

CHAPTER 27

ZONING

Part 1

General Provisions

- \$101. Short Title
- \$102. Purpose
- ~~\$103. Zoning Hearing Board~~
- \$103. Interpretation
- \$104. Uses Not Provided For

Part 2

Community Development Objectives

- \$201. Community Development Objectives

Part 3

Definitions

- \$301. Application and Interpretation
- \$302. Definition of Terms

Part 4

Designation of Districts

- \$401. General Districts
- \$402. Zoning Map
- \$403. District Boundaries
- \$404. Interpretation of Boundaries

Part 5

District Regulations

- \$501. R-1 Low Density Residential
- \$502. R-2 Medium-Density Residential
- \$503. R-3 High-Density Residential
- \$504. R-4 High-Rise Residential
- \$505. C-1 General Commercial District
- \$506. I-1 Industrial

- \$507. OS Open Space
- \$508. FP Floodplain
- \$509. Development Which May Endanger Human Life
- \$510. Activities Requiring Special Permits

Part 6

Supplemental Regulations

- \$601. Off-Street Parking
- \$602. Signs
- \$603. Conditional Uses
- \$604. Special Exception Uses
- \$605. Swimming Pools
- \$606. Projections into Required Yard
- \$607. Front Yard Exception
- \$608. Intersection Clearance
- \$609. Nonconforming Use
- \$610. Junkyards, Including Automobile Wreckings
- \$611. Lot Improvements
- \$612. Home Occupations
- \$613. Outdoor Storage of Vehicles

Part 7

Administration and Enforcement

- ~~\$701. The Zoning Officer~~
- \$701. Appointment and Powers of Zoning Officer
- \$702. Permits
- \$703. Certificate of Use and Occupancy
- ~~\$704. Enforcement, Penalty, and Remedy~~
- \$704. Enforcement Notice
- \$705. Enforcement Remedies
- \$706. Zoning Hearing Board
- \$707. Hearings
- \$708. Jurisdiction
- \$709. Variances
- \$710. Special Exceptions
- \$711. Conditional Uses
- \$712. Parties Appellant Before the Board
- \$713. Time Limitations
- \$714. Stay of Proceedings

Part 8

Zoning Map Amendments

Part 1
General Provisions

§101. Short Title. This Chapter shall be known and may be cited as the "Avis Borough Zoning Ordinance of 1980." (Ord. 6/-/1980, §102)

§102. Purpose. This Chapter has been prepared in accordance with the Avis-Pine Creek Region Comprehensive Development Plan, with consideration for the character of the Borough, its various parts, and the suitability of the various parts for the particular uses and structures, and is enacted for the following purposes.

A. To promote, protect, and facilitate one (1) or more of the following: the public health, safety, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds, and other public requirements.

B. To prevent one (1) or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, panic or other dangers.

(Ord. 6/-/1980, §103)

~~§103. --Zoning Hearing Board. --In accordance with Article IX of Act 247 of the Commonwealth of Pennsylvania, a Zoning Hearing Board is hereby created and shall have the number of members and such powers and authority as set forth in said Act and this Chapter. --The duly established Zoning Hearing Board may, from time to time, be herein referred to as the Board unless otherwise clearly indicated, the term "Board" shall refer to such Zoning Hearing Board. --(Ord. 6/-/1980, §104)~~

§103. Interpretation. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of health, safety, and the general welfare of the Borough and its citizens. It is not intended by this Chapter to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Borough which are not in conflict with any provision of this Chapter. It is not the intention of this Chapter to interfere with or abrogate or annul any easements, covenants, building restrictions, or other agreements between parties. When this Chapter, however, imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Chapter shall control. (Ord. 6/-/1980, §105)

§104. Uses Not Provided For. Whenever, in any district established under this Chapter, a use is neither specifically permitted nor denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board which shall have the authority to permit the use or deny the use.

(27, Part 1)

The use may be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this Chapter. (Ord. 6/-/1980, §106)

Part 2

Community Development Objectives

§201. Community Development Objectives. This Chapter has been adopted in part to assist in implementing the "Statement of Goals and Objectives" of the Comprehensive Plan. The Community Development Objectives supplement the "Statement of Goals and Objectives" and include, but are not limited to, the following.

A. To provide for the preservation, protection, management and enhancement of the Borough's natural resources and environmental qualities for present and future generations.

B. To control industrial development in proper and suitable locations so that land uses will complement one another and minimize dangers to environmental quality and community existence.

C. To provide sufficient recreational opportunities for residents to meet the needs of increasing leisure time and insure the proper handling of existing and future programs and facilities.

D. To provide, in an economical and aesthetically beneficial manner, the various facilities and services necessary to meet the existing and future needs of the community in a way that is compatible with the natural and man-made environment.

E. To upgrade commercial services and establishments the central business district enabling a more suitable condition for resident participation and encouragement of new development.

F. To establish realistic population densities in order to insure adequate circulation, health standards, privacy and open space and in order to provide utilities, protection, services, and facilities in the most efficient and convenient manner.

G. To achieve the best use of land within the Borough, insuring that varying land uses will complement one another and thus improve the economic base and provide for increased aesthetic and cultural values.

H. To eliminate traffic congestion and improve access to commercial and industrial locations and provide safer conditions for both pedestrian and vehicle operations.

I. To encourage and promote the provisions of a wide-range and variety of decent, safe, and sanitary housing to meet the needs of all Borough residents.

(Ord. 6/-/1980, §201)

Part 3
Definitions

§301. Application and Interpretation.

1. It is not intended that this Part include only words used or referred to in this Chapter. The words are included in order to facilitate the interpretation of this Chapter for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

2. Unless otherwise expressly stated, the following shall, for the purpose of this Chapter, have the meaning herein indicated:

A. Words used in the present tense include the future tense.

B. The word "person" includes a profit or non-profit corporation, company, partnership, or individual.

C. The words "used" or "occupied" as applied to any land or building include the words "intended," "arranged," or "designed" to be used or occupied.

D. The word "building" includes structure.

E. The word "lot" includes plot or parcel.

F. The word "shall" is always mandatory.

(Ord. 6/-/1980, §301)

§302. Definition of Terms. For the purposes of this Chapter, the following words, terms, and phrases have the meaning herein indicated:

ACCESSORY BUILDING - a subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

ACCESSORY USE - a use customarily incidental to and subordinate to the principal use or building and located on the same lot with such principal use or building.

~~ACT 247 - the Pennsylvania Municipalities Planning Code, as amended. The law, passed July 31, 1968, is the enabling legislation which permits municipalities in Pennsylvania to prepare and enact comprehensive development plans, zoning ordinances and other land-use controls.~~

ALLEY - any public thoroughfare in the Borough shown on the Borough Map and open to travel by the public and designed and intended primarily as a means of access to and from the rear of properties.

ALTERATIONS - as applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

ALTERATIONS, STRUCTURAL - any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

AMENDMENT - a change in use in any district which includes revisions to the zoning text and/or the official zoning map and the authority for any amendment lies solely with the Borough Council.

ANIMAL HOSPITAL - a building used for the treatment, housing, or boarding of small domestic animals by a veterinarian.

AREA, BUILDING - the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

AREA, LOT - the total area within the lot lines.

BASEMENT - a portion of a building located partly underground, but having less than one-half ($\frac{1}{2}$) its clear floor-to-ceiling height below the average grade of the adjoining ground.

BILLBOARD - a sign upon which advertising matter of any character is printed, posted, or lettered; whether free standing or attached to a surface of a building or other structure. A billboard is used to advertise products, services or businesses at a location other than the premises on which the sign is placed.

BOARD - any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications. [A.O.]

BOARDING HOUSE - any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished room house shall be deemed a boarding house.

BUILDING - any structure having a roof supported by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, DETACHED - a building surrounded by open spaces on the same lot.

BUILDING, FRONT LINE OF - the line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF - the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

BUILDING LINE - the line of a structure or building existing at the effective date of this Chapter or the legally established line which determines the location of a future building or structure or portion thereof with respect to any lot line or street right-of-way.

BUILDING, PRINCIPAL - a building in which is conducted the principal use of the lot on which it is located.

BUSINESS IDENTIFICATION SIGN - a sign bearing the name of the occupant of a premises and the name of products manufactured, processed, sold, or displayed thereon.

CARTWAY - that portion of a street lying between the curb lines and designed and intended primarily for vehicular travel.

CARPORT - an open space for the storage of one (1) or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one (1) or more walls may be the walls of the main building to which the carport is an accessory building or extension.

CELLAR - a story partly underground and having more than one-half ($\frac{1}{2}$) of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

COMPREHENSIVE PLAN - consists of maps, charts, and textual matter, and indicates the recommendations of the Planning Commission for the continuing development of the Borough. The comprehensive plan includes, but is not limited to, the following related basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicating the relationship of the Borough and its proposed development to the adjacent municipalities and areas.

~~CONDITIONAL USE --- a use which is not appropriate to a particular zone-district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Chapter are present.~~

CONDITIONAL USE - a use permitted in a particular zoning district by the Borough Council pursuant to the provisions of this Chapter and Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601 et seq. [A.O.]

CONDOMINIUM - a form of property ownership providing for individual ownership of a specific apartment or other space not necessarily on ground level together with an undivided interest in the land or other parts of the structure in common with other owners. A condominium is considered permissible under the same standards as a townhouse or garden apartment.

COURT - an unoccupied open space, other than a yard on the lot with a building, which is bounded on two (2) or more sides by the walls of such building.

(1) COURT, INNER - a court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

(2) COURT, OUTER - a court enclosed on not more than three (3) sides by exterior walls and lot lines on which walls are allowable, with one (1) side or end open to a street, driveway, alley or yard.

COVERAGE - that portion or percentage of the plot or lot area covered by the building area.

CURB LEVEL - the officially established grade of the curb in front of the midpoint of the lot.

DECISION - final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter 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 Borough lies. [A.O.]

DENSITY - the measure of the number of dwelling units which occupy, or may occupy, an area of land.

DENSITY FACTORS - numerical values applied to residential dwelling unit types for the purpose of computing permitted densities.

DENSITY, NET RESIDENTIAL - the number of dwelling units in relation to the land area actually in use or proposed to be used for residential purposes, exclusive of public rights-of-way, streets, sidewalks, parks, playgrounds, common open spaces, etc.

DENSITY, GROSS RESIDENTIAL - the number of dwelling units in relation to an area of land actually in use or proposed to be used for residential purposes, excluding public rights-of-way whether exterior or interior, but including interior parking areas and access lanes, sidewalks, parks, playgrounds, common open spaces, etc.

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

1. The Borough Council.
2. The Zoning Hearing Board.
3. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

[A.O.]

DEVELOPMENT - any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, mining, dredging, filling, grading, paving excavation or drilling operations and the subdivision of land. [Ord. 167]

DOG KENNEL - the keeping of four (4) or more dogs that are more than six (6) months old.

