

CHAPTER 27

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Part 1

General Provisions

§27-101. Short Title.

This Chapter 27 shall be known and may be cited as the "Mill Hall Borough Zoning Ordinance of 1985."

(Ord. 167A, 5/7/1985, §102)

§27-102. Purpose.

This Zoning Chapter has been prepared in accordance with Part 2, Community Development Objectives, with consideration for the character of the Borough, its various parts for the particular uses and structures, and is enacted for the following purposes:

- A. To promote, protect, and facilitate one or more of the following: the public health, safety, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.
- B. To prevent one or more of the following: overcrowding of land; blight; danger and congestion in travel and transportation; loss of health, life or property from fire, panic or other dangers.

(Ord. 167A, 5/7/1985, §103)

§27-103. Zoning Hearing Board.

In accordance with Article IX of Act 247, a Zoning Hearing Board is hereby created which shall have the number of members and the powers and authority as set forth in Act 247 and this Chapter 27.

(Ord. 167A, 5/7/1985, §104)

§27-104. Interpretation.

The provisions of this Chapter 27 are to be the minimum requirements for the promotion of health, safety, and the general welfare of the Borough's citizens. It is not intended by this Chapter 27 to interfere with, abrogate, or annul any rules or regulations previously adopted or permits previously issued by the Borough which are not in conflict

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with any provisions of this Chapter 27. It is not the intention of this chapter to interfere with, abrogate, or annul any easements, covenants, building restrictions, or other agreements between private parties. When this Chapter 27, however, imposes a greater restriction upon the use of the buildings or premises or upon the height of the building or requires a larger open space than is imposed or required by such ordinance, rules, regulations, or permits, or by private agreements, the provisions of this Chapter 27 shall control.

(Ord. 167A, 5/7/1985, §105)

§27-105. Uses Not Provided For.

Whenever, in any district established under this Chapter 27, 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. The Board has the authority to permit or deny the use. However, the use shall 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 27.

(Ord. 167A, 5/7/1985, §106)

Part 2

Community Development Objectives

§27-201. Community Development Objectives.

This Chapter 27 has been adopted in part to assist in implementing the community development objectives listed below:

- A. To provide for the preservation, protection, management and enhancement of Mill Hall Borough's natural resources and environmental qualities for present and future generations.
- B. 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.
- C. To encourage more intensive development where it is physically and financially more feasible to provide community services, and to keep development to a minimum in areas where this is not practical.
- D. To upgrade commercial services and establishments in the Central Business District enabling a more suitable condition for resident participation and encouragement of new development.
- E. To create functional environments for each major use (residential, commercial, and industrial) by reserving appropriate areas for their diverse needs.
- F. To achieve the best use of land within the Borough, ensuring that varying land uses will complement one another and thus improve the economic base and provide for increased aesthetic and cultural values.
- G. To eliminate traffic congestion and improve access to commercial and industrial locations and provide safer conditions for both pedestrian and vehicle operations.
- H. 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. 167A, 5/7/1985, §201)



Part 3

Designation of Districts

A. General Provisions.

§27-301. General Districts.

For the purposes of this Chapter 27, the Borough is hereby divided into seven types of districts, which shall be designated as follows:

- R-1 Residential/Low Density
- R-2 Residential/Medium Density
- R-3 Residential/High Density-Multifamily
- C-1 Central Business District
- C-2 Highway Commercial
- I Industrial
- FP Floodplain

(Ord. 167A, 5/7/1985, §301)

§27-302. Zoning Map.

The boundaries of the zoning districts are to be shown upon a Zoning Map, which is available for reference in the Borough Office. The Zoning Map is hereby incorporated by reference into this Chapter 27 as if all details were fully described in the text of this Chapter 27.

(Ord. 167A, 5/7/1985, §302; as amended by Ord. 184, 4/3/1990)

§27-303. District Boundaries.

Where uncertainty exists as to boundaries of any district as shown on said Map, the following rules shall apply:

- A. District boundary lines are intended to follow or be parallel to the center line of streets, streams, railroads, and for lot or property lines as they exist on a recorded deed or plan or record in the Clinton County Recorder of

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Deeds' office at the time of the adoption of this Chapter 27, unless the district boundary lines are fixed by dimensions as shown on the Zoning Map.

- B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, and where it does not scale more than 10 feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the boundary is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

(Ord. 167A, 5/7/1985, §303)

§27-304. 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. 167A, 5/7/1985, §304)

B. Zoning Map Amendments.

Ord./Res.	Date	Subject
173	2/3/1987	Changing the classification of an area from R-3 High Density Residential to C-2 Highway Commercial
175	4/7/1987	Changing the classification of two areas from R-1 Low Density Residential to C-2 Highway Commercial
183	5/2/1989	Changing classification of 2 areas: (1) Area southwest of intersection of Railroad Street and South Water Street, from C-1 Central Business District and R-2 Residential Medium Density to C-2 Highway Commercial District (2) Area southwest of intersection of Railroad Street and Logan Alley, changed from R-2 Residential medium Density to C-2 Highway Commercial District
1998-1	2/3/1998	Changing the classification of an area owned by Patricia Y. Davis from R-2 Residential Medium Density to C-1 Central Business District

Ord./Res.	Date	Subject
1999-1	2/23/1999	Changing the classification of an area owned by Webb's Super Go from R-3 Residential High Density to Industrial
1999-3	5/25/1999	Changing the classification of an area owned by Bruner and Violet Lange from C-1 Business District to C-2 Highway Commercial and a second area from C-1 Central Business District to R-1 Residential Low Density
2001-1	1/23/2001	Renaming the following streets to the Borough Zoning Map: <ul style="list-style-type: none">A. Church Street to East and West Church Street with division to occur at Water StreetB. Peale Avenue to East and West Peale Avenue with division to occur at Water StreetC. Pine Street to Wasson StreetD. South Water Street to Danis StreetE. Pine Street Extension to Girard StreetF. Route 150 to Eagle Valley RoadG. Route 64 to Nittany Valley DriveH. Coalyard Alley to Pickwick Street Adding the following streets to the Borough Zoning Map: <ul style="list-style-type: none">A. Caboose StreetB. No Exit LaneC. Old Cabin RoadD. Silo RoadE. Sylvon AlleyF. Ubel Lane
2002-1	2/26/2002	Renaming the following streets to the Borough Zoning Map: <ul style="list-style-type: none">A. Arch Street to East and West Arch Street with division to occur at Main StreetB. Chestnut Street as North and South Chestnut Street with division to occur at Railroad Street
2004-1	7/13/2004	Changing the classification of an area owned by Miller Brothers Auto Sales, Inc. from R-2 Residential to C-2 Commercial

