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Part 1

General Provisions

§101. Short Title. This Chapter shall be known and may be cited as the "Beech Creek Borough Zoning Ordinance of 1980." (Ord. 8/4/1980, §102)

§102. Purpose. This Chapter has been prepared in accordance with the Beech Creek Master Plan as updated in 1979, 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:

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

2. 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, flood, panic or other dangers.

(Ord. 8/4/1980, §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 and unless otherwise clearly indicated, the term "Board" shall refer to such Zoning Hearing Board. (Ord. 8/4/1980, §104)

§104. 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, morals, 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 provisions of this Chapter, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants, buildings restrictions, or other agreements between parties; provided, however, that where this Chapter imposes a greater restriction upon the use of the building, or requires a larger open space than is imposed or required by such ordinance, rule, regulation or permit, or by easements, covenants, building restrictions or agreements, the provisions of this Chapter shall control. (Ord. 8/4/1980, §105)

§105. 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.

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. 8/4/1980, §106)

Part 2

Community Development Objectives

§201. Community Development Objectives. This Chapter has been adopted in part to assist in carrying out the goals and objectives of the Master Plan. The community development objectives supplement the proposed land use patterns and include, but are not limited to, the following:

A. To provide for the preservation, protection, management and enhancement of Beech Creek Borough's natural and man-made 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 in 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. 8/4/1980, §201)

Part 3

Glossary of Zoning Terms

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

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. 8/4/1980, §301; as amended by Ord. 8/4/1992, 8/4/1992)

§302. Definition of Terms. For the purpose 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 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 of the Borough 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, means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

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

AMENDMENT - 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 Board of Supervisors.

ANIMAL HOSPITAL - a building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds

or fowl 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 half (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 freestanding 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. [Ord. 8/4/1992]

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 - 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 line.

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 streets 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 (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 - a comprehensive plan (or community development 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 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. [Ord. 8/4/1992]

CONDOMINIUM - 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.

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.

COURT, OUTER - 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. [Ord. 8/4/1992]

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

DENSITY FACTOR - 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 areas, sidewalks, parks, playgrounds, common open, 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:

A. The Borough Council;

B. The Zoning Hearing Board; or

C. 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.

[Ord. 8/4/1992]

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 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 -

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.

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

SINGLE-FAMILY SEMI-DETACHED - a 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.

TWO-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.

TWO-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-family detached structures.

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 and 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.

GARDEN APARTMENTS - a multi-family dwelling consisting of three (3) or more dwelling units accommodating three (3) or more families which are located one (1) 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 a height of only two (2) stories. Each dwelling unit is accessible by a common stairwell.

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: 1) a low-rise apartment structure shall not be greater than three (3) stories in height; 2) a mid-rise apartment structure shall not be greater than five (5) stories in height.

DWELLING UNIT - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used 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. May also include domestic servants and gratuitous guests.

FLOODPLAIN - the FP Flood Plain District is defined and established to be the low area adjoining and including any water or drainage course or body of water subject to periodic flooding or overflow.

FLOOR AREA RETAIL, NET - all that space relegated to use by the customer and the retail employee to consumer 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.

GARDENING - See "home gardening."

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 accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, no more than twenty-five (25%) percent of the building floor area is used, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than signs as provided herein.

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.

KENNEL - See "dog kennel."

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 premises 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 -

DIFFUSED - that form of lighting wherein the lights passes from the source through a translucent cover or shade.

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.

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.

LODGING HOUSE - building in which three (3) or more, but not more than fifteen (15) rooms, are rented and in which no table board is furnished.

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. [Ord. 8/4/1992]

LOT, CORNER - a parcel of land at the junction of land 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.

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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." [Ord. 8/4/1992]

NEIGHBORHOOD GROCERY - a commercial establishment which primarily offers foods 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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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 - 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.

ON-SITE SEWER SERVICE - a single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil.

OPEN PIT MINING - open pit mining shall include all activity which removes from the surface or beneath the surface of the land some material resource, natural resource, or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesireable one; or to remove the 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, coal, 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 - 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. [Ord. 8/4/1992]

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:

A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;

B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and

C. Publicly owned or operated scenic and historic sites.

[Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

RESIDENTIAL CONVERSION UNIT - See "dwelling types."