DUMP - a lot of land or part of thereof used primarily for the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING a building or structure, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants. The term "dwelling" as used herein shall include rooming houses and multi-family dwellings as well as single family dwellings unless otherwise indicated.

DWELLING TYPES -

(1) APARTMENT HOUSE - a multi-family dwelling consisting of a structure, consisting of a series of single-story dwelling units (two (2)-story units may conceivably be used in certain instances) clustered on a floor about a central elevator shaft or central corridor, each series, consisting of one (1)-story, being stacked one (1) upon the other to a specified maximum height. For the purpose of this Chapter: (a) a low-rise apartment structure shall not be greater than three (3) stories in height; (b) a mid-rise apartment structure shall not be greater than five (5) stories in height.

(2) GARDEN APARTMENT - a multi-family dwelling consisting of three (3) or more or more dwelling units accommodating three (3) or more families which are located (1) one over the other and which, when more than three (3) units are utilized, are attached side-by-side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Single-family dwelling units are generally built to a height of three (3) stories, but may conceivably be built to a height of only two (2) stories. Each dwelling unit is accessible by a common stairwell.

(3) RESIDENTIAL CONVERSION UNIT - to be considered a conversion, any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or increase the height of an existing structure shall not be considered a conversion and shall be required to meet the appropriate provisions established in that district for that particular use.

(4) SINGLE-FAMILY DETACHED - a dwelling unit accommodating a single family and having two (2) side yards.

(5) SINGLE-FAMILY SEMI-DETACHED - multi-family dwelling consisting of two (2) dwelling units accommodating two (2) families which are attached side by side through the use of a party wall, and having one (1) side yard adjacent to each dwelling unit.

(6) TWO (2)-FAMILY DETACHED - a multi-family dwelling consisting of two (2) dwelling units accommodating two (2) families which are located one (1) over the other, and having two (2) side yards.

(7) TWO (2)-FAMILY SEMI-DETACHED - a multi-family dwelling consisting of four (4) dwelling units accommodating four (4) families, two (2) units of which are located directly over the other units. A combination of both the single-family semi-detached and the two (2)-family detached structures.

(8) TOWNHOUSE (ROW DWELLING) - a multi-family dwelling consisting of three (3) or more dwelling units accommodating three (3) or more families which are attached side by side through the use of common party walls which shall have side yards adjacent to each end unit. Each dwelling unit is generally two (2) stories in height, but may conceivably be either one (1) or three (3) stories in height.

DWELLING UNIT - any room or group of rooms located within a dwelling and forming a single habitable unit for living, sleeping, cooking and eating.

ELECTRIC SUBSTATION - an assemblage of equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of the general public.

FAMILY - one (1) or more persons who live together in one (1) dwelling unit and maintain a common household. May consist of a single person or of two (2) or more persons, whether or not related by blood, marriage, or adoption.

FLOOD - a temporary inundation of normally dry land areas. [Ord. 167]

FLOODPLAIN -

(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation.

(2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

[Ord. 167]

FLOOR AREA RETAIL, NET - all that space relegated to use by the customer and the retail employee to consummate retail sales; and to include display area used to indicate the variety of goods available for the customer; but not to include office space, storage space, and other general administrative areas.

GARAGE, PRIVATE - an enclosed or covered space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

GARAGE, PUBLIC - any garage not a private garage and which is used for storage, repair, rental, servicing, or supplying of gasoline or oil to motor vehicles.

GRADE, ESTABLISHMENT - the elevation of the center line of the streets as officially established by the Borough authorities.

GRADE, FINISHED - the completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

HOME GARDENING - the cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock, and permitting the sale of produce raised thereon.

HOME OCCUPATION - any use customarily conducted entirely within a dwelling or in a building and carried on by the dwelling inhabitants.

HOSPITAL - unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for

the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL - a building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in any accessory building.

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

LAND DEVELOPMENT - any of the following activities:

(1) The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(a) A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,

(b) The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features;

(2) A subdivision of land.

(3) "Land development" does not include development which involves:

(a) The conversion of an existing single family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium;

(b) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or

(c) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

[A.O.]

LANDSCAPE AREA - the minimum square footage of lot area that is available for the use of the residents of a dwelling unit complex in which it is located or a part of the required area of a commercial or industrial development. This area must be both unsurfaced and water absorbent, and no more than one-third (1/3) of this total space footage requirement may be made up of the area located within the setback requirements for the front, side, or rear yards of the complex.

LAUNDERETTE - a business premise equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LIGHTING -

(1) DIFFUSED - that form of lighting wherein the light passes from the source through a translucent cover or shade.

(2) DIRECT OR FLOOD - that form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated.

(3) INDIRECT - that form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

LINE, STREET - the dividing line between the street and the lot.

~~LOT --- land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter for a lot in the district which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.~~

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. [A.O.]

LOT, CORNER - a parcel of land at the junction of and abutting on two (2) or more intersecting streets.

LOT, INTERIOR - a lot other than a corner lot.

LOT LINES - the lines bounding a lot as defined herein.

~~MOBILE HOME --- a transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one (1) unit, or in two (2) units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.~~

MOBILEHOME - a transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. [A.O.]

MOBILEHOME LOT - a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome. [A.O.]

~~MOBILE-HOME-PARK---a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two (2) or more mobile-home lots.~~

MOBILEHOME PARK - a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobilehome lots for the placement thereon of mobilehomes. [A.O.]

MUNICIPAL AUTHORITY - a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipalities Authority Act of 1945." [A.O.]

MUNICIPALITIES PLANNING CODE - the Pennsylvania Municipalities Planning Code, the act of July 31, 1968, P.L. 805, No. 247, as amended through the act of December 21, 1988, P.L. , No. 170, 53 P.S. §10101 et seq. [A.O.]

NEIGHBORHOOD GROCERY - a commercial establishment which primarily offers food for sale, but which may also sell various other products such as convenience goods normally associated with grocery store sales. A neighborhood grocery store is designed and intended solely for the use of residents of the immediate area within the community; it is not intended to serve the community as a whole, nor a regional market beyond the community.

NONCONFORMING LOT - a lot the area or dimension of which was lawful prior to the adoption or amendment of this Chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment. [A.O.]

~~NONCONFORMING-STRUCTURE---a structure or part of a structure not designed to comply with the applicable use provisions in this Chapter or amendments heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to location by reason of annexation. Such nonconforming structures include, but are not limited to, noneonforming signs.~~

NONCONFORMING STRUCTURE - a structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment or prior to the application of this Chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. [A.O.]

~~NONCONFORMING USE --- use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment to its location by reason of annexation.~~

NONCONFORMING USE - a use, whether of land or of structure, which does not comply with the applicable use provisions in this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment, or prior to the application of this Chapter or amendment to its location by reason of annexation. [A.O.]

NURSING OR CONVALESCENT HOME - any dwelling with less than fifteen (15) sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

OFF-SITE SEWER SERVICE - a sanitary sewage collection system in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal plant which may be publicly or privately owned and operated.

ONE HUNDRED (100)-YEAR FLOOD - a flood that has a one (1%) percent chance of occurring in any given year. [Ord. 167]

OPEN PIT MINING - open pit mining shall include all activity which removes from the surface or beneath the surface of the land some material mineral resource, natural resource, or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the excavation necessary to the extraction of: sand, gravel, topsoil, limestone, sandstone, clay, shale and iron ore.

OPEN SPACE - a space unoccupied by buildings or paved surface and open to the sky on the same lot with the building.

~~PLANNED RESIDENTIAL DEVELOPMENT--~~

~~(1)---An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, and required open space to the regulations established in any one (1) residential district.~~

~~(2)---A planned residential development may include and shall be limited to:---(a) Dwelling units in detached, semi-detached, attached, or multi-storied structures, or any combination thereof; and (b) those non-residential uses deemed to be appropriate for incorporation in the design of the planned residential development.~~

PLANNED RESIDENTIAL DEVELOPMENT - an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density or intensity, lot coverage and

required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter.
[A.O.]

PLAT - a map, plan, or layout of a subdivision indicating the location and boundaries of individual properties.

PORCH - a covered area in excess of four (4') feet by five (5') feet or twenty (20) square feet in area at a front, side, or rear door.

PREMISES - any lot, parcel, or tract of land and any building constructed thereon.

PROFESSION - includes any occupation or vocation in which a professed knowledge of some department of science or learning is used by its practical application to the affairs of others, either advising, guiding, or teaching them and in serving their interest or welfare in the practice of an art founded on it. The work implies attainments in professional knowledge as distinguished from mere skill in the application of such knowledge to uses for others as a vocation. It requires knowledge of an advanced type in a given field of science or instruction and study.

PROPERTY LINE - a recorded boundary of a lot. However, any property line which abuts a "street" or other public or quasi-public way shall be measured from the full right-of-way.

PUBLIC GROUNDS - includes:

(1) Parks, playgrounds, trails, paths and other recreational areas and other public areas.

(2) Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.

(3) Publicly owned or operated scenic and historic sites.

[A.O.]

PUBLIC HEARING - a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [A.O.]

PUBLIC MEETING - a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," 53 P.S. §§271 et seq. [A.O.]

PUBLIC NOTICE - notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. 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 thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing. [A.O.]

PUBLIC USES - includes public and semi-public uses of a welfare and educational nature, such as hospitals, nursing homes, schools, parks, churches, cemeteries, civic centers, historical restorations, fire stations, municipal buildings, essential public utilities that

require enclosure within a building; airports; fraternal clubs and homes; non-profit recreational facilities; easements for alleys, streets, and public utility rights-of-way; and radio and television transmission facilities.

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

RIDING ACADEMY - any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

ROAD CLASSIFICATION - setback distances in this Chapter in accordance with the type of roadway abutting the properties. For the purpose of this Chapter the following definitions are employed:

(1) MAJOR ARTERIAL - a limited access highway on which access is provided only from another street and not from abutting properties.

(2) MINOR ARTERIAL - a road whose function is to provide for the movement of high volumes of through traffic and direct access to abutting properties; subject to necessary control of entrances, exits, and curb use.

(3) MAJOR COLLECTOR - a road, or street, which provides for the movement of large volumes of traffic between arterials and local roads and direct access to abutting property.

(4) LOCAL - a road whose function is to provide for local traffic movement and direct access to abutting properties.

ROOMING HOUSE - any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is rented by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, sister or brother, or those standing in such relationships of the owner or operator.

SANITARIUM, SANATORIUM - an institution for the care of invalids or convalescents consisting of sixteen (16) or more sleeping rooms.

SCREEN PLANTING - a vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

SEASONAL RESIDENCE - a dwelling, cabin, lodge or summer house which is intended for occupancy less than one hundred and eighty-two (182) days of the year.