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Ord./Res.	Date	Subject
2008-3	8/12/2008	Changing the classification of Parcel Nos. 2 and 3, Section J, Plate B, Sheet 2, from C-1 Commercial to R-3 Residential
2009-1	7/28/2009	Changing the classification of the following properties: <ul style="list-style-type: none">A. On Plot H, Section B, Plate D, an area from Beach Creek Avenue northward 50 feet, from R-1 Residential to C-2 CommercialB. On Plot C, Section B, Plate D, an area from Beach Creek Avenue northward 50 feet, from R-1 Residential to C-2 Commercial
2011-3	9/27/2011	Changing the classification of the area designated on Plot J, Sections 13 through 16, Plate B, page 2 of 2, now owned by John and Jean Sensenig, with an address of 100 Danis Street, described at Clinton County Instrument No. 2007-1565 and assigned Tax Parcel ID B-J-0013, from R-2 Medium Density Residential to C-1 Central Business District

Part 4

District Regulations

§27-401. R-1 Residential/Low Density.

1. Purpose. The purpose of the R-1 Residential/Low Density District is to provide for the orderly expansion of low-density residential development in those areas where public services are available and to exclude uses not compatible with such low-density residential development.
2. Permitted Uses.
 - A. Single-family detached dwellings, but not including mobile homes.
 - B. Home occupations provided that no facade shall indicate from the exterior that the building is being utilized for any purpose other than a dwelling.
 - C. Schools, churches and similar institutions.
 - D. Public, quasi-public, and private outdoor recreation areas.
 - E. Accessory buildings and areas customarily incidental to the uses listed above, if confined to the rear yard area.
3. Conditional Uses.
 - A. Single-unit mobile homes placed on a permanent foundation.
 - B. Mobile home parks in conformance with §27-516.
 - C. Appropriate public uses and essential services.
 - D. Nurseries and greenhouses, but not including the outdoor storage of equipment and supplies.
 - E. Commercial kennels.
 - F. Cemeteries, provided that there shall be a minimum of a six foot high fence, evergreen or evergreen-type hedge or shrubs at intervals of not more than six feet, or a minimum twenty-foot planting strip on all property lines abutting any property line of the cemetery except where it abuts a non-residential use.

(Ord. 167A, 5/7/1985, §401)

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§27-402. R-2 Residential/Medium Density.

1. Purpose. The purpose of the R-2 Residential/Medium District is to provide for the orderly development of existing and proposed medium-density residential areas where adequate public services and circulation facilities are or will be available and to exclude those uses not compatible with such development.
2. Permitted Uses.
 - A. Single-family detached dwellings, but not including mobile homes.
 - B. Two-family dwellings.
 - C. Home occupations provided that no facade shall indicate from the exterior that the building is being utilized for any purpose other than a dwelling.
 - D. Schools, churches, and similar institutions.
 - E. Public, quasi-public, and private outdoor recreation areas.
 - F. Accessory buildings and areas customarily incidental to the uses listed above, if confined to the rear yard area.
3. Conditional Uses.
 - A. Single-unit mobile homes placed on a permanent foundation.
 - B. Appropriate public uses and essential services.

(Ord. 167A, 5/7/1985, §402)

§27-403. R-3 Residential/High Density Multifamily.

1. Purpose. The purpose of the R-3 Residential/High Density Multifamily District is to provide areas primarily for the development of high density residential structures within the Borough of Mill Hall to meet the need and/or demand for such facilities.
2. Permitted Uses.
 - A. Any use permitted in an R-2 District.
 - B. Single-family detached dwellings. A building containing dwelling units designed for and occupied exclusively as a residence for only one family and having a firewall on at least one side in common with an adjacent dwelling unit.

- C. Multiple-family dwellings – townhouse apartments.
 - D. Multiple-family dwellings – garden apartments.
 - E. Conversion to multiple-family dwellings in accordance with the standards hereinafter enumerated.
 - F. Accessory buildings and uses customarily incidental to the above uses, such as automobile parking and accessory structures, walkways, service drives, planted areas, fences and enclosure wall and signs as permitted herein.
3. Conditional Uses.
- A. Public, quasi-public and private outdoor recreation areas.
 - B. Appropriate public uses and essential services.
 - C. Mobile home parks in conformance with §516.

(Ord. 167A, 5/7/1985, §403)

§27-404. C-1 Central Business District.

1. Purpose. The purpose of the C-1 Central Business District is to provide for the conservation and orderly development of the Borough's Central Business District.
2. Permitted Uses.
 - A. Retail uses such as grocery stores, fruit stores, supermarkets, drug stores, and similar retail establishments.
 - B. Service establishments such as barber shops, beauty parlors, funeral parlors, dry cleaning and laundromat establishments and other similar services.
 - C. Social halls, clubs, lodges, and fraternal organizations.
 - D. Restaurants, taverns, banks, hotels.
 - E. Offices.
 - F. Automobile service establishments, including the sale of fuel, parts, and supplies, but not including the sale of automobiles.
 - G. Accessory buildings and areas customarily incidental to the uses listed above.

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- H. Commercial entertainment centers such as a holiday house or similar event operations, theatre operations and other like uses.

3. Conditional Uses.

- A. Apartments located within a commercial district.
- B. Appropriate public uses and essential services.
- C. Public, quasi-public, and private outdoor recreation areas.
- D. Schools, churches, and similar institutions.

(Ord. 167A, 5/7/1985, §404; as amended by Ord. 2011-3, 9/27/2011, §1)

§27-405. C-2 Highway Commercial District.

- 1. Purpose. The purpose of the C-2 Highway Commercial District is to provide appropriate space for commercial uses generally more expansive than those found in the Borough's Central Business District.

2. Permitted Uses.

- A. All uses permitted in C-1 Central Business District.
- B. Other retail business or service establishments including motels, automobile sales establishments, and similar uses.
- C. Wholesale businesses and job printing establishments.
- D. Commercial amusement centers such as drive-in movie theaters, golf driving ranges, miniature golf courses, bowling alleys, and other similar uses.

3. Conditional Uses.

- A. Appropriate public uses and essential services.
- B. Schools, churches, and similar institutions.
- C. Public, quasi-public, and private outdoor recreation areas.

(Ord. 167A, 5/7/1985, §405)

§27-406. I Industrial District.