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 roadways abutting the properties. For the purpose of this Chapter the following definitions are employed.

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

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.

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.

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.

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

SANITARY LANDFILL - a lot or land or part thereof used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities. The operation of a sanitary landfill normally consists of: 1) depositing the discarded material in a planned controlled manner, 2) compacting the discarded material in thin layers to reduce its volume, 3) covering the discarded material with a layer of earth, and 4) compacting the earth cover.

SCREEN PLANTING - a vegetative material of sufficient height and consistency 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, public utilities or governmental agencies, underground or overhead transmission systems, poles, wires, pipes, cables, fire alarm boxes,

hydrants, or other similar equipment. [Ord. 8/4/1992]

SERVICE 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.

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 - 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. [Ord. 8/4/1992]

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.

STOOP - a covered or uncovered area at a front, side or rear door not exceeding four (4) feet by five (5) feet or twenty (20) square feet in area.

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 - 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. [Ord. 8/4/1992]

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 mid-point 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 - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [Ord. 8/4/1992]

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. [Ord. 8/4/1992]

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 (1-1/2) feet. Ponds and/or lakes are not included provided that swimming was not the primary purpose for their construction.

PUBLIC - 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:

A. Contain living and sleeping accommodations for transient occupancy; and

B. 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 - tract of land:

A. Where two (2) or more trailers are parked; or

B. 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 of the trailer. Unoccupied travel trailers do not constitute mobile homes, as used in this Chapter.

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 - 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. [Ord. 8/4/1992]

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 line. 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 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. [Ord. 8/4/1992]

ZONING MAP - the official Zoning Map of "Beech Creek Borough."

ZONING ORDINANCE - the "Beech Creek Borough Zoning Ordinance" as amended.

(Ord. 8/4/1980, §302; as amended by Ord. 8/4/1992, 8/4/1992)

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	High Density Residential.
R-3	Transient Residential.
C-1	General Commercial.
R-O	Residential Office.
A	Agricultural.
P	Public Uses.
I-1	Industrial.

(Ord. 8/4/1981, §401)

§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. 8/4/1981, §402)

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

1. 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.

2. 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.

3. 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. 8/4/1981, §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. 8/4/1981, §404)

Part 5

District Regulations

§501. R-1 Low Density Residential.

1. Purpose. The purpose of the R-1 Low Residential District is to provide for the preservation and 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. Single width mobile homes are not permitted in this district.

2. Permitted Uses.

A. Single family detached dwellings and customary accessory uses incidental to this type development, but not including single width mobile homes.

B. Temporary tract offices and tract signs.

C. Accessory buildings and areas customarily incidental to the above, i.e., private swimming pools.

3. 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.

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

4. Area and Bulk.

A. Minimum lot size. Ten thousand (10,000) square feet.

B. Minimum lot width at setback line. Seventy-five (75) feet.

C. Minimum width for the major section of a single family detached house. Twenty-four (24) feet.

D. Maximum density. Three and sixty-three hundredths (3.63) dwelling units per acre.

5. Minimum Setback.

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

B. Side. Twelve (12) feet on one side; thirty (30) feet total for both sides. [Ord. 8/4/1992]

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

D. Accessory Setback. Fifteen (15) feet.

6. Height.

A. Maximum. Two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is the lesser.

B. Minimum. One (1) story.

7. Coverage.

A. Maximum total. Thirty-five (35%) percent.

(Ord. 8/4/1981, §501; as amended by Ord. 8/4/1992, 8/4/1992)

§502. High Density Residential.

1. Purpose. It is the purpose of the R-2 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. Single width mobile homes are not permitted in this district.

2. Permitted Uses.

A. Single family detached dwellings, but not including single width mobile homes.

B. Single family semi-detached dwellings.

C. Townhouses.

D. Garden apartments.

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

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

G. Private swimming pools.

3. 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.

4. Area and Bulk.

A. Minimum lot size. Seven thousand five hundred (7,500) square feet.

B. Minimum lot width at setback line. Sixty (60) feet.

C. Maximum density. Thirty (30) dwelling units per acre.

5. Minimum Setback.

A. Front. Thirty (30) feet.

B. Side. Ten (10) feet on one (1) side; twenty (20) feet total for both sides.

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

D. Accessory building. Fifteen (15) feet.

E. It is required that there is at least twelve (12) feet from front facade of building (the facade containing the main entrance on

the ground floor) to the parking areas.