SERVICES, ESSENTIAL - uses, not enclosed within a building, necessary for the preservation of the public health and safety including, but not limited to, the erection, construction, alteration or maintenance of, but public utilities or governmental agencies, underground or overhead transmission systems, poles, wires, pipes, cables, fire alarm boxes, hydrants, or other similar equipment.

STATION - any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designated to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles.

SETBACK LINE - the line within a property defining the required minimum distance between any building to be erected and the adjacent right-of-way. Such line shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to said right-of-way line.

SHRUBS - a woody plant, smaller than a tree, with many separate stems, growing under five (5) feet. [Ord. 170]

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

~~SPECIAL EXCEPTION - the granting of a modification of the provisions of this Chapter as authorized in specific instances listed, and under the terms, procedures, and conditions prescribed herein. Special exceptions are administered by the Zoning Hearing Board.~~

SPECIAL EXCEPTION - a use permitted in a particular zoning district pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 et seq., 10901 et seq. [A.O.]

STABLE, PRIVATE - an accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

STABLE, PUBLIC - a building in which any horses are kept for remuneration, hire or sale.

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 be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF - a story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2') feet above the floor of such story.

~~STREET - a public way which affords principal means of access to abutting properties.~~

STREET - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or

intended to be used by vehicular traffic or pedestrians whether public or private. [A.O.]

STREET CENTER LINE - the center of the surveyed street right-of-way, or where not surveyed, the center of the traveled cartway.

STREET GRADE - the officially established grade of the street upon which a lot fronts or in its absence the established grade of other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such mid-point shall be taken as the street grade.

STREET RIGHT-OF-WAY LINE - the line dividing a lot from the full street right-of-way, not just the cartway. The word "street" shall include, but not be limited to, the words "road," "highway," "alley", and "thoroughfare."

~~STRUCTURE--buildings of all kinds, including partial and incomplete buildings and foundations whether being built or demolished, trailers of all kinds and all mobile habitable units with or without wheels.~~

STRUCTURE - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [A.O.]

~~SUBDIVISION--an area of land divided by the owners or agent, either by lots or by metes and bounds into lots of two (2) or more in number, for the purpose of conveyance, transfer, improvement or sale. The appurtenant roads, streets, lanes, alleys, and ways dedicated or intended to be dedicated to public uses, or the use of purchasers or owners of lots fronting thereon are included. The word "subdivision" includes the word "resubdivision", "plan", or "re-plan."~~

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [A.O.]

SWIMMING POOL -

PRIVATE - any reasonably permanent 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 (1½') feet. Ponds and/or lakes are not included provided that swimming was not the primary purpose for their construction.

PUBLIC - a public bathing place shall mean any open or enclosed place, open to the public for amateur and professional swimming or recreative bathing, whether or not a fee is charged for admission or for the use thereof.

TELEPHONE CENTRAL OFFICE - a building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone or radio telephone messages between subscribers and other business of the telephone company, but in a residential district not to include public business facilities, storage of materials, trucks or repair facilities, or housing or repair crews.

THEATER - a building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid admission basis.

THEATER, OUTDOOR DRIVE-IN - an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

TOURIST CABINS - a group of buildings, including either separate cabins or a row of cabins, which:

- (1) Contain living and sleeping accommodations for transient occupancy.
- (2) Have individual entrances.

TOURIST HOME - a dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

~~TRAILER---any portable or mobile vehicle used or designed to be used for living purposes.~~

~~TRAILER CAMP---a tract of land:~~

~~(1)---Where two (2) or more trailers are parked.~~

~~(2)---Which is used or held out for the purpose of supplying to the public a parking space for two (2) or more trailers.~~

TRAVEL TRAILER - a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer on the trailer. Unoccupied travel trailers do not constitute mobile homes, as used in this Chapter.

TREE - a plant having one (1) main stem or trunk, and usually branches out growing over five (5') feet. [Ord. 170]

USE - the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

~~VARIANCE---the permission granted by the Zoning Hearing Board, following a public hearing that has been properly advertised as required by Act 247, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of this Chapter.~~

VARIANCE - relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S §10101 et seq. [A.O.]

WINDOW - an opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.

YARD - an unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT - an open unoccupied space on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

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

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

ZONING - the designation of specified districts within a community or municipality, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING MAP - the official Zoning Map of Avis Borough.

ZONING ORDINANCE - the "Avis Borough Zoning Ordinance [this Chapter 27]," as amended.

(Ord. 6/-/1980, §302; as amended by Ord. 167, -/-/, §1; by Ord. 170, 3/2/1981, §2; and by A.O.

Part 4

Designation of Districts

§401. General Districts. For the purposes of this Chapter, the Borough is hereby divided into eight (8) types of districts which shall be designated as follows:

- R-1 Low Density Residential
- R-2 Medium Density Residential
- R-3 High Density Residential
- R-4 High Rise Residential
- C-1 General Commercial
- I-1 Industrial
- OS Open Space
- FP Floodplain

(Ord. 6/-/1980, §401; as amended by Ord. 167, -/-/, §2; and by Ord. 170, 3/2/1981, §6)

§402. Zoning Map. The boundaries of said districts shall be shown upon the map attached to and made a part of this Chapter which shall, except those treated as floating zones, be designated "Zoning Map." The same map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Chapter as if all were fully described herein. (Ord. 6/-/1980, §402)

§403. District Boundaries. Where uncertainty exists as to boundaries of any district as shown on said map, the following rules shall apply:

A. District boundary lines are intended to follow or be parallel to the center line of streets, streams, and railroads; and lot or property lines as they exist on a recorded deed or plan of record in the Clinton County Recorder of Deeds office at the time of the adoption of this Chapter, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, and where it does not scale more than ten (10') feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

C. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

(Ord. 6/-/1980, §403)

§404. Interpretation of Boundaries. In case of any uncertainty, the Zoning Hearing Board shall interpret the intent of the map as to location of district boundaries. (Ord. 6/-/1980, §404)

Part 5
District Regulations

§501. R-1 Low Density Residential.

1. Purpose. The purpose of the R-1 Low Density Residential District is to provide for the orderly expansion of low-density residential development in those areas where public services are available; and to exclude uses not compatible with such low density residential development.

2. Permitted Uses.

A. Single family detached dwellings and customary accessory uses incidental to this type of development, except mobile homes which shall not be permitted.

B. Home occupations provided that no facade shall indicate from the exterior that the building is being utilized for any purpose other than a dwelling.

C. Accessory buildings and areas customarily incidental to the above.

3. Special Exception Uses. Private swimming pools, provided they meet the requirements of Part 6, §604, of this Chapter.

4. Conditional Uses.

A. Appropriate public uses and essential services.

B. Public swimming pools.

C. Public or privately owned parks and recreational areas.

D. Churches and other places of worship.

5. Area and Bulk.

A. Minimum lot size: Twelve thousand (12,000) sq. ft.

B. Minimum lot width at setback line: Eighty (80') ft.

C. Maximum density: 3.63 dwelling units per acre.

6. Minimum Setback.

A. Front: Thirty-five (35') feet.

B. Side: Ten (10') feet on one (1) side; twenty-five (25') feet total for both sides.

C. Rear: Thirty-five (35') feet.

D. Accessory setback: Fifteen (15') feet.

7. Height.

A. Maximum: Two and one-half (2½) stories or thirty-five (35') feet, whichever is the lesser.

B. Minimum: One (1) story.

8. Coverage. Maximum total: Thirty-five (35%) percent.

(Ord. 6/-/1980, §501)

§502. R-2 Medium-Density Residential.

1. Purpose. The purpose of the R-2 Medium-Density Residential is to provide for the orderly development of existing and proposed medium-density residential areas where adequate public services and circulation facilities are or will be available; and to exclude those uses not compatible with such development.

2. Permitted Uses.

A. Single-family detached dwellings, except mobile homes which shall not be permitted.

B. Single-family semi-detached dwellings.

C. Home occupations provided that no facade shall indicate from the exterior that the building is being utilized for any purpose other than a dwelling.

D. Accessory buildings and uses incidental to the above uses.

3. Special Exception Uses. Private swimming pools, provided they meet the requirements of Part 6, §604, of this Chapter.

4. Conditional Uses.

A. Mobile home parks.

B. Appropriate public uses and essential services.

C. Public or privately owned parks and recreational areas.

D. Churches and other places of worship.

5. Area and Bulk.

A. Minimum lot size: Eleven thousand (11,000) sq. ft.

B. Minimum lot width at setback line: Seventy-five (75') ft.

C. Maximum density: 3.96 dwelling units per acre.

6. Minimum Setback.

A. Front: Thirty (30') ft.

B. Side: Ten (10') feet on one (1) side; twenty-five (25') feet total for both sides.

C. Rear: Thirty-five (35') ft.

D. Accessory Setback: Fifteen (15') ft.

7. Height. Maximum: Two and one-half (2½) stories or thirty-five (35') feet, whichever is lesser.

8. Coverage. Maximum total: Thirty-five (35%) percent.

(Ord. 6/-/1980, 502)

§503. R-3 High-Density Residential.

1. Purpose. It is the purpose of the R-3 High-Density Residential District to prevent the overcrowding of land and yet encourage higher density residential uses in those areas where public services are more

available, and to provide for the public convenience and avoid congestion of the streets.

2. Permitted Uses.

- A. Single-family detached dwellings.
- B. Single-family semi-detached dwellings.
- C. Townhouses.
- D. Garden apartments.
- E. Low-rise apartments.
- F. Mobile homes, provided that the mobile home is placed on a permanent foundation which shall be of poured concrete or cement block.
- G. Home occupations provided that no facade shall indicate from the exterior that the building is being utilized for any purpose other than a dwelling.
- H. Accessory buildings and uses customarily incidental to the above.

3. Special Exception Uses. Private swimming pools, provided they meet the requirements of Part 6, §605, of this Chapter.

4. Conditional Uses.

- A. Appropriate public uses and essential services.
- B. Public or privately owned parks and recreational areas.
- C. Churches and other places of worship.

5. Area and Bulk.

- A. Minimum lot size: Seven thousand five hundred (7,500) sq. ft.
- B. Minimum lot width at setback line: Sixty (60') ft.

6. Minimum Setback.

- A. Front: Thirty (30') ft.
- B. Side: Ten (10') ft. on one (1) side; twenty (20') ft. total for both sides.
- C. Rear: Thirty-five (35') ft.
- D. Accessory building: Fifteen (15') ft.

7. Height. Two and one-half (2½) stories or thirty-five (35') ft., whichever is the lesser.

8. Coverage. Maximum total: Thirty-five (35%) percent.

(Ord. 6/-/1980, §503)

§504. R-4 High-Rise Residential.

1. Purpose. The purpose of the R-4 High-Rise Residential-District is to provide for special use multi-family residential uses. This district will be only for exceptional cases for community and regional housing needs

where the structure must be over two and one-half (2½) stories.