1. Purpose. The purpose of the I Industrial District is to provide sufficient space, in appropriate locations, to meet the current and anticipated future needs for a wide range of industrial activity. It is further intended that approved industrial operations will be compatible with adjacent uses.
2. Permitted Uses.
 - A. No uses permitted under this §27-406 shall create objectionable or injurious conditions due to smoke, noise, odors, glare, dust, chemicals or other hazardous nuisances.
 - B. Industrial and manufacturing activities.
 - C. Warehouse and distribution centers.
 - D. Truck and bus terminals and related facilities.
 - E. Rail yards, rail terminals and related 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. Commercial uses solely for the purpose of:
 - (1) Public relations; or
 - (2) For the use and benefit of employees of the industry.
 - I. Outdoor storage of materials in accordance with §27-510.
3. Conditional Uses. Appropriate public uses and essential services.

(Ord. 167A, 5/7/1985, §406)

§27-407. Floodplain Overlay Districts.

1. Purpose. The purpose of the Floodplain Overlay District is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

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- A. Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
 - B. Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.
 - C. Requiring all those uses, activities and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
 - D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
2. **Applicability.** These provisions shall apply to all lands within the Borough and shown as being located within the boundaries of any identified Floodplain District shown on the Flood Hazard Boundary Map H-01, issued by the Federal Insurance Administration, dated September 12, 1983, or any amendment thereof. This Map shall be considered an overlay to the Official Zoning Map of the Borough.
 3. **Compliance.** No structure or land shall hereafter be used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this Chapter 27 and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Chapter 27.
 4. **Warning and Disclaimer of Liability.** The degree of flood protection sought by the provisions of this Chapter 27 is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Chapter 27 does not imply that areas outside the identified Floodplain Districts, or land uses permitted within such districts, will be free from flooding or flood damages.
 5. **Establishment of Zoning Districts.**
 - A. **Basis of Districts.**
 - (1) For the purposes of this Chapter 27, the various Floodplain Districts shall include those areas identified as being subject to the one-hundred-year flood as shown on the Flood Hazard Boundary Map H-01 issued by the Federal Insurance Administration, dated September 12, 1983, or any amendment thereof.
 - (2) The Floodway District (FW) is delineated for purposes of this Chapter 27 using the criteria that a certain area within the Floodplain must be capable of carrying the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one foot

at any point. The areas included in the district are specifically defined in the Floodway Data Table contained in the above-referenced FIS and shown on the accompanying Flood Boundary and Floodway Map.

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

B. Overlay Concept.

- (1) The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the Floodplain Districts shall serve as a supplement to the underlying district provisions.
 - (2) Where there happens to be any conflict between the provisions or requirements of any of the Floodplain Districts and those of any underlying district, the more-restrictive provisions shall apply.
6. District Boundary Changes. The delineation of any of the Floodplain Districts may be revised by the Borough where natural or manmade changes have occurred and/or more detailed studies, conducted or undertaken by the U.S. Army Corps of Engineers, the Susquehanna River Basin Commission, or other qualified agencies or individuals document the need or possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).
7. Floodway District (FW). In the Floodway District (FW) any new construction and/or development that would cause any increase in flood heights shall be prohibited.
- A. Permitted Uses. In the Floodway District, the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment.
- (1) Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries and horticulture.
 - (2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking, fish hatcheries and fishing areas.

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- (3) Accessory residential uses such as yard areas, gardens, play areas and pervious parking areas.
- (4) Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, etc.

B. Permitted as Conditional Uses.

- (1) Structures, except for mobile homes, accessory to the uses and activities in Subsection 7A of this §27-407.
- (2) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants and other similar or related uses.
- (3) Water-related uses and activities such as marinas and docks within the requirements of the Pennsylvania Department of Environmental Resources and Fish Commission.
- (4) Extraction of sand, gravel and other materials.
- (5) Temporary uses such as circuses, carnivals and similar activities.
- (6) Storage of materials and equipment provided that they are not buoyant, flammable or explosive and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.
- (7) Other similar uses and activities, provided they cause no increase in flood heights and/or velocities. All uses, activities and structural development shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

C. Uses Specifically Prohibited. See Subsection 9B of this §27-407 for the kinds of development which are specifically prohibited within the Floodway District.

8. Flood-Fringe District (FF).

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

B. Special Provisions for Certain Uses and Development. See Subsection 9 of this §27-407 for special requirements and procedures for certain kinds of development within the Flood-Fringe District (FF).

9. Special Provisions for Certain Kinds of Development within Floodplain Districts.

A. In accordance with the Pennsylvania Floodplain Management Act and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following materials or substances on the premises, shall be subject to the provisions of this §27-407, in addition to all other applicable provisions:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.).
- (13) Phosphorus.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.

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- (17) Pesticides (including insecticides, fungicides and rodenticides).
 - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
 - B. Within any Floodway District (FW), any structure of the kind described in Subsection 9A of this §27-407 shall be prohibited.
 - C. Where permitted within any Flood-Fringe District (FF), any structure of the kind described in Subsection 9A of this §27-407 shall be:
 - (1) Elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the one-hundred-year flood; and
 - (2) Designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood.
 - (3) Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication, "Floodproofing Regulations" (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.
10. Activities Requiring Special Permits.
- A. In accordance with the Pennsylvania Floodplain Management Act (166) and regulations adopted by the Department of Community Affairs as required by the Act, the following obstructions and activities are permitted only by special permit, if located partially or entirely within any identified Floodplain District:
 - (1) Hospitals – public or private.
 - (2) Nursing homes – public or private.
 - (3) Jails.
 - (4) New mobile home parks and mobile home subdivisions and substantial improvements to existing mobile home parks.
 - B. Special Permit Application Requirements and Procedures. See §701, Subsection 9, for application requirements and review procedures for development requiring a special permit.
 - C. Technical Requirements for Development Requiring a Special Permit. In addition to any other applicable requirements, the following provisions shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and any otherwise

applicable provisions, the more-restrictive provision shall apply. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

- (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:
 - (a) The structure will survive inundation by waters of the one-hundred-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one-hundred-year flood elevation.
 - (b) The lowest floor elevation will be at least 1 1/2 feet above the one-hundred-year flood elevation.
 - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one-hundred-year flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows or debris endangering life and property.
- D. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Department of Community Affairs.

11. Special Requirements for Mobile Homes.

- A. Within any Floodway District (FW), mobile homes shall be prohibited.
- B. Where permitted within any Flood-Fringe District (FF), all mobile homes and any additions thereto shall be:
 - (1) Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974; ANSI A119.3-1975) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following:
 - (a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermedi-

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ate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.