6. Height. Two and one-half (2-1/2) stories of thirty-five (35) feet, whichever is the lesser.

7. Coverage.

A. Maximum total. Thirty-five (35%) percent.

B. Not more than fifty (50%) percent of land surface can be made impervious to water absorption. [Ord. 8/4/1992]

(Ord. 8/4/1981, §502; as amended by Ord. 8/4/1992, 8/4/1992)

§503. Transient Residential.

1. Purpose. The purpose of the R-3 Transient Residential District is to provide for the orderly expansion of mobile home uses, to 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 and garden apartments.

D. Single width mobile homes and double width mobile homes.

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

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

3. Conditional Uses.

A. Mobile home parks.

B. Appropriate public uses and essential services.

C. Public or privately owned parks and recreational areas.

4. Area and Bulk.

A. Minimum lot size. Four thousand five hundred (4,500) square feet.

B. Minimum lot width at setback line. Ninety (90) feet.

C. Minimum lot depth. Fifty (50) feet.

D. Maximum density. Thirty (30) dwelling units per acre.

5. Minimum Setback.

A. Front. Twenty-two (22) feet.

B. Side. Nine (9) feet.

C. Rear. Nine (9) feet.

6. Height. Two and one half (2-1/2) stories or thirty-five (35) feet, whichever is the lesser.

7. Coverage.

A. Maximum total. Thirty-five (35%) percent.

B. Not more than fifty (50%) percent of land surface can be made impervious to water absorption. [Ord. 8/4/1992]

(Ord. 8/4/1981, §503; as amended by Ord. 8/4/1992, 8/4/1992)

§504. C-1 General Commercial.

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 commercial establishments housed in one (1) building; and to exclude uses not compatible with such activities. Single width mobile homes are not permitted in this district.

2. Permitted Uses.

A. Commercial establishments, excluding junkyards.

B. Access ways to adjacent properties.

3. Conditional Uses.

A. Residential conversion units.

B. Public uses and essential services deemed appropriate.

C. Cultural and civic uses such as community centers, auditoriums, museums, and the offices of such organizations.

4. Area and Bulk.

A. Minimum lot size. Six thousand (6,000) square feet.

B. Minimum lot width. None

C. Maximum density. None

5. Minimum Setback.

A. Front. Ten (10) feet.

B. Side. None, except when a commercial use abuts any residential (R-1, R-2, R-3) District there shall be a ten (10) feet 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) feet width shall be provided at grade level at intervals not more than four hundred (400) feet apart.

C. Rear. Twenty (20) feet.

6. Height. Maximum; two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is the lesser.

7. Coverage. Maximum total; seventy-five (75%) percent.

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

9. Signs. See Part, 6, §602.

(Ord. 8/4/1981, §504)

§505. R-O Residential Office.

1. Purpose. he purpose of the R-O Residential/Office District is to provide for the orderly and value preserving transition of the larger dwelling units on Main Street to business and professional office use; and to exclude those uses not compatible with such development. Single width mobile homes are not permitted in this district.

2. Permitted Uses.

A. Single family detached dwellings.

B. Single family semi-detached dwellings.

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

D. Accessory buildings and uses incidental to the above.

E. Conversion of one (1) family to two (2) family dwellings provided that no apartment shall contain less than eight hundred (800) square feet of floor space.

3. Special Exception Uses. Business or professional offices provided that no alteration of the size of the door and window openings be permitted nor location of window and door openings be changed on the street facade. It is also required that the front facade siding be the same material as the rest of the exterior.

4. Conditional Uses.

A. Appropriate public uses and essential services.

B. Churches and other places of worship.

These conditional uses are permitted if the alteration of existing dwelling units conforms with the standards set out for business or professional offices under special exception uses.

5. Area and Bulk.

A. Minimum lot size. Ten thousand (10,000) square feet.

B. Minimum lot width at setback line. Seventy-five (75) feet.

C. Maximum density: Five (5) dwelling units per acre.

D. Minimum width for the major section of a single family detached dwelling or a single family semi-detached dwelling. Twenty-four (24) feet.