2. Permitted Uses.

A. Apartment buildings over two and one-half (2½) stories.

B. Accessory uses and buildings customarily incidental to the above.

3. Conditional Uses.

A. Appropriate public uses and essential services.

B. Publicly or privately owned parks and recreational areas.

4. Area and Bulk.

A. Minimum lot size: Twelve thousand (12,000) sq. ft.

B. Minimum lot width at setback line: None.

C. Maximum density: None.

5. Minimum Setbacks.

A. Front: Ten (10') ft.

B. Side: None, except when a commercial use abuts any other residential district, there shall be a ten (10') ft. minimum side yard setback. In no case shall common walls be permitted between properties of separate ownership.

C. Rear: Ten (10') ft.

6. Height. Maximum: Eight (8) stories.

7. Coverage. Maximum Total: Eight (80%) percent.

8. Off-Street Parking See Part 6, §601, of this Chapter.

9. Signs. See Part 6, §602, of this Chapter.

(Ord. 6/-/1980, §504; as amended by Ord. 170, 3/2/1981, §5)

§505. C-1 General Commercial District.

1. Purpose. The purpose of the C-1 General Commercial District is to provide for the orderly development of those uses necessary to meet the community and regional needs for general goods and services as well as those of a social, cultural, and civic nature; to provide as a conditional use for combined commercial establishments and multiple-family dwellings; and to exclude uses not compatible with such activities.

2. Permitted Uses. Commercial establishments, excluding junkyards. Access ways to adjacent properties.

3. Conditional Uses.

A. Residential conversion units.

B. Public swimming pools.

C. Public uses and essential services deemed appropriate.

D. Cultural and civic uses such as auditoriums, museums, and the offices of such organizations.

4. Area and Bulk.

- A. Minimum lot size: Six thousand (6,000) sq. ft.
- B. Minimum lot width: None.
- C. Maximum density: None.

5. Minimum Setback

- A. Front: Ten (10') ft.
- B. Side: None, except when a commercial use abuts any residential (R-1, R-2, R-3, R-4) district there shall be a ten (10') foot minimum side yard setback. In no case shall common walls be permitted between properties of separate ownership. In the case of such a series of adjoining structures on lots of single and separate ownership abutting and paralleling a public right-of-way, an unobstructed passage of at least twenty (20') ft. in width shall be provided at grade level at intervals not more than four hundred (400') feet apart.
- C. Rear: Twenty (20') ft.

6. Height. Maximum. Two and one-half (2½) stories or thirty-five (35') ft., whichever is the lesser.

7. Coverage. Maximum total: Seventy-five (75%) percent.

8. Off-Street Parking. See Part 6, §601, of this Chapter.

9. Signs. See Part 6, §602, of this Chapter.

(Ord. 6/-/1980, §505)

§506. I-1 Industrial.

1. Purpose. The purpose of the I-1 Industrial District is to provide sufficient space, in appropriate locations, to meet the current and anticipated future needs for a wide range of industrial activity. It is further intended that approved industrial operations will be compatible with adjacent uses.

2. Permitted Uses.

- A. Industrial and manufacturing activities.
- B. Warehouse and distribution centers.
- C. Truck and bus terminals and related facilities.
- D. Rail yards, rail terminals and related facilities.
- E. Repair and maintenance facilities.
- F. Parking facilities.
- G. Any facilities required by Federal, State or local pollution control authorities.
- H. Accessory buildings and uses customarily incidental to the above uses.
- I. Access ways to adjacent properties.
- J. Commercial uses solely for the purpose of:

(1) Public relations.

(2) For the use and benefit of employees of the industry.

K. Open pit mining for the recovery of metallic scrap materials, or materials suitable for use as cinders or public or private roads or materials suitable for general agriculture purposes.

3. Conditional Uses.

A. Disposal and waste storage areas incidental to the operation of industrial activities provided evergreen tree screening which attains a minimum height of five (5') feet in three (3) years is installed.

B. Landfills incidental to the operation of industrial activities if screening is provided and the applicable regulations of the Department of Environmental Resources are met.

C. Appropriate public uses and essential services.

4. Area and Bulk.

A. No minimum lot size or width shall be required.

B. Setback: Front setback fifty (50') ft. minimum.

C. Side Yard: Twenty (20') ft. minimum.

D. Rear Yard: Fifty (50') ft. minimum.

E. Contiguous to any Residential District: One hundred (100') ft. minimum.

(Ord. 6/-/1980, §506)

§507. OS Open Space.

1. Purpose. The purpose of the OS Open Space District is to provide for the preservation and conservation of the natural environment and natural resources while providing for such uses and development as are compatible with these objectives; and to provide appropriate space for recreation use that is compatible with the surrounding districts.

2. Uses Permitted. A lot or parcel may be used for any of the following purposes:

A. Recreation areas including playgrounds, picnic areas, and other appropriate areas.

B. Horticultural uses related to the raising, propagating, and selling of trees, shrubs, flowers, and other vegetative material.

C. Agricultural uses related to the tilling of the land, the raising of horses, cattle, and other livestock, and the raising of poultry and poultry products.

D. Buildings. Only those structures deemed appropriate for use in a recreational area.

3. Conditional Uses. Appropriate public uses and essential services.

(Ord. 6/-/1980, §507)

§508. FP Floodplain.

1. Purpose. The purpose of the FP Floodplain District is to prevent the loss of property and life and the creation of health and safety hazards by regulating uses, activities and development within identified flood hazard areas and by requiring that such uses, activities and development be protected against such hazards.

2. Basis of District.

A. The FP Floodplain District is defined as those areas subject to inundation by waters of the one hundred (100)-year flood. The basis for this delineation shall be the Flood Insurance Study (FIS) for the Borough of Avis, Clinton County, Pennsylvania prepared by the Federal Insurance Administration (FIA), dated July 1979, and the accompanying map. Any change in this delineation shall be approved by the FIA.

B. The basis for the outermost boundary of the FP Floodplain District shall be the one hundred (100)-year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study. In areas where no detailed flood profiles are provided by the Flood Insurance Study, the specific one hundred (100)-year flood elevation shall be determined by the Avis Borough Council, or by an agent designated by the Avis Borough Council, by using (1) reports issued by the U.S. Army Corps of Engineers, U.S. Geological Survey, U.S. Soil Conservation Service or the Susquehanna River Basin Commission, (2) known highwater marks from past floods or (3) other sources of data.

3. Overlay Concept.

A. The FP Floodplain District shall be an overlay to the existing underlying districts and, as such, the provisions for the FP Floodplain District shall serve as a supplement to the underlying district provisions.

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

C. In the event any provision concerning the FP Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying district provisions shall remain applicable.

4. Use Provisions. In the FP Floodplain District the development or use of land shall be permitted in accordance with the regulations of the underlying district and the following additional regulations:

A. The proposed development shall secure a permit as required by §702(1) of Part 7.

B. All new construction of residential structure shall have the lowest floor (including basement) elevated to or above the one hundred (100)-year flood elevation.

C. All new construction of non-residential structures shall have the lowest floor (including basement) elevated to or above the one

hundred (100)-year flood elevation or be designed and constructed to be "completely dry" or "essentially dry," in accordance with the publication "Floodproofing Regulations," U.S. Army Corps of Engineers, up to that elevation.

D. All new construction shall be firmly anchored to prevent flotation, collapse or ~~later~~ lateral movement. [A.O.]

E. All mobile homes, and any additions thereto, shall be anchored to prevent flotation, collapse or lateral movement. Specifically:

(1) Over-the-top ties to ground anchors shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50') feet or more in length, but only one (1) additional tie per side for units less than fifty (50') feet in length.

(2) Frame ties to ground anchors shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty (50') feet or more in length but only four (4) additional ties per side for units less than fifty (50') feet in length.

(3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

F. All mobile homes and any additions thereto shall be elevated in accordance with the following requirements:

(1) Stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home is equal to or above the one hundred (100)-year flood elevation.

(2) Adequate drainage is provided.

(3) Adequate access for a hauler is provided.

(4) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10') feet apart; and reinforcement shall be provided for pilings more than six (6') feet above ground level.

G. An evacuation plan indicating alternate vehicular access and escape route shall be filed with the Borough Secretary by owners of mobile home parks or subdivisions located within the FP Floodplain District.

H. Stream Alteration. No encroachment, alteration or improvement of any kind shall be made to any watercourse until all required permits have been obtained from the Pennsylvania Department of Environmental Resources, Bureau of Dam Safety, Obstructions and Storm Water Management and until the applicant for the permit has notified the Borough of Avis and all adjacent communities of the proposed encroachment and the applicant has sent copies of these notices to the Pennsylvania Department of Community Affairs, Bureau of Community Planning and to the Federal Insurance Administration.

I. Existing Structures. Existing structures which are not in compliance with these provisions may continue to remain, provided that any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with these provisions.

(Ord. 6/-/1980, §3; as amended by Ord. 167, -/-/-, §3; and by A.O.

§509. Development Which May Endanger Human Life.

1. The provisions of this Section shall be applicable, in addition to any other applicable provisions of this §509, or any other ordinance, code, or regulation.

2. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances, or which will be used for any activity requiring the maintenance of a supply (more than five hundred fifty (550) gallons or other comparable volume, or any amount of radioactive substances) or any of the following materials or substances on the premises, shall be subject to the provisions of this §509, in addition to all other applicable provisions:

- A. Acetone.
- B. Ammonia.
- C. Benzene.
- D. Calcium carbide.
- E. Carbon disulfide.
- F. Celluloid.
- G. Chlorine.
- H. Hydrochloric acid.
- I. Hydrocyanic acid.
- J. Magnesium.
- K. Nitric acid and oxides of nitrogen.
- L. Petroleum products (gasoline, fuel oil, etc.)
- M. Phosphorus.
- N. Potassium.
- O. Sodium.
- P. Sulphur and sulphur products.
- Q. Pesticides (including insecticides, fungicides and rodenticides).
- R. Radioactive substances, insofar as such substances.

3. Within any floodway area any structure of the kind described in Subsection (2) above shall be prohibited.

4. Where permitted within any flood-fringe area or general floodplain

(27, Part 5)

area, any structure of the kind described in Subsection (2) above shall be:

A. Elevated or designed and constructed to remain completely dry up to at least one and one-half (1½') feet above the one hundred (100)-year flood.

B. Designed to prevent pollution from the structure or activity during the course of a one hundred (100)-year flood.

5. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Floodproofing Regulations," (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

6. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements of this §509

(Ord. 6/-/1980; as added by Ord. 185, 11/3/1986)

§510. Activities Requiring Special Permits.

1. The provisions of this Section shall be applicable, in addition to any other applicable provisions of this Chapter, or any other ordinance, code, or regulation.