- (b) Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate locations for units 50 feet or more in length, and four additional ties per side for units less than 50 feet in length.
- (c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

C. Elevated in Accordance with the Following Requirements:

- (1) The stands or lots shall be elevated on compacted fill as approved by the Borough Engineer, or on pilings so that the lowest floor of the mobile home will be 1 1/2 feet or more above the elevation of the one-hundred-year flood. All engineering expenses shall be borne by the applicant.
- (2) Adequate surface drainage is provided.
- (3) Adequate access for a hauler is provided.
- (4) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soils no more than 10 feet apart and no less than 40 inches below grade; reinforcement shall be provided for pilings that will extend for four feet or more above the ground level.

D. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Borough Council for mobile home parks.

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

- A. No expansion or enlargement of an existing structure and/or use shall be allowed within any Floodplain District that would cause any increase in flood heights.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter 27.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure and/or use to an extent or amount of less than 50% of

its market value shall be elevated and/or floodproofed to the greatest extent possible.

(Ord. 167A, 5/7/1985, §407)

§27-408. Lot, Yard and Height Regulations.

**Schedule 1
Lot, Yard and Height Regulations**

Regulations	R-1	R-2	R-3	C-1	C-2	I
Max. Building Coverage (c)	25%	35%	(e)	75%	50%	25%
Max. Building Height						
Stories	2 1/2	2 1/2	(e)	2 1/2	2 1/2	2
Feet	35	35	(e)	35	35	35
Minimum Yards (in feet)						
Front Yard	25	25	(e)	6	25	25
Side Yard (1/both)	8/20	6/15	(e)	(a)	(a)	(a)
Rear Yard	25	25	(e)	20	20	25
Min. Lot Dimensions (in feet)						
Width	100	80(b)	(e)	-	75	100
Depth	120	100	(e)	100	150	200
Area (square feet per)						
Dwelling Unit	12,000	8,000	(e)	6,000	-	-
Other Uses	20,000	10,000	(e)	-	-	50,000

NOTES:

- (a) No side yard shall be required for any business use in a C-1 or C-2 District; except that when such use shall abut any property in a residential district, a side yard of 25 feet shall be provided. In the I District, a side yard of not less than 50 feet shall be provided where the district boundary line abuts a residential district.
- (b) Two-family dwellings in R-2 Districts shall only be permitted on lots having a width of not less than 100 feet and a minimum lot area per dwelling unit of not less than 5,000 square feet.
- (c) Including principal and accessory structures.
- (d) All accessory uses in residential districts shall be at least eight feet from the rear and side lot lines.

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(e) R-3 Lot, Yard and Height Regulations.

1. Single-Family Attached Dwellings.
 - A. Minimum lot setbacks: front, 25 feet; side, 10 feet at end of row.
 - B. Maximum lot coverage: 50%.
 - C. Maximum building height: 2.5 stories or 35 feet.
 - D. Maximum dwelling units/building: 8.
 - E. Density: 15 dwelling units/acre.
 - F. Required off-street parking spaces: 1.5/dwelling unit.
2. Multifamily Dwellings – Garden Apartments.
 - A. Minimum lot setbacks: front, 25 feet; rear, 25 feet; side, 25 feet; both sides, 50 feet.
 - B. Maximum lot coverage: 35%.
 - C. Maximum building height: three stories or 35 feet, exclusive of parapets, accessory elements such as smoke stacks, stair hall extensions, air-conditioning equipment, elevator equipment or other accessory equipment of a similar nature.
 - D. Maximum dwelling units/buildings: eight.
 - E. Density: 15 dwelling units/acre.
 - F. Required off-street parking spaces: 1.5/dwelling units, except that for apartments designed for elderly residents, spaces shall be one space per dwelling unit.
3. Multiple-Family Dwellings – Townhouse Apartments.
 - A. Minimum lot setbacks: front, 25 feet; rear, 25 feet; side, 25 feet; both sides, 50 feet.
 - B. Maximum lot coverage: 35%.
 - C. Maximum building height: three stories or 35 feet.
 - D. Maximum dwelling units/building: eight.
 - E. Density: 15 dwelling units/acre.

- F. Required off-street parking: 1.5 spaces for each dwelling unit, except that for apartments designed for elderly residents parking spaces shall be one space per dwelling unit.

(Ord. 167A, 5/7/1985, §408)



Part 5

Supplemental Regulations

§27-501. Prohibited Uses.

No use or activity shall be permitted which by reason of noise, dust, odor, appearance, smoke, chemicals or other objectionable factor creates a nuisance, hazard or other adverse effect upon the value or reasonable use or enjoyment of surrounding properties. This prohibition shall include the keeping of domestic farm animals, such as horses, chickens, cattle, etc.

(Ord. 167A, 5/7/1985, §501)

§27-502. Reduction of Lot Area and Yard Requirements.

No lot shall be so reduced that the area of the lot, or dimensions of the required yard areas, shall be less than prescribed by this Chapter 27, except that a semidetached dwelling existing under single ownership may be subdivided for the sale or transfer of ownership of each individual unit, regardless of lot size, width, setback or coverage requirements of this Chapter 27, provided that:

- A. The dwelling existed prior to the effective date of this Chapter 27.
- B. The nonconforming feature created by the proposed subdivision will be the minimum that will permit the subdivision to be effectuated.
- C. The proposed subdivision will create no change or alteration on, or to, the premises that will increase any existing nonconforming feature.
- D. The proposed subdivision plan is submitted to and approved in accordance with the provisions of Chapter 22, Subdivision and Land Development, of this Code.

(Ord. 167A, 5/7/1985, §502)

§27-503. Building Setback Lines.

Where a building setback line has been established on at least 50% of the properties in a block, the required setback may be reduced by the Zoning Officer. In no case shall the setback distance be less than the existing average setback of all properties in the block.

(Ord. 167A, 5/7/1985, §503)

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§27-504. Exceptions to Height Restrictions.

The height limitations contained in the district regulations of this Chapter 27 do not apply to spires, belfries, antennae, water tanks, ventilators, chimneys, solar energy systems or other appurtenances usually located above the roof of a building or structure.

(Ord. 167A, 5/7/1985, §504)

§27-505. Two or More Principal Structures on One Lot.

In any district, more than one building or structure having a permitted principal use may be erected on a single lot if the yard areas of each building or structure meet the requirements of §408, Lot, Yard and Height Regulations.

(Ord. 167A, 5/7/1985, §505)

§27-506. Visual Obstructions.

No wall, fence, sign, or other structure shall be erected or altered, and no hedge, trees, crops, etc., shall be maintained which may cause hazard to pedestrians or traffic.