6. Minimum Setback.

A. Front. Thirty (30) feet.

B. Side. Ten (10) feet on one (1) side; twenty-five (25) feet total for both sides. [Ord. 8/4/1992]

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

D. Accessory Setback. Fifteen (15) feet.

7. Height. Maximum; two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is less.

8. Coverage. Maximum Total; thirty-five (35%) percent.

(Ord. 8/4/1981, §505; as amended by Ord. 8/4/1992, 8/4/1992)

§506. A-Agricultural.

1. Purpose. The purpose of the A-Agricultural 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 land, the raising of horses, and the raising of poultry and poultry products.

D. Buildings. Only those structures deemed appropriate for use on the lot or parcel in the manner indicated above.

E. Single width mobile home.

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

(Ord. 8/4/1981, §506)

§507. P-Public Uses.

1. Purpose. The purpose of the Public Use District is to provide for public and semi-public uses of those areas where public uses have traditionally occurred and to exclude uses not compatible with such public or semi-public use.

2. Permitted Uses.

A. Parks and open, non-profit recreational facilities.

B. Churches and schools.

C. Post office.

D. Civic and cultural centers.

E. Fire stations.

F. Municipal buildings.

G. Easements for alleys, pedestrian walkways.

3. Conditional Uses.

A. Easements for public utility rights-of-way.

B. Easements for electronic media transmission facilities.

4. Area and Bulk.

A. Minimum lot size. Ten thousand (10,000) square feet.

B. Minimum lot width at setback line. Seventy-five (75) feet.

C. Maximum density: Three and one-half (3.5) dwelling units per acre.

5. Minimum Setback.

A. Front. Twenty-five (25) feet.

B. Side. Twelve (12) feet on one (1) side; thirty (30) feet total for both sides. [Ord. 8/4/1992]

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

6. Height. Two and one-half (2 1/2) stories or thirty-five (35) feet, whichever is the lesser.

7. Coverage. Maximum total; twenty (20%) percent.

(Ord. 8/4/1981, §507; as amended by Ord. 8/4/1992, 8/4/1992)

§508. 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 future needs 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. Repair and maintenance facilities.

E. Parking facilities.

F. Any facilities required by Federal, State or local pollution control authorities.

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

H. Access ways to adjacent properties.

I. Commercial uses as set out in the C-1 district.

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

4. Area and Bulk.

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

B. Setback.

(1) Front setback. Fifty (50) feet minimum.

(2) Side yard. Twenty (20) feet minimum.

(3) Rear yard. Twenty (20) feet minimum.

(4) Contiguous to any Residential District. Fifty (50) feet minimum.

(Ord. 8/4/1981, §508)

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 be not 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. There shall be no mud driveways. Such outdoor parking space 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 so that water is not diverted to adjoining property at any greater rate than prior to construction, and shall he 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 provisions 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. Driveways for residential uses shall not be constructed closer than three (3) feet to any lot line. [Ord. 8/4/1992]

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 (1-1/2) spaces for each dwelling unit.

B. Commercial.

(1) C-1 General Commercial Parking. One (1) per seventy (70) square feet of sales area.

(2) 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) 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.

(Ord. 8/4/1981, §601; as amended by Ord. 8/4/1992, 8/4/1992)

§602. Signs.

1. Erection and Maintenance of Signs. Signs may be erected and maintained only when in compliance with the provisions of this Section 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 all general regulations, §602(4) hereof.

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 five (5) square feet; and (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; and (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 §602(2)(A), hereof, are complied with.

D. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected; provided, (1) the size thereof is not in excess of six (6) square feet; and (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 twenty (20) square feet; and (2) not more than one (1) sign is placed on a property in a 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 logotype or trademark, 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 of six (6) square feet; (2) not more than two (2) signs are used; and (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, §602(4), 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 forty (40) square feet of surface area and not more than twenty (20) square feet on each side; however, all general regulations, §602(4), 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 of any street unless authorized by 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 he 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 signs as permitted in §602(2), "Signs in Residential Districts," with area not more than six (6) square feet.

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 sign board 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 twenty (20) square feet, and (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 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.

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) feet above the maximum building height on which the light is erected.