2. Identification of Activities Requiring a Special Permit. In accordance with the Pennsylvania Floodplain Management Act (Act 1978-166) and regulations adopted by the Department of Community Affairs as required by the Act, the following obstructions and activities are permitted only by special permit, if located partially or entirely within any identified floodplain area:

A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

- (1) Hospitals.
- (2) Nursing homes.
- (3) Jails or prisons.

B. The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.

3. Application Requirements. Applicants for special permits shall provide five (5) copies of the following items:

A. A written request including a completed building permit application form.

B. A small scale map showing the vicinity in which the proposed site is located.

C. A plan of the entire site, clearly and legibly drawn at a scale of one (1") inch being equal to one hundred (100') feet or less, showing the following:

- (1) North arrow, scale and date.

(2) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2') feet.

(3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(4) The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations.

(5) The location of any existing bodies of water or water-courses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development,

(6) The location of the floodplain boundary line, information and spot elevations concerning the one hundred (100)-year flood elevations, and information concerning the flow of water including direction and velocities.

(7) The location of all proposed buildings, structures, utilities and any other improvements.

(8) Any other information which the Borough considers necessary for adequate review of application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate.

(2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one-hundred (100)-year flood.

(4) Detailed information concerning any proposed floodproofing measures.

(5) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths.

(6) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.

(7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing

separate and single parcel, owned by the applicant or the client he represents.

(2) Certification from a registered professional engineer, architect, or landscape architect, that the proposed construction has been adequately designed to protect against damage from the one hundred (100)-year flood.

(3) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100)-year flood.

(4) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100)-year flood elevations and flows.

(5) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose bouyant materials or debris that may possibly exist or be located on the site below the one hundred (100)-year flood elevation and the effects such materials and debris may have on one hundred (100)-year flood elevations and flows.

(6) The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."

(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under §302 of Act 1978-166.

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the of course of a one hundred (100)-year flood.

4. Application Review Procedures. Upon receipt of an application for a special permit by the Borough, the following procedures shall apply in addition to all other applicable permit procedures which are already established:

A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and Borough engineer for review and comment.

B. If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respects the application is deficient.

C. If the Borough decides to disapprove an application, it shall notify the applicant in writing, of the reasons for the disapproval.

D. If the Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered mail, within five (5) working days after the date of approval.

E. Before issuing the special permit, the Borough shall allow the Department of Community Affairs thirty (30) days after receipt of the notification by the Department, to review the application and the decision made by the Borough.

F. If the Borough does not receive any communication from the Department of Community Affairs during the thirty (30)-day review period, it may issue a special permit to the applicant.

G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough and the applicant, in writing, of the reasons for the disapproval and the Borough shall not issue the special permit.

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

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

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

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

(b) The lowest floor elevation (including basement) will be at least one and one-half (1½') feet above the one hundred (100) year flood elevation.

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

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

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

(27, Part 5)

Community Affairs.

6. Except for a possible modification of the freeboard requirement involved, no variance shall be granted for any of the other requirements of this §510.

(Ord. 6/-/1980; as added by Ord. 185, 11/3/1986)

Part 6

Supplemental Regulations

§601. Off-Street Parking.1. General Regulations.

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

B. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage or parking space, with a street or alley. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended. The net parking space per vehicle shall not be less than nine (9') feet wide and eighteen (18') feet long. Outdoor parking space, and the approaches thereto, shall be paved, or covered with gravel or cinders. Such outdoor parking spaces shall not be used to satisfy any open space requirements of the lot on which it is located.

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

D. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Zoning Hearing Board provided a written agreement approved by the Borough Solicitor and accepted by the Borough Council, shall be filed with the application for a zoning permit.

E. Surfacing. Any off-street parking area shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, such as crushed stone or equivalent concrete or bituminous concrete surface, and shall be so arranged as to provide for orderly and safe parking and storage of vehicles.

F. Lighting. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.

G. There shall be adequate provision for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Where a parking or loading area does not abut on a public right-of-way or private alley or easement of access, there shall be provided an access drive per lane of traffic not less than twelve (12') feet in width per

lane of traffic; and not less than eighteen (18') feet in width in all cases where the access is to storage areas or loading and unloading spaces required hereunder. There shall not be more than two (2) means of access from a lot onto a public highway, and each shall be no more than thirty-five (35') feet wide. If only one (1) is provided, it shall be not more than fifty (50') feet wide. Driveways for residential uses shall not be constructed closer than (3') feet to any lot line.

2. Parking Facilities Required. Any structure or building hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

A. Residential. At least two (2) off-street parking spaces must be provided for each dwelling unit in single or two (2)-family dwellings. Dwellings with three (3) or more units must have a minimum of one and one-half (1½) spaces for each dwelling unit.

B. Commercial.

- (1) C-1 General Commercial.
- (2) Parking - one (1) space per one hundred (100) sq. ft. of sales area.
- (3) Off-street loading - one (1) bay for each establishment.

C. Neighborhood Groceries.

- (1) Parking - a minimum of four (4) spaces.
- (2) Off-street loading - one (1) bay for each establishment.

D. Standards.

(1) Gross leasable floor space is defined as the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

(2) For parking purposes in I-1 development four hundred (400) square feet shall be allotted for each car including moving lanes, access drives, drive-up windows, loading areas and landscaped areas to be incorporated in the site layout as part of the circulation and parking for the development. However, in no case shall individual stall dimensions be less than nine (9') feet by eighteen (18') feet.

(3) Off-street parking facilities for residential and general commercial uses including neighborhood groceries shall have stalls of no less than nine (9') feet by eighteen (18') feet and adequate provision for internal circulation, egress, and exit.

E. Parking Facilities Required for R-4 High Rise Residential.

(1) At least one-half ($\frac{1}{2}$) a parking space per apartment shall be required.

(2) In addition, one (1) space per employee shall be provided.

(3) Parking requirements for the R-4 District shall meet the specifications of subsection (1) of this §601.

[Ord. 170]

(Ord. 6/-/1980, §601; as amended by Ord. 170, 3/2/1981, §7)

§602. Signs.

1. Erection and Maintenance of Signs. Signs may be erected and maintained only when in compliance with the provisions of this Chapter and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices.

2. Signs in Residential Districts. The following types of signs and no other shall be permitted in the residential districts. All signs shall be subject to the provisions of subsection (4) of this §602.

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

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

(2) Not more than two (2) signs are placed upon any property in single and separate ownership unless such property fronts upon more than one (1) street, in which event two (2) such signs may be erected on each frontage.

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

(1) The size of any such sign is not in excess of six (6) square feet, and not in excess of four (4') feet in length.

(2) Not more than one (1) such sign is erected on each five hundred (500') feet of street frontage.

C. Signs bearing the word "sold" or the word "rented" with the name of the persons effecting the sale or rental may be erected and maintained provided the conditions in subsection (2)(A) of this §602 are complied with.

D. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing the work on the premises on which such signs are erected, provided:

(1) The size thereof is not in excess of twelve (12) square feet.

(2) Such signs are removed promptly upon completion of the work.

E. Trespassing signs, or signs indicating the private nature of a driveway or property provided that the size of any sign shall not exceed two (2) square feet.

F. Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature may be erected and maintained provided:

(1) The size of any such sign is not in excess of forty (40) sq. ft.

(2) Not more than one (1) sign is placed on a property in single and separate ownership, unless such property fronts upon more than one (1) street, in which event one (1) such sign may be erected on each frontage.

G. Signs advertising home occupations shall not be larger than twelve (12") inches by twenty-four (24") inches, and may include the name, occupation, and logo type or trade mark, if appropriate, of the practitioner. Such signs shall not be illuminated, with the exception of medical offices during the hours such offices are open for the care of patients.

H. Signs advertising the sale of farm products when permitted by this Chapter, provided:

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

(2) Not more than two (2) signs are used.

(3) The signs shall be displayed only when such products are on sale.

I. Official traffic and street name signs when erected by, or with the written approval of, the Borough Council.

J. Signs necessary for the identification, operation or protection of public utility facilities and municipal uses; however, all general regulations, subsection (4) of this §602, shall apply to such signs.

3. Business Identification Signs. Signs bearing the name of the occupant and products manufactured, processed, sold or displayed may be erected and maintained on the premises in commercial and industrial districts. The size of business identification signs shall not exceed eighty (80) square feet of surface area and not more than forty (40) square feet on each side; however; all general regulations, subsection (4) of this §602, shall apply to such signs.

4. General Regulations for All Signs. The following regulations shall apply to all permitted sign uses:

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

B. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

C. No sign, other than an official traffic sign, shall be erected within the right-of-way lines of any street, unless authorized by the Borough Council for a special purpose.

D. No sign shall project over a public sidewalk area more than eighteen (18") inches.

E. Overhead signs shall be at least nine (9') feet high, measured from the ground or pavement to the bottom-most part of the sign.

F. No sign shall exceed twenty (20') feet in height.

G. No permit shall be required for the erection, alteration, or maintenance of any sign as provided for in subsection (2) of this §602.

H. A permit shall be required for the erection or alteration of business identification signs.

I. Advertising painted upon, or displayed upon, a barn or other building or structure shall be regarded as an advertising signboard and the regulations pertaining thereto shall apply.

J. Each sign shall be removed when the circumstances leading to its erection no longer apply. At no time shall there be more than one (1) sign on each street frontage.

K. In all districts only those signs referring directly to materials or products made, sold, or displayed on the premises shall be permitted, except as otherwise noted. Such signs shall comply with all other requirements, as stated herein, for the district in which they are erected.

L. Temporary signs advertising a sale or event sponsored by a civic or religious group, provided that such signs shall not be displayed in excess of one (1) month and shall be removed promptly after the event.

M. Business signs may be erected and maintained provided that:

(1) The area of one (1) side of any free-standing sign shall not exceed forty (40) square feet.

(2) Not more than one (1) such sign shall be erected on each street frontage. In addition, the area of any sign attached to a building shall not exceed ten (10%) percent of the wall area on which the sign is placed and the sign placed on any building or lot shall relate to the business on the premises.

5. Prohibited Uses and Signs. The following are not permitted:

A. No animated, sequential, flashing, or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights, signals or other controls, or abrogate public safety shall not be permitted in any district.

B. No light shall be higher than five (5') feet above the maximum building height on which the light is erected.

C. Billboards or advertising signs.

6. General Regulations for Lighting.

A. All lighting shall be shielded and shall be designed so that it does not reflect or beam onto adjacent properties. No lighting shall be permitted which is of so great an intensity as to constitute a nuisance to neighboring properties.

B. No light shall be higher than five (5') ft. above the maximum building height on which the light is erected.

(Ord. 6/-/1980, §602)

§603. Conditional Uses. Uses specified as conditional within the district regulations of this Chapter shall be permitted only after review by the Planning Commission and approval by the Borough Council based on the determination that the conditional use is appropriate to the specific location for which it is proposed, consistent with the community development plan, and in keeping with the purposes and intent of this Chapter. The following criteria shall be used as a guide in evaluating a proposed conditional use.