(Ord. 167A, 5/7/1985, §506)

§27-507. Private Swimming Pools - Accessory to Residential Use.

1. Every person owning land on which there is a situated swimming pool, which contains 24 inches or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure (at least four feet above the adjacent ground level) either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. A barrier as described in Subsection 2 of this §27-507 may be substituted for a fence.
2. A natural barrier, hedge, pool cover or other protective device approved by the Borough Council may be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the enclosure, described in Subsection 1 of this §27-507.
3. All pools shall comply with setback requirements as an accessory use as specified by the district in which it is located.
4. All pools shall be properly maintained in a safe and sanitary condition and equipment with a filtering system meeting all applicable state requirements.

5. An adequate enclosure or fence required by Subsections 1 and 2 of this §27-507 shall be constructed within 30 days after the effective date of this Chapter 27 to prevent access by small children to pre-existing swimming pools.

(Ord. 167A, 5/7/1985, §507)

§27-508. Corner Lots.

Visual obstructions at street intersections (excluding an existing building, post, column or tree) exceeding 30 inches in height shall be prohibited on any lot within the triangle formed by the street lot lines of the lot and a line drawn between points along the street lines 30 feet from their points of intersection.

(Ord. 167A, 5/7/1985, §508)

§27-509. Kennels.

1. No kennel shall be constructed in or extend into a required yard area.
2. All kennels shall meet state laws and sanitation requirements.
3. No kennels shall be allowed to become a nuisance to neighbors because of noise or smell.

(Ord. 167A, 5/7/1985, §509)

§27-510. Outdoor Storage of Materials and Equipment.

1. Commercial Equipment Storage and Parking. Commercial equipment, including but not limited to trucks of one-ton capacity or more, construction equipment and machinery and other commercial or industrial materials, equipment and supplies, shall not be parked overnight or stored in any residential district.
2. Recreational Vehicle Storage. Recreational vehicles, as defined in this Chapter 27, may be parked and stored within a residential district in any carport or enclosed building. Recreational vehicles may be parked outdoors provided the vehicle is at least three feet from any lot line. Such vehicle may be parked anywhere on a residential property for a period of up to 24 hours for the purpose of loading, unloading, or minor maintenance and repair. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot.
3. On-Lot Storage in Residential Districts. No vehicle without current license and/or inspection, trailer, boat or other similar vehicle shall be parked or stored outside in any residential or commercial district within any yard area except within an enclosed building or carport or in conformance with Subsection 2 of this §27-510.

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(Ord. 167A, 5/7/1985, §510)

§27-511. Residential Accessory Uses.

No accessory uses shall be permitted in any residential district other than those enumerated hereunder.

- A. Home occupations, provided that such home occupations are clearly incidental and secondary to the use of the dwelling unit for residential purposes, and provided that such home occupations comply with all of the following conditions:
- (1) It is operated in its entirety within a single dwelling unit, or in a building or other structures accessory to a dwelling unit and only by the person or persons maintaining a dwelling therein, and not more than two additional persons shall be employed in the home occupation.
 - (2) It does not display or create outside the building any evidence of the home occupation, except that an unanimated, non-illuminated flat or window sign having an area of not more than one square foot shall be permitted on each street front of the zone lot on which the building is situated.
 - (3) It does not utilize more than 20% of the gross floor area of the dwelling unit (except in foster family care) and except that medical and dental offices may utilize not more than 50% of the gross floor area of the dwelling unit.
- B. Off-street parking facilities for the sole use of the residents of the site where it is located, except as otherwise provided herein.
- C. Signs, including sale or rental signs, directional signs, and farm produce signs (only when products are on sale), having an area of not more than six square feet, provided that there shall be not more than two such signs placed upon any property unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

(Ord. 167A, 5/7/1985, §511)

§27-512. Commercial Accessory Uses.

No accessory use shall be permitted in any commercial district other than those enumerated hereunder.

- A. Any accessory use permitted in a residential district whenever such use shall be appurtenant to an existing dwelling use.
- B. Off-street parking facilities.
- C. Signs, as permitted in residential districts.
- D. Other signs, including business signs, shall have an area of not more than 50 square feet, bearing the name of the occupant and products sold or displayed on the premises, provided that such signs may be illuminated, but shall be of a nonflashing type.

(Ord. 167A, 5/7/1985, §512)

§27-513. Off-Street Parking.

- 1. General Regulations. "Parking Space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.
 - A. Each parking space shall consist of at least an average of 270 square feet of usable area for each motor vehicle, including access to the area and from the area. The parking space size, per vehicle, shall be at least nine feet by 18 feet. The outdoor parking spaces and accesses to and from shall be paved, or covered, with gravel or cinders.
 - B. A garage or carport may be built completely or partly inside the walls of the building or adjacent to it. If the garage is separate from the building, it shall conform to all accessory building requirements. The garage may be built underground, but the area above shall be deemed to be part of the open space of the lot on which it is located.
 - C. All parking space areas shall be properly constructed for a durable surface and an adequate drainage. The surface area could consist of crushed stone, concrete or bituminous concrete surface. This area shall be properly illuminated and so arranged as to reflect the light away from nearby premises and the public right-of-way.
 - D. 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 public 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 nine feet in width per lane of traffic; and not less than 15 feet in width in all cases where the access is to storage areas or loading and unloading spaces required hereunder. There shall not be more than two means of access from a lot onto a public highway, and each shall be no more than 35 feet wide. If only one is provided, it shall not be more than 50 feet wide.

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2. Parking Facilities Required. Any structure, building or commercial area erected, converted or enlarged for any use shall be provided with the minimum space, at least, as set forth below. Fractional numbers of parking spaces shall be increased to the next whole number.
 - A. Residential. At least two off-street parking spaces must be provided for each dwelling unit in single unit or two-family dwellings. Dwellings with three or more units must have a minimum of 1 1/2 spaces for each dwelling unit.
 - B. Commercial. One per 100 square feet of sales area. Off-street loading, one bay for each establishment.
 - C. Neighborhood Groceries. A minimum of four spaces. Off-street loading, one bay for each establishment.
 - D. Parking facilities for the I-1 Industrial District shall require that 400 square feet be allotted for each car, including moving lanes, access drives, drive-up windows, loading areas and landscaped areas to be incorporated in the site layout as part of the circulation and parking for the development. However, in no case shall individual stall dimensions be less than nine feet by 18 feet.
 - E. Parking facilities for the R-3 Residential/High Density District shall require:
 - (1) At least 1 1/2 parking space per apartment shall be required.
 - (2) In addition, one space per employee shall be provided.
 - (3) Parking requirements for the R-3 District shall meet the specifications of Subsection 1, General Regulations, of this §27-513.
 - F. Theaters, auditoriums, churches, schools, stadiums or any other place of public or private assembly shall have at least one parking space for each four seats provided for public or private assembly.
3. The provisions of Subsection 2 of this section shall apply to any conversion or enlargement of existing structures, buildings, commercial areas, theaters, stadiums or any other place of public or private assembly.