(Ord. 8/4/1981, §602; as amended by Ord. 8/4/1992, 8/4/1992)

§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. 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. 8/4/1992]

(Ord. 8/4/1981, §603; as amended by Ord. 8/4/1992, 8/4/1992)

§604. Conditional Use for Mobile Home Parks. Where provided as a conditional use, mobile home parks must satisfy the following requirements, as well as those contained elsewhere in this Chapter:

1. Minimum yard and area requirements shall be required for individual spaces as follows:

Lot Area	Width	Depth	Set Back	Side Yard	Rear Yard
4,500 sq. ft.	90 ft.	50 ft.	22 ft.	9 ft.	9 ft.

2. Individual mobile homes must be installed with their longest axis parallel to the adjoining street.

3. Off-street parking space shall be provided at the rate of at least two (2) spaces for each mobile home lot plus additional car space for each five (5) lots to provide for guest parking and for delivery and service vehicles.

4. Pavement Widths.

A. The major road leading into the park must have at least a forty (40) foot right-of-way and thirty-eight (38) foot cartway.

B. All streets with guest parking both sides - forth (40) feet minimum right-of-way.

C. All other streets - twenty-two (22) feet minimum right-of-way.

5. The park must be serviced by public sanitary sewer and public water, or have a packet treatment plant. Screen planting of trees, evergreens, hedges or shrubs may be required where differing adjacent land uses occur.

6. Skirting is required within three (3) months of installation of the individual mobile home.

7. No individual mobile home shall be installed of smaller width than twelve (12) feet.

8. Utility sheds are required and exposed fuel tanks are to be located to the rear of the lot.

9. In addition to meeting the above requirements and conforming to other laws of the Borough, County or State, mobile home parks shall also conform to the requirements set forth in the Minimum Property Standards for Mobile Home Courts, of the Federal Housing Administration; provided, where provisions of such regulations conflict with those of the existing Borough, County or State, the most restrictive or those imposing the higher standards shall govern.

(Ord. 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

§605. 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. 8/14/1981, §604; as amended by Ord. 8/4/1992, 8/4/1992)

§606. Swimming Pools.

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

A. The pool is intended, and is to be used, solely for the enjoyment of the occupants of 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.

B. Title 25, §193.1 et seq. of the Pa. Code, and amendments thereto. [Ord. 8/4/1992]

(Ord. 8/4/1981, §605; as amended by Ord. 8/4/1992, 8/4/1992)

§607. Projections into Required Yard. The following projections into yards and courts shall be permitted:

1. Cornices, eaves, belt courses, sills or other similar architectural features, exterior stairway, fire escape or other required means of egress, rain lead or chimney 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. 8/4/1981, §606)

§608. 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. 8/4/1981, §607)

§609. 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. 8/4/1981, §608)

§610. Nonconforming Use.

1. Registration. Nonconforming uses shall be registered within six (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 Beech Creek.

3. Extensions.

A. 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.

B. 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 requirements shall apply.

4. Nonconforming Lots 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. Consideration shall be given by the Zoning Hearing Board as to the desirability and feasibility of resubdividing the area when two (2) or more nonconforming lots have continuous frontage and are in single ownership.

B. These provisions 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.

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. [Ord. 8/4/1992]

7. Abandonment. If a nonconforming 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.

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 foundations 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.

(Ord. 8/4/1981, §609; as amended by Ord. 8/4/1992, 8/4/1992)

§611. 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 date of adoption may continue their operations as nonconforming uses, but shall terminate within one (1) year unless they comply with the following provisions: [Ord. 8/4/1992]

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 Pines, Red Pine, Australian Pine, Norway Spruce, or American 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.

(Ord. 8/4/1981, §610; as amended by Ord. 8/4/1992, 8/4/1992)

Part 7

Administration and Government

§701. The Zoning Officer.

1. Appointment and Powers of Zoning Officer.

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

B. 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.

C. 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.

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

[Ord. 8/4/1992]

2. Deputy. 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.

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

4. 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, 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, alteration, 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 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. 8/4/1981, §701; as amended by Ord. 8/4/1992, 8/4/1992)

§702. Permits.