A. The presence of adjoining similar uses.

B. An adjoining zone district in which the use is permitted.

C. The need for the use in the area proposed as established by the comprehensive plan or other valid service.

D. Sufficient area to effectively screen the conditional use from adjacent different uses.

E. The use will not detract from the permitted uses of the district.

F. Conditions were such that there were several potential sites for the particular use but not sufficient need to establish a permitting zone district or to leave the district open to the indiscriminate placement of such use.

G. Sufficient safeguards such as parking, traffic control, screening, and setbacks can be included to remove any potential adverse influences the use may have on adjoining uses.

(Ord. 6/-/1980, §603)

§604. Special Exception Uses. Uses specified as special exception within the district regulations of this Chapter shall be permitted only after approval by the Zoning Hearing Board based on the determination that the special exception use is appropriate to be the specific location for which it is proposed, consistent with the community development plan, and in keeping with the purpose and intent of this Chapter. Criteria to be used as a guide in evaluating a proposed special exception shall be the same as described in §603 of this Part. (Ord. 6/-/1980, §604)

§605. Swimming Pools.

1. Private Swimming Pools. Private swimming pools, in districts where permitted, shall comply with the following conditions and requirements.

(6) months of the effective date of this Chapter. The Zoning Officer shall identify, register, and certify the registration of all nonconforming uses and nonconforming structures. A "Certification of Nonconformance" shall be issued by the Zoning Officer for all structures and uses which are in conflict with the use designated for the zone in which they are situated, when requested by the owner of such structure or use. Appeals may be taken to the Zoning Hearing Board.

2. Continuation.

A. Any lawful use of a structure or land existing at the effective date of this Chapter may be continued although such use does not conform to the provisions of this Chapter.

B. Continuation of use of a structure or land shall not be permitted if the use was unlawfully established as a nonconforming use under any previous Zoning Ordinance for the Borough of Avis.

C. Extensions.

(1) A nonconforming use of a building may be extended throughout the building if no structural alterations are made therein; provided that such extension may include structural alterations when authorized as a special exception when the Zoning Hearing Board finds that such structural alterations will not adversely affect adjoining property.

(2) A nonconforming use or a nonconforming structure may be extended on the lot after the prohibitory provision took effect, but not in violation of the area and yard requirements of the district in which such structure or premises are located, or in violation of the use regulations which would apply to the nonconforming use or structure if the same were located in an area permitting the use. The more restrictive yard requirement shall apply.

(3) In an I-1 District, a nonconforming use may be on a lot occupied by such use and held in single and/or separate ownership at the effective date of this Chapter.

(4) In all but I-1 Districts, a nonconforming use may be extended upon a lot occupied by such use and held in single and/or separate ownership at the effective date of this Chapter when authorized as a special exception; provided that such extension does not replace a conforming use, does not violate the yard and coverage requirements of the zone in which the nonconforming use exists, and, regardless of changes in lot coverage, a proposed expansion shall not exceed fifty percent (50%).

4. Nonconforming Lot of Record.

A. In any district, in which single-family houses are permitted, a single-family house and customary accessory building may be erected on any lot of record in existence at the effective date of this Chapter regardless of the date of ownership.

B. This provision shall apply even though such lot fails to meet requirements of side, front or rear yards or the minimum lot area requirements applicable in the district in which the lot is located.

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

B. It may be located only in the rear yard or side yard of the property on which it is an accessory use.

C. It may not be located, including any walks, or paved areas or accessory structures adjacent thereto, closer than twenty (20') feet to any property line of the property on which located.

D. The swimming pool area or the entire property on which it is located shall be so walled or fenced or otherwise protected as to prevent uncontrolled access by children from the street or from adjacent properties. Said barrier shall not be less than four (4') feet in height and maintained in good condition.

2. Public Swimming Pools. Public swimming pools in districts where permitted shall comply with the conditions set forth in:

A. "Public Bathing Law", 1931, June 23, P.L. 899 and amendments thereto, 35 P.S. §672.

B. Chapter 4, Article 442, Rules & Regulations, Commonwealth of Pennsylvania Department of Health, adopted October 30, 1959, and amendments thereto.

(Ord. 6/-/1980, §605)

§606. Projections into Required Yard.

1. Cornices, eaves, belt courses, sills or other similar architectural features, exterior stairways, fire escapes or other required means of egress, rain leads or chimneys may extend or project into a required yard not more than two (2') feet.

2. No patio or paved terrace shall be located within five (5') feet of any property line or between the building setback line and the right-of-way line.

(Ord. 6/-/1980, §606)

§607. Front Yard Exception. In any use district when fifty (50) percent or more of the block frontage containing a lot upon which a proposed building is to be located is already improved with buildings having front yards of less depth than that required for that particular use district, the average of such front yards shall establish the minimum front yard depth for the remainder of the frontage provided, however, that in no case shall the setback be less than ten (10') feet from the curb line.
(Ord. 6/-/1980, §607)

§608. Intersection Clearance. On a corner lot no fence, structure, or planting higher than two (2) feet above the curb or street line shall be permitted within a triangle described by fifteen (15') feet lines extended along the right-of-way lines from the intersection. (Ord. 6/-/1980, §608)

§609. Nonconforming Use.

1. Registration. Nonconforming uses shall be registered within six

In no case shall the percentage of lot coverage exceed sixty (60%) percent.

5. Repairs.

A. Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations not extending the nonconforming use, except as otherwise provided herein.

B. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.

C. Any nonconforming building or structure damaged, destroyed by fire, explosion, act of God or any other cause not within the control of the owner, not greater than eighty (80%) percent of its existing floor area or volume, may be restored, reconstructed or used as before, provided that the volume of such use, building or structure shall not exceed the volume which existed prior to such damage, and that it may be completed within one (1) year of such events.

6. Changes. A nonconforming use of a building or land may be changed to a use of an equal or more restricted classification when authorized as a special exception by the Zoning Hearing Board.

7. Abandonment.

A. If a non-conforming use of a building or land ceases for a period of one (1) year or more, subsequent use of such building or land shall be in conformity with the provisions of this Chapter.

B. Abandonment regulations shall not apply to the I-1 Industrial District.

8. Building Permits. In a case where a building permit has been issued prior to the effective date of this Chapter, and the proposed use of land and/or building does not conform with this Chapter, said proposed use shall be regulated by the nonconforming use requirements of this Chapter and shall be considered the same as a lawful nonconforming use if construction other than excavation and foundation is undertaken within a period of thirty (30) calendar days after the issuance date of said building permit and construction thereof is completed within twelve (12) calendar months from the issuance date of the building permit.

9. Nonconforming Use of Open Land All nonconforming signs, junk storage areas, storage areas, and similar nonconforming use of open land, when discontinued for a period of ninety (90) days, or damaged to an extent of sixty (60%) percent or more of replacement costs, shall not be continued, repaired, or reconstructed, provided that the provisions of this Section shall not be applicable in an I-1 Industrial District.

(Ord. 6/-/1980, §609)

§610. Junkyards, Including Automobile Wreckings. No new junkyards shall be permitted within the Borough limits after the date of passage of this Chapter. Such uses existing at said time date of adoption may

(27, Part 6)

continue their operations as nonconforming uses, but shall terminate within one year unless they comply with the following provisions:

A. A living fence shall be established within one (1) year of the passage of this Chapter to completely enclose the junkyard.

B. A living fence may be established no closer than ten (10') feet to any property line.

C. Plant material to be used for the living fence must attain an average height of six (6') feet within eight (8) years of the passage of this Chapter. Plant material should preferably be evergreen trees or shrubs, including, but not limited to Scotch Pine, Red Pine, Austrian Pine, Norway Spruce, or Arborvitae material. Other material recommended for use include Multiflora Rose, or Rhamnus Frangula Columnaris (Tallhedge). The suitability of the plant material shall be determined by the Planning Commission.

D. If evergreens are to be used, they shall be planted in double rows about six (6') feet apart, with offset spacing.

E. Tallhedge, or Multiflora Rose, when used, shall be planted in single rows on two (2) foot centers.

F. Existing junkyards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor cause the breeding or harboring of rats, flies or other vermin.

G. If an existing nonconforming junkyard undergoes a transfer of ownership or lease in any manner to another person, the nonconforming use shall cease within three (3) months from the date of transfer of ownership or leasehold. [Ord. 170]

(Ord. 6/-/1980, §610; as amended by Ord. 170, 3/2/1981, §8)

§611. Lot Improvements.

1. Fencing.

A. All fences shall not exceed eight (8) feet in height except as provided herein or by a variance from the Zoning Hearing Board.

B. All fences shall be maintained in good repair.

C. In no case shall fences prevent safe access from a dwelling in case of disaster.

D. All fences can be set on the property line only if the property has been surveyed.

2. Sidewalks.

A. All sidewalks within the right-of-way shall be of concrete construction and be four (4') feet in width.

B. The exact placement of the sidewalk shall be set back from the roadway as specified by the Borough Council.

C. The precise construction details shall be governed by resolution of Borough Council.

3. Shrubs & Trees.

A. Shrubs shall be planted no closer than two (2') feet to side property lines. Shrubs may be planted on property line at front and rear of lots.

B. Trees shall be planted no closer than seven (7') feet from any property line.

4. No resident shall construct obstructions such as steps, fences, or other permanent features, except sidewalks, within the right-of-way of a Borough or State street or highway.

5. All lot improvements shall be in conformance with the Pennsylvania Clear Streams Act and the Pennsylvania Stormwater Management Act.

(Ord. 6/-/1980, as added by Ord. 170, 3/2/1981, §9)

§612. Home Occupations.

1. All home occupations shall be clearly incidental and secondary to the use of the principal dwelling as used for a residence.

2. No more than twenty-five (25%) percent of the total building floor area can be used as a home occupation.

3. The external appearance of the structure must be constructed and maintained as a residential dwelling.

4. No goods shall be publicly displayed.

5. All signs shall conform to §602(2) of this Part.

(Ord. 6/-/1980; as added by Ord. 170, 3/2/1981, §10)

~~§613. Outdoor Storage of Vehicles. No property shall store outside of a garage or other structure any vehicle that is unlicensed and/or without a valid motor vehicle inspection sticker displayed without first obtaining a permit from the Borough Zoning Officer. Said permit shall be good for a period of six (6) months. (Ord. 6/-/1980; as added by Ord. 170, 3/2/1981, §11)~~

Part 7

Administration and Enforcement

~~§701. The Zoning Officer~~

~~1. The Zoning Officer. The provisions of this Chapter shall be enforced by an agent to be appointed by the Borough Council who shall be known as the Zoning Officer.~~

§701. Appointment and Powers of Zoning Officer.