(Ord. 167A, 5/7/1985, §513; as amended by Ord. 1999-2, 4/27/1999, §1)

§27-514. Signs.

Signs shall be permitted in accordance with the provisions of this §27-514 and such other regulations as may be required herein.

- A. Any lighting used to illuminate signs shall be so arranged as to reflect the light away from the adjoining premises in any residential district.
- B. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
- C. Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street.
- D. Signs shall not project beyond property lines not over public sidewalk areas.
- E. Signs shall not be erected upon or above the roof of any building and shall not project above the height limit permitted in any district in which they are located.
- F. A permit shall not be required for the erection, alteration or maintenance of any signs permitted in a residential district.
- G. A permit shall be required for the erection, alteration, or reconstruction of billboards or advertising sign boards, including poster panels, bulletins and the like.
- H. All temporary signs erected for a special event shall be removed within 24 hours after the event.
- I. No billboard, illuminated sign or advertising structure shall be permitted within 200 feet of the front or side lot lines of any lot in any residential district, any public parkway, public square or entrance to any public park, school, library, church or similar institution.

(Ord. 167A, 5/7/1985, §514)

§27-515. Junkyards, Including Automobile Wrecking.

No new junkyards shall be permitted within the Borough limits after the date of passage of this Chapter 27. Such uses existing at said time of adoption may continue their operations as nonconforming uses, but shall terminate within one year unless they comply with the following provisions:

- A. A living fence shall be established within one year of the passage of this Chapter 27 to completely enclose the junkyard.
- B. A living fence may be established no closer than 100 feet to any property line.
- C. Plant material to be used for the living fence must attain an average height of six feet within eight years of the passage of this Chapter 27. Plant mate-

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rial should preferably be evergreen trees or shrubs, including but not limited to Scotch Pines, Red Pine, Austrian Pine or Norway Spruce. The suitability of the plant material shall be determined by the Borough Council.

- D. If evergreens are to be used, they shall be planted in double rows about six feet apart, with offset spacing.
- E. Existing junkyards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause the breeding or harboring of rats, flies or other vermin.

(Ord. 167A, 5/7/1985, §515)

§27-516. Mobile Home Parks.

No person shall establish or operate any mobile home park within the Borough unless it has been approved as a conditional use by the Borough Council in conformance with this Chapter 27. The following standards and criteria shall be satisfied:

- A. The mobile home park shall be serviced by public water and sewer systems.
- B. A plan for stormwater management shall meet DER, local and county regulations.
- C. A plan for grading and control of erosion and sedimentation shall meet DER, Borough, and county regulations.
- D. Streets.
 - (1) A safe and convenient vehicular access shall be provided from abutting public streets or roads.
 - (2) Internal park streets shall have a cartway of 18 feet constructed to Borough street standards on which no parking is allowed.
- E. Two off-street parking spaces shall be provided for each mobile home pad. An overflow and visitor parking area shall also be provided, consisting of 1 1/2 parking spaces per total mobile home pads planned.
- F. The total number of mobile home lots shall not exceed a density of six per acre.
- G. The mobile home park shall have a gross area of at least two acres.
- H. Mobile homes shall be located at least 60 feet from the center line of any abutting Borough street.

- I. Mobile homes shall be located at least 25 feet from any park property line and at least 10 feet from any side or rear mobile home lot line.
- J. Mobile homes shall be separate from each other and from other buildings, structures, and outdoor living areas by at least 30 feet on all sides.
- K. Mobile home parks shall provide a screen planting (trees, shrubs) along the property boundary line separating the park and adjacent uses.
- L. In all mobile home parks a recreation area, or area, with suitable facilities shall be maintained for the use of all parks residents. Land required for such recreation area or areas shall not be less than 5% of the gross area of the park.
- M. The storage, collection and disposal of refuse in the mobile home park shall be the responsibility of the park manager and shall be so conducted as to create no litter, health hazards, rodent harborage, insect breeding areas, fire hazards or air pollution and shall comply with applicable Borough and state regulations.
- N. The mobile home park owner or operator shall maintain in convenient places, designated by the Fire Chief of the Borough, hand fire extinguishers, in good working order, in the ratio of one to every six trailer lots or fraction thereof.

(Ord. 167A, 5/7/1985, §516)

§27-517. Conditional Uses.

Uses specified as conditional shall be permitted by the Borough Council after review by the Borough Planning Commission unless evidence shows that the use will result in substantial injury to the public interest exceeding that which might be expected in normal circumstances. In making such a determination, Borough Council shall consider the following standards and criteria:

- A. The presence of adjoining similar uses.
- B. An adjoining zone district in which the use is permitted.
- C. Sufficient area to effectively screen the conditional use from adjacent different areas.
- D. The use will not substantially detract from the permitted uses of the district.

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- E. Conditions were such that there were several potential sites for the particular use but not sufficient need to establish a permitting zone district or to leave the district open to the indiscriminate placement of such use.
- F. Sufficient safeguards such as parking, traffic control, screening and setbacks can be included to remove any potential adverse influences the use may have on adjoining uses.

(Ord. 167A, 5/7/1978, §517)

