessary administrative overhead, and any other expenses incurred in connection with such application, provided, however, that if the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant. In the event the aforesaid costs and expenses exceed the \$1000 fee, the applicant shall reimburse the Municipality for such excess.

ARTICLE IX

REPEALING CLAUSE

SECTION 901 REPEALING CLAUSE

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

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

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

Ordained and enacted this ___6th___ day of __June__ 2013

JENNERSTOWN BOROUGH

Municipality

By _____
Council President

Attest _____
Secretary

EXAMINED AND APPROVED THIS _____ DAY OF _____, 2013

Mayor