1. For the administration of this Chapter, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed.

2. The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.

3. The Zoning Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter.

4. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.

5. The Zoning Officer may designate an employee of the Borough as his Deputy who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.

6. Compensation. The compensation for the Zoning Officer and the Deputy Zoning Officer shall be determined by the Borough Council.

7. Duties and Responsibilities. The Zoning Officer shall have all the duties and powers conferred by this Chapter in addition to those reasonably implied for that purpose. He shall not issue a permit in connection with any contemplated erection, construction, alteration, repair, extension, replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this Chapter, with all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania. He shall:

A. Receive applications, process the same, and issue permits for the erection, construction alterations, repair extension, replacement and/or use of any building, structure, sign, and/or land in the Borough.

B. At his discretion, examine or cause to be examined, all buildings, structures, signs, and/or land or portions thereof, for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, and/or use before issuing any permit. Thereafter, he may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign, and/or change, a final inspection shall be made and all violations of the approved plans or permit

shall be noted and the holder of the permit shall be notified of the discrepancies.

C. Keep a record of all applications received, all permits and certificates issued, reports of inspections, notices, and orders issued, and the complete recording of all pertinent factors involved. He shall file and safely keep copies of all plans permitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and other officials of the Borough Council. At least annually, he shall submit to the Borough Council a written statement of all permits and certificates of use and occupancy issued, and violations and stop work orders recommended or promulgated.

(Ord. 6-/1980, §701; as amended by A.O.

§702. Permits.

1. Requirements.

A. It shall be unlawful to commence the excavation for or the construction or erection of any structure, including an accessory building, or to commence the moving or alteration of any existing structure, including an accessory building, until the Zoning Officer has issued a building permit for such work; provided, however, no permit shall be required for construction or alteration when the fair market value of such construction or alteration is less than one thousand (\$1,000.00) dollars and such construction or alteration would not change the use classification or otherwise violate any other provision of this Part. No permit shall be required for repair to or maintenance of any building, structure, or grounds provided such repairs do not change the use classification or otherwise violate any other provision of this Part. [Ord. 179]

B. It also shall be unlawful to undertake any development within the FP Floodplain District until the Zoning Officer has issued a permit for such development. No permit shall be issued until all other permits required by State and Federal law have been secured by the applicant and until the applicant furnishes evidence of such approved permits. [Ord. 167]

2. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by required fee as hereinafter prescribed. Application for a permit shall be made by the owner or lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization of the owner or the qualified person making an application, that the proposed work is authorized by this owner. The names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

3. Description of Work.

A. The application shall contain a general description of the proposed work, use, and occupancy of all parts of the building, structure, or sign and such additional information as may be required

8. Posting of Permit. A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.

9. Temporary Permit. A temporary permit may be authorized by the Zoning Hearing Board for a nonconforming structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permits shall be issued for a specified period of time not to exceed one (1) year, and may be renewed annually for an aggregate period not exceeding three (3) years.

10. Payment of Fees. No permit to begin work for the erection, construction, alteration, repair, extension, replacement, and/or use of any building, structure, sign and/or land for construction or use purpose shall be issued until the fees prescribed by the Borough Council pursuant to resolution shall be paid to the Zoning Officer. The payment of fees under this Section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Chapter, or any other ordinance or law.

11. Compliance with Ordinance. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this Chapter, except as stipulated by the Zoning Hearing Board.

12. Compliance with Permit and Plot Plan: All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.

(Ord. 6/-/1980, \$702; as amended by Ord. 167, -/-/-, \$\$4,5; and by Ord. 179, 8/6/1984, \$1)

§703. Certificate of Use and Occupancy.

1. It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof for which a permit is required herein until a certificate of use and occupancy for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer. The application for issuance of a certificate of use and occupancy shall be made at the same time an application for a permit is filed with the Zoning Officer as required herein.

2. The application for a certificate of use and occupancy shall be in such form as the Zoning Officer may prescribe and may be made on the same application as is required for a permit.

3. The application shall contain the intended use and/or occupancy of any structure, building, sign, and/or land or portion thereof for which a permit is required herein.

4. The Zoning Officer shall inspect any structure, building, or sign within ten (10) days upon notification that the proposed work that was listed under the permit has been completed and, if satisfied that the work is in conformity and compliance with the work listed in the issued permit

by the Zoning Officer. The application for the permit shall be accompanied by a plot plan of the proposed building, structure, or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space if required, the location of new and existing construction, and the distances of the same from the existing lot lines.

B. If any proposed construction or development is located within, or partially within, the FP Floodplain District then the application also shall contain the following specific information:

(1) A plan which shows the one hundred (100)-year flood elevation and boundary, the location of the proposed development and the location of existing development. Such plan also shall show existing and proposed contours, the proposed lowest floor (including basement) elevation, and, if applicable, the elevation of the level of structural floodproofing.

(2) For non-residential structures which are to be floodproofed in accordance with the standards of this Chapter, a document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one-hundred (100)-year flood elevations, pressures, velocities, impact and uplift forces and other hydrostatic hydrodynamic and buoyancy factors associated with the one hundred (100)-year flood.

[Ord. 167]

4. Time Limit for Application. An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that reasonable extensions of time for additional periods not exceeding ninety (90) days each may be granted at the discretion of the Zoning Officer.

5. Issuance of Permits. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefor. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this Chapter and all laws and ordinances applicable thereto, and that the certificate of use and occupancy as required herein has been applied for, he shall issue a permit therefore as soon as practical.

6. Expiration of Permit. The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional one (1) year.

7. Revocation of Permits. The Zoning Officer may revoke a permit or approval issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this Chapter.

and all other pertinent laws, he shall issue a certificate of use and occupancy for the intended use listed in the original application.

5. The certificate of use and occupancy or a true copy thereof shall be kept available for official inspection at all times.

6. Upon request of a holder of a permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign and/or land, or portion thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. The Zoning Officer shall also issue a temporary certificate of use and occupancy for such temporary uses as tents, use of land for religious or other public or semi-public purposes and similar temporary use and/or occupancy. Such temporary certificates shall be for the period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months.

(Ord. 6/-/1980, §703)

§704. -- Enforcement, Penalty, and Remedy.

1. ~~The construction, erection, replacement, alteration, repair, extension, replacement, and/or use of any structure, building, sign, and/or land or the change of use, area of use, percentage of use or extension or displacement of the use of any structure, building, sign, and/or land without first obtaining a permit or the use of any building, structure, sign, and/or land without receipt of a certificate of use and occupancy or the failure to comply with any other provisions of this Chapter, are hereby declared to be violations of this Zoning Chapter.~~

2. ~~The Zoning Officer shall serve a written notice of violation or order on the person, firm or corporation, or the owner, lessee or agent of the land upon which the violation has occurred who has committed the violation, and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. However, in no case shall the person so served abandon the premises in such a condition as to create a hazard or menace to the public safety, health, morals, or welfare. Said premises shall be placed in such condition as the Zoning Officer shall direct.~~

3. ~~If the notice of violation is not complied with within a period of five (5) days, the Zoning Officer shall institute in the name of the Borough Council, any appropriate action or proceeding at law or in equity to prevent, restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the structure, building, sign, and/or land in violation of the provisions of this Chapter or of the order or direction made pursuant thereto.~~

4. ~~For any and every violation of the provisions of this Chapter the owner, lessee, general agent, contractor of a building or land where such violation has been committed or shall exist, and the owner, lessee, general agent, contractor or any person, including the officers of a corporation, who commits, takes part in or assists in any such violation or who maintains any such building or land in which any such violation shall exist, shall upon conviction before a District Justice of the County having jurisdiction, be fined not more than five hundred (\$500.00) dollars and~~

~~each day's continuance of the offense shall constitute a new offense. All fines and penalties imposed by this Ordinance shall be recoverable by summary proceedings before a District Justice of the County having jurisdiction, and all fines, and penalties so recovered shall be paid to the Borough Treasurer for the general use of the Borough.~~

~~5. The imposition of the penalties herein prescribed shall not preclude the Borough Solicitor from instituting appropriate action to prevent unlawful erection or construction or to restrain, correct or abate a violation or to prevent illegal use or occupancy of any structure, building, sign, land, and/or premises or to stop an illegal act, conduct, business, use or occupancy of a structure, building, sign, and/or land in or about any premises.~~

~~(Ord. 6-/1980, §704)~~

§704. Enforcement Notice.

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

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

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

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

B. The location of the property in violation.

C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.

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

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

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

(Ord. 6-/1980, §704; as amended by A.O.

§705. Enforcement Remedies.

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500.00) dollars 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. If the defendant neither pays nor timely appeals the

judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

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

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

4. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 6-/1980, §704; as amended by A.O.)

§706.--Zoning-Hearing-Board.

~~1.--Creation-and-Membership.--There-is-hereby-created,-to-be-appointed by-the-Borough-Council,-a-Zoning-Hearing-Board,-consisting-of-three-(3) members.--Of-the-initial-appointees-to-this-Board,one-(1)shall-be-designated-until-the-first-day-of-January-following-the-date-of-this-Chapter, one-(1)-until-the-first-day-of-the-second-January-thereafter,-and-one-(1) until-the-first-day-of-the-January-thereafter.--Their-successors-in-office shall-be-appointed-on-the-expiration-of-their-respective-terms-to-serve three-(3)-years.--The-members-of-the-Board-shall-be-removable-for-cause,-by the-Borough-Council,-upon-written-charges-and-after-public-hearing,-if-the member-shall-request-it-in-writing.--Vacancies-shall-be-filled-for-the unexpired-term-of-any-member-whose-term-becomes-vacant.~~

~~2.--General-Procedures.--The-Zoning-Hearing-Board-shall-be-governed-by the-provisions-of-the-"Pennsylvania-Municipalities-Planning-Code",-Act-247, 1968,-as-may-be-amended-or-revised,-and-such-other-Commonwealth-of-Pennsylvania-laws-as-may-be-applicable.--As-used-in-this-Chapter,-unless-the context-clearly-indicates-otherwise,-the-term-"Board"-shall-refer-to-such Zoning-Hearing-Board,-and-"Act-247"-shall-refer-to-the-"Pennsylvania Municipalities-Planning-Code"-of-1968.~~

~~3.--Officers.--The-Board-shall-elect-from-its-own-membership-its officers,-who-shall-serve-annual-terms-as-such-and-may-succeed-themselves.~~

~~4.--Meetings.--Meetings-shall-be-held-at-the-call-of-the-Board-chairman-and-at-such-other-times-as-the-Board-may-determine.~~

~~5.--Hearings.--Hearings-will-be-held-and-records-will-be-kept-in accordance-with-Article-IX,-Act-247,-as-amended.~~