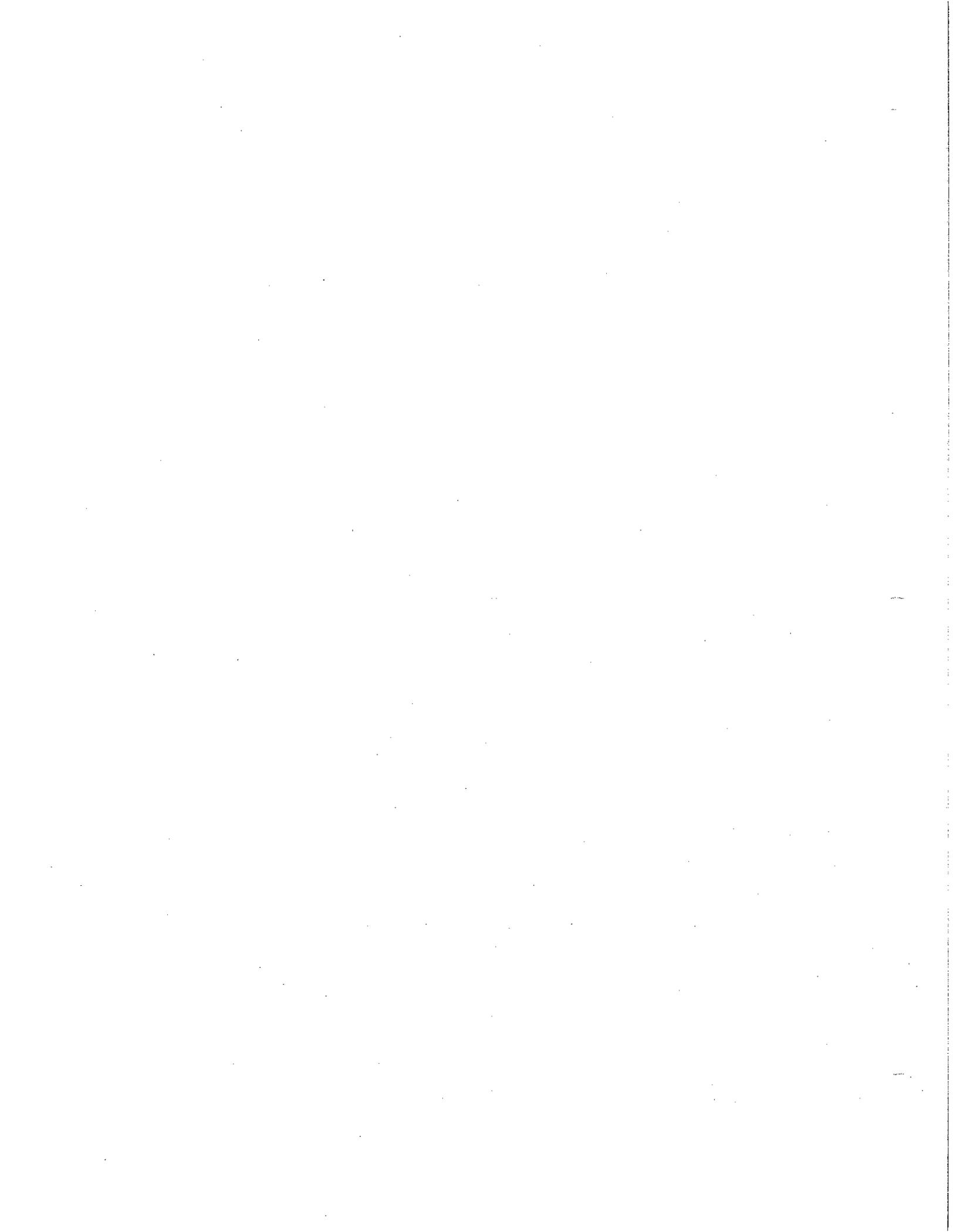
§27-518. Nonconforming Uses.

1. Registration. Nonconforming uses shall be registered within six months of the effective date of this Chapter 27. 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. Any lawful use of a structure or land existing at the effective date of this Chapter 27 may be continued although such use does not conform to the provisions of this Chapter 27, except where otherwise provided.
3. Extensions.
 - A. A nonconforming use of a building may be extended throughout the building if no structural alterations are made therein; such extension may include structural alterations when authorized by the Borough Council. The Borough Council shall permit such structural alterations except where such change will adversely affect adjoining property area.
 - B. A nonconforming use or structure may be extended upon a lot occupied by such use and held in single and/or separate ownership at the effective date of this Chapter 27; provided that such extension does not replace a conforming use, does not violate the yard and coverage requirements of the zone in which the nonconforming use exists, and, regardless of change in lot coverage, a proposed expansion shall not exceed 50% of the existing nonconforming use's coverage area.
4. Nonconforming Lot of Record.
 - A. In any district in which single-family houses are permitted, a single-family house and customary accessory building may be erected on any lot of record in existence at the effective date of this Chapter 27. Consideration shall be given by the Zoning Hearing Board as to the desirability and feasibility of

resubdividing the area when two or more nonconforming lots have contiguous 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. In no case, however, shall the side yard be less than 10% of the lot width, or, five feet, whichever is greater. No rear setback shall be less than 20 feet.
5. Repairs.
- A. Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations not extending the nonconforming use, except as otherwise provided below.
 - 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 70% of its fair market value, 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 restoration shall be completed within one 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 conditional use by the Borough Council.
7. Abandonment. If a nonconforming use of a building or land ceases for a period of two years, the subsequent use of such building or land shall be in conformity with the provisions of this Chapter 27.
8. Nonconforming Use of Open Land. All nonconforming junk storage areas, storage areas and similar nonconforming use of open land, when discontinued for a period of 90 days, shall not be continued. All nonconforming signs damaged to an extent of 70% or more of fair market value shall not be repaired or reconstructed.

(Ord. 167A, 5/7/1985, §518; as amended by Ord. 184, 4/3/1990)



Part 6

Definitions

§27-601. Application and Interpretation.

1. It is not intended that these definitions include only words used or referred to in this Chapter 27. The words are included in order to aid in the interpretation of this Chapter 27 for administrative purposes in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.
2. Unless otherwise expressly stated, the following shall for the purpose of this Chapter 27, have the meanings indicated as follows:
 - A. Words used in the present tense include the future tense.
 - B. The word "person" includes a profit or nonprofit 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.
3. Definition of Terms. For the purposes of this Chapter 27, the following words, terms and phrases have the meanings 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.

ALLEY — any public thoroughfare in 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,

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whether by extending on a side or by increasing in height or the moving from one location or position to another.

AMENDMENT — revisions to the Zoning Chapter and/or the Official Zoning Map; the authority for any amendment lies solely with the Borough Council.

AREA, BUILDING — the total of areas taken on a horizontal plan 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.

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 business 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.

BOARDINGHOUSE — any dwelling which more than three 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 boardinghouse.

CONDITIONAL USE — a use permitted in a particular zoning district by the Mill Hall Borough Council pursuant to the provisions of this chapter and Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601 et seq.

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 of Mill Hall lies.

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

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

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 multifamily dwellings as well as single-family dwellings unless otherwise indicated.