1. Requirements. It shall be unlawful to commence the excavation for or the construction or erection of any building, including an accessory building, or to commence the moving or alteration of any building, 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 alterations when the fair market value of such construction or alteration is less than one thousand dollars ($1,000.00) and which would not change the use classification. No permit shall be required for repairs to or maintenance of any building, structure or grounds provided such repairs do not change the use or otherwise violate the provisions of this Chapter. A permit shall be required for the demolition, by any means, of any structure larger than four hundred (400) square feet in floor area or greater than one (1) story in height.

2. Form of Application. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the 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 full 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 Works. 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 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 distance of the same from the existing lot lines.

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 ten (10) days 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 thereof. He shall inform the applicant of his right of 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 certification of use and occupancy as required herein has been applied for, he shall issue a permit therefor 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.

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 to exceed 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 purposes 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 Chapter. 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. 8/4/1981, §702)

§703. 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. 8/4/1981, §704; as amended by Ord. 8/4/1992, 8/4/1992)

§704. Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough Council, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough Council at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given. (Ord. 8/4/1981, §704; as amended by Ord. 8/4/1992, 8/4/1992)

§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. 8/4/1981, §704; as amended by Ord. 8/4/1992, 8/4/1992)

§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 Council 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. 8/4/1981, §705; as amended by Ord. 8/4/1992, 8/4/1992)

§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. 8/4/1981, §705; as amended by Ord. 1983-1, 7/1/1983, §1; and by Ord. 8/4/1992, 8/4/1992)

§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. 8/4/1981 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

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

(Ord. 8/4/1981, 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

§710. 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. 8/4/1981, 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

§711. 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. 8/4/1981, 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

§712. Enactment of Zoning Ordinance Amendments.

1. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this Chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in §607 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10607, is hereby declared optional.

2. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

3. In the case of an amendment other than that prepared by the Planning Commission the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

5. At least thirty (30) days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.

6. Within thirty (30) days after enactment, a copy of the amendment to this Chapter shall be forwarded to the county planning agency.

(Ord. 8/4/1981, §706; as amended by Ord. 8/4/1992, 8/4/1992)

§713. Procedure for Landowner Curative Amendments.

1. A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in §609 and notice of the hearing thereon shall be given as provided in §§610 and 916.1 of the MPC, 53 P.S. §§10609, 10610, and 10916.1.

2. The hearing shall be conducted in accordance with §908 of the MPC, 53 P.S. §10908, and all references therein to the Zoning Hearing Board shall, for purposes of this Section be references to the Borough Council. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire Chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

3. The Borough Council, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

A. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter or Zoning Map.

C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;

D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(Ord. 8/4/1981, 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)

§714. Procedure for Borough Curative Amendments.

1. If the Borough determines that this Chapter, or any portion hereof, is substantially invalid, it shall take the following actions:

A. The Borough shall declare by formal action, this Chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days such declaration and proposal the Borough Council shall:

(1) By resolution make specific findings setting forth the declared invalidity of this Chapter which may include:

(a) References to specific uses which are either not permitted or not permitted in sufficient quantity;

(b) Reference to a class of use or uses which requires revision; or,

(c) Reference to this entire Chapter which requires revisions.

(2) Begin to prepare and consider a curative amendment to this Chapter to correct the declared invalidity.

2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this Chapter pursuant to the provisions of §609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10609, in order to cure the declared invalidity of this Chapter.

3. Upon the initiation of the procedures as set forth in subsection (1), the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under §609.1 of the MPC, 53 P.S. §10609.1, nor shall the Zoning Hearing Board be required to give a report requested under §§909.1 or 916.1 of the MPC, 53 P.S. §§10909.1, 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by subsection (1)(A). Upon completion of the procedures set forth in subsections (1) and (2), no rights to a cure pursuant to the provisions of §§609.1 and 916.1 of the MPC, 53 P.S. §§10609.1, 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this Chapter for which there has been a curative amendment pursuant to this Section.

4. The Borough, having utilized the procedures set forth in this Section, may not again utilize said procedure for a period of thirty-six (36) months following the date of enactment of a curative amendment, or reaffirmation of the validity of this Chapter; Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to propose a curative amendment to this Chapter to fulfill said duty or obligation.

(Ord. 8/4/1981, 8/4/1981; as added by Ord. 8/4/1992, 8/4/1992)