~~6.--Powers.--The-Zoning-Hearing-Board-shall-have-the-powers-permitted by-Article-IX,-Act-247,-as-amended.~~

~~7.--In-no-instance-shall-the-variance-granted-by-the-Zoning-Hearing Board-exceed-twenty-(20%)--percent-of-required-setback.--[Ord.-170]~~

~~8. Appeals to the Zoning Hearing Board.~~

~~A. Appeals to the Board may be made by any person or by any Borough official or agency aggrieved or affected by any decision of the Zoning Officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Board and the enabling legislation by filing with the Zoning Officer and with the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall state:~~

~~(1) The name and address of the appellant.~~

~~(2) The name and address of the owner of the real estate to be affected by such proposed exception.~~

~~(3) A brief description and location of the real estate to be affected by such proposed change.~~

~~(4) A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.~~

~~(5) A statement of the section of this Chapter under which the variance or exception requested, may be allowed, and reasons why it should be granted.~~

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

~~6. Upon receiving an appeal, the Board shall fix a reasonable time and place for a public hearing thereon and shall give the notice thereof:~~

~~(1) By advertising at least one (1) week before the hearing, at least one (1) time in a newspaper of general circulation within the Borough.~~

~~(2) By mailing due notice of at least six (6) days prior to the date of the hearing to the parties in interest.~~

~~(3) By mailing due notice thereof to the Borough Planning Commission, the County Planning Commission, the County Planning Agency, the Zoning Officer, and such other persons who make timely request for the notice.~~

~~D. Public Hearing. The Board shall conduct a public hearing on such appeal at which hearing any party may appear in person, or by agent or attorney, and all of said parties so affected shall be given an opportunity to be heard. All proceedings shall be conducted in accordance with Article IX of Act 247. Decisions or findings of the Board shall be rendered in accordance with Article IX of Act 247.~~

~~E. Variances from the FP Floodplain District requirements shall be considered in strict compliance with the following provisions:~~

~~(1)---If granted, a variance shall involve only the lease modification to afford relief.~~

~~(2)---If granted, the variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with any other applicable local or State ordinances and regulations.~~

~~(3)---If granted, the Zoning Hearing Board shall notify the applicant in writing that the granting of the variance (1) may result in higher premiums for flood insurance and (2) increases risk to life and property.~~

~~(4)---A complete record of all variance requests and related actions shall be maintained. A report of all variances requested and/or granted shall be included in the annual report to the Federal Insurance Administrator.~~

{Ord. 167}

~~9.---Appeals from the Board Rulings.---Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer may appeal to the County Court of Common Pleas under the procedure set forth in Article IX of Act 247, as amended.~~

10. Effect of Board's Decision:

~~A.---If the variance is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within three (3) months after the date when the variance is finally granted or the issuance of a permit is finally approved or the other action by the appellant is authorized; and the building or alteration, as the case may be, shall be completed within twelve (12) months of said date. For good cause the Board may, upon application in writing stating the reasons therefore, extend either the three (3) months or twelve months (12) period. Should the appellant or applicant fail to obtain the necessary permits within said three (3) months period or having obtained the permit should he fail to commence work thereunder within such three (3) months period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances and application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board.~~

~~B.---Should the appellant or applicant commence construction or alteration within said three (3) months' period, but should he fail to complete such construction or alteration within said twelve (12) month period, the Board may upon ten (10) days notice in writing, rescind or revoke the granted variance, or the issuance of the permit or permits, or the other action authorized to the appellant or applicant, if the Board finds that a good cause appears for the failure to complete within such twelve (12) month period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified. The Borough Council may from time to time, after public notice and hearing as hereinafter~~

prescribed, amend, supplement, change, or repeal this Ordinance including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Borough Planning Commission, the Borough Council or by a petition to the Borough Council. Such amendment, supplement, change, or repeal shall be submitted to the Borough Planning Commission for its recommendations and shall be specifically found by the Borough Council to be in accordance with the spirit and intent of the formally adopted portions of the Comprehensive Plan before final action is taken.

(1) Amendments initiated by the Borough Planning Commission. When an amendment, supplement, change or repeal is initiated by the Borough Planning Commission, the proposal shall be presented to the Borough Council which shall then proceed in the same manner as with a petition to the Borough Council which has already been reviewed by the Planning Commission.

(2) Amendment initiated by the Borough Council. When an amendment, supplement, change or repeal is initiated by the Borough Council, it shall submit the proposal to the Borough Planning Commission for review and recommendations.

(3) Procedure for Petition. The petition for an amendment, supplement, change or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition.

(4) Referral to Borough Planning Commission. After receipt of the petition by the Borough Council, said petition shall be presented to the Borough Planning Commission for review and recommendations at least forty-five (45) days prior to the public hearing. A report of said review, together with any recommendations, shall be given to the Borough Council in writing within forty-five (45) days from the date of said referral. If the Borough Planning Commission shall fail to file such a report within the time and manner specified, it shall be conclusively presumed that the Planning Commission has approved the proposed amendment, supplement, change or repeal.

(5) Public Hearing. The Borough Council shall fix a time and place for a public hearing on the proposed amendment and shall publish notice of the hearing in the manner prescribed by Act-247.

(6) Action by the Borough Council. At the time and place specified, the Borough Council shall conduct a hearing on said petition to amend, supplement, change or repeal the Zoning Ordinance, or Zoning Map, and shall thereafter within a period of thirty (30) days either reject the proposed change or adopt an ordinance implementing the proposed change.

(7) Authentication of Official Zoning Map. Whenever there has been a change in the boundary of a Zoning District or a reclassification of the Zoning District adopted in accordance

~~with the above, the change on the official map shall be made, and shall be duly certified by the Borough Secretary and shall thereafter be refiled as part of the permanent records of the Borough.~~

~~(Ord. 6/-/1980, \$706; as amended by Ord. 167, -/-/, \$6; and by Ord. 170, 3/2/1981, \$15)~~

\$706. Zoning Hearing Board.

1. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10901 et seq.

2. The membership of the Board shall consist of three (3) residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough .

3. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

4. 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 as provided in this Chapter.

5. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.

6. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

~~(Ord. 6/-/1980, \$706; as amended by Ord. 167, -/-/----, \$6; by Ord. 170, 3/21/1981, \$15; and by A.O.~~

\$707. Hearings. The Zoning Hearing Board shall conduct hearings and made decisions in accordance with the following requirements:

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer 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 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 (1) week prior to the hearing.

2. 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.

3. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, however, the appellant or the applicant, as the case may be, in addition to the Borough, 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.

4. The parties to the hearing shall be the Borough, 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.

5. 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.

6. 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.

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

8. 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.

9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

10. 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 therefor. Conclusions based on any provisions of this Chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 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 the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the 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 (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

11. 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.

12. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

(Ord. 6/-/1980, \$706; as amended by Ord. 167, -/-/----, \$6; by Ord. 170, 3/21/1981, \$15; and by A.O.

§708. Jurisdiction.

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

A. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§10609.1, 10916.1.

B. Challenges to the validity of a land use 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 Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

D. Appeals from a determination by the Borough engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

E. Applications for variances from the terms of this Chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the MPC, 53 P.S. §10910.2.

F. Applications for special exceptions under this Chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §912.1 of the MPC, 53 P.S. §10912.1.

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.

H. Appeals from the Zoning Officer's determination under §916.2 of the MPC, 53 P.S. §10916.2.

I. Appeals from the determination of the Zoning Officer or Borough engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§10501 et seq., 10701 et seq.

2. The Borough Council, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of §702 of the MPC, 53 P.S. §10702.

B. All applications pursuant to §508 of the MPC, 53 P.S. §10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. §10501 et seq.

C. Applications for conditional use under the express provisions of this Chapter.

D. Applications for curative amendment to this Chapter or pursuant to §§ 609.1 and 916.1(a) of the MPC, 53 P.S. §§10609.1, 10916.1(a).

E. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in §609 of the MPC, 53 P.S. §10609.

F. Appeals from the determination of the Zoning Officer or the Borough engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§10501 et seq., 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough engineer shall be to the Zoning Hearing Board pursuant to this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

(Ord. 6/-/1980, §706; as amended by Ord. 167, -/-/----, §6; by Ord. 170, 3/21/1981, §15; and by A.O.

§709. Variances.

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

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

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

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

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

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

2. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the

(27, Part 7)

purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq.

(Ord. 6/-/1980, §706; as amended by Ord. 167, -/-/----, §6; by Ord. 170, 3/2/1981, §15; and by A.O.

§710. Special Exceptions. Where the Borough Council, in this Chapter, has stated special exceptions to be granted or denied by the Zoning Hearing 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 this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. (Ord. 6/-/1980; as added by A.O.

§711. Conditional Uses. Where the Borough Council, in this Chapter, has stated conditional uses to be granted or denied by the Borough Council pursuant to express standards and criteria, the Borough Council shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. (Ord. 6/-/1980; as added by A.O.

§712. Parties Appellant Before the Board. Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Borough engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter; from the determination of the Zoning Officer or Borough engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner. (Ord. 6/-/1980; §706; as amended by Ord. 167, -/-/----, §6; by Ord. 170, 3/2/1981, §15; and by A.O.

§713. Time Limitations.

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

(Ord. 6/-/1980; as added by A.O.

§714. Stay of Proceedings.

1. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

(27, Part 7)

4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

(Ord. 6/-/1980; as added by A.O.

Part 8
Zoning Map Amendments

<u>Ord./Res.</u>	<u>Date</u>	<u>Subject</u>
170	3/2/1984	Amending the Zoning Map by creating an R-4 High Rise Residential District.
173-A	-/-/1983	Amending the Zoning Map by changing the classification of a certain tract of land from R-1 Low Density Residential to R-3 High Density Residential.
177	1/23/1984	Amending the Zoning Map by changing the classification of a certain tract of land from R-1 Low Density Residential to R-3 High Density Residential.

ORDINANCE NO. 275

AN ORDINANCE AMENDING THE AVIS BOROUGH ZONING ORDINANCE

The Council for the Borough of Avis, Clinton County, Pennsylvania, hereby ordains as follows:

SECTION 1: Chapter 27, Section 602(5)A, is amended to read as follows:

A. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights, signals or other controls, or abrogate public safety shall not be permitted in any district.

SECTION 2: All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 3. If any sentence, clause, section or part of this Ordinance for any reason is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Council of the Borough of Avis that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 4: This Amendment shall become effective on the earliest date provided by Borough Law.

ENACTED AND ORDAINED by the Council of the Borough of Avis, Clinton County,
Pennsylvania, this 7th day of May, 2012, in lawful session, duly assembled.

ATTEST:

BOROUGH OF AVIS

Samuel G. Johns
Secretary

By: *Brian S. Stover*
President

APPROVED this 7th day of May, 2012

[Signature]
Mayor