DWELLING TYPES —

- A. Garden Apartment — a multifamily dwelling consisting of three or more dwelling units accommodating three or more families which are located one over the other and which, when more than three units are utilized, are attached side-by-side through the use of firewalls, and which shall have side yards adjacent to each first-story end unit. Each dwelling unit is normally accessible by a common stairwell.
- B. 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.
- C. Single-Family Detached — a dwelling unit accommodating a single-family and having two side yards.
- D. Two-Family — a multifamily dwelling consisting of two dwelling units, separated by a fire barrier, accommodating two families which are located one over the other, or next to one another and having two side yards.
- E. Townhouse (Row Dwelling) — a multifamily dwelling consisting of three or more dwelling units accommodating three or more families which are attached side-by-side through the use of firewalls and which shall have side yards adjacent to each end unit. Each dwelling unit is generally two stories in height, but may conceivably be either one or three stories in height.

FAMILY — one or more persons who live together in one dwelling unit and maintain a common household. It may consist of a single person or of two or more persons, whether or not related by blood, marriage, or adoption, but not more than four unrelated persons.

FENCE — an accessory structure which is permitted in all districts to the maximum height of eight feet with a one-foot setback from the property line; in an industrial district, the height shall not exceed 11 feet.

FIREWALL — a wall between dwelling units which prevents the movement of flames or hot gases as defined by the BOCA Code(s).

FLOOD — a temporary inundation of normally dry land areas.

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FLOOD FRINGE — that portion of the floodplain outside the floodway.

FLOODPLAIN — (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODWAY — the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter 27, the floodway shall be capable of accommodating a flood of the one-hundred-year magnitude.

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

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

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.

HOTEL — a 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 — the keeping of four or more dogs outside the living area more than six months old.

LAND DEVELOPMENT — any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
- (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. "Land development" does not include development which involves:

- (1) The conversion of an existing single family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- (2) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

LIGHTING —

DIFFUSED — that form of lighting where the light passes from the source through a translucent cover or shade.

DIRECT or FLOOD — that form of lighting where the source is visible and the light is distributed directly from it to the object to be illuminated.

INDIRECT — that form of lighting where the light source is entirely hidden and the light is projected to a suitable reflector from which it is reflected to the object to be illuminated.

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

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

LOT, CORNER — a parcel of land at the junction of and abutting on two or more intersecting streets.

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

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

MOBILE HOME — a transportable, single-family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and in-

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cidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME LOT — a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MOBILE HOME PARK — a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

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.

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.

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.

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

ONE-HUNDRED-YEAR FLOOD — a flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year, although the flood may occur in any year).

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 mineral resource, natural resource or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove 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, clay and shale.

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

PERMANENT FOUNDATION — in reference to mobile homes, a continuous frost-free masonry foundation supporting the mobile home around its perimeter with subgrade footers at least 40 inches below grade level.

PLANNING COMMISSION — the Planning Commission of the Borough of Mill Hall.

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

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.

PUBLIC HEARING — a formal meeting held pursuant to public notice by the Mill Hall Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

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.

PUBLIC NOTICE — notice published once each week for two successive weeks in a newspaper of general circulation in the Borough of Mill Hall. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days

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and the second publication shall not be less than seven days from the date of the hearing.

PUBLIC USES — includes public and semipublic 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; fraternal clubs and homes; non-profit recreational facilities; easements for alleys, streets, and public utility rights-of-way; and radio and television transmission facilities.

RECREATION VEHICLE — a vehicle such as a travel trailer, motor home, snowmobile trailer, boat trailer, pop-up type trailer camper or other such vehicle, whether self-motorized or pulled, used for recreational purposes rather than daily transportation.

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.

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

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.

SERVICE STATION — any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline, oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designated to be used for servicing such motor vehicles.

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

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.

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 opposite exterior walls are not more than two 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.

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

STREET RIGHT-OF-WAY LINE — the line dividing a lot from the full street right-of-way, not just the cartway.

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

SUBSTANTIAL IMPROVEMENT — any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored before the damage occurred.

SWIMMING POOLS —

PRIVATE — any reasonable 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 two feet. Ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

PUBLIC — a public bathing place shall mean any open or enclosed place open to the public for swimming or recreation bathing, whether or not a fee is charge for admission for the use thereof.

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.

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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.

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

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

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

ZONING MAP — the Official Zoning Map of the Borough of Mill Hall.

ZONING ORDINANCE — The Mill Hall Borough Zoning Ordinance (this Chapter 27), as amended.

(Ord. 167A, 5/7/1985, §601; as amended by Ord. 184, 4/3/1990)

Part 7

Administration and Enforcement

§27-701. Administration of the Floodplain District.

This §27-701 shall apply to the administration of uses in the Borough Floodplain Overlay District.

- A. Application Process. Applications for a land use/zoning permit shall be in accordance with §27-703, except that any such application shall contain the proposed lowest floor elevation.
- B. Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in any identified flood-prone areas to be considered for approval shall be submitted by the Zoning Officer to the County Conservation District for review and comment prior to the issuance of a land use/zoning permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.
- C. Review of Application by Others. A copy of all plans and applications for any proposed construction or development in any identified flood-prone area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Borough Engineer, etc.) for review and comment.
- D. Changes. After the issuance of a land use/zoning permit by the Zoning Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications of other documents submitted with the application without the written consent or approval of the Zoning Officer.
- E. Start of Construction. Work on the proposed construction shall begin within six months after the date of issuance of the land use/zoning permit and be completed within two years, or the Permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Construction shall be considered to have started with the first placement of permanent construction on the site, such as pouring of slabs or footings or any work beyond the state of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes or electrical or other service lines from the street.

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- F. **Inspection and Revocation.** During the construction period, the Zoning Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Borough laws and ordinances. In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws or ordinances, or that there has been a false statement or misrepresentation by any applicant, the Zoning Officer shall revoke the land use/zoning permit and report such fact to the Council of the Borough of Mill Hall for whatever action it considers necessary.
- G. **Appeals.** Appeals of the Zoning Officer's decision(s) shall be governed by §27-705.
- H. **Variance Within Floodplain Districts.**
- (1) **General.** If compliance with any of the requirements of this Chapter 27 would result in an exceptional hardship for a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
 - (2) **Variance Procedures and Requirements.** Requests for variances shall be considered by the Zoning Hearing Board in accordance with the following and are in addition to the regular variance procedures contained in Article IX, Act 247, as amended.
 - (a) The Board shall, at least 30 days prior to holding a hearing on the variance, forward a copy of the variance request to the Borough Council and the Borough Planning Commission for review and comment. This review period may also be used to secure technical interpretations from the Federal Emergency Management Agency.
 - (b) No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred-year flood elevation.
 - (c) Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit or to development which may endanger human life.
 - (d) If granted, a variance shall involve only the least modification necessary to provide relief.

- (e) Whenever a variance is granted, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objective of this Chapter 27.
- (f) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - (i) The granting of the variance may result in increased premium rates for flood insurance.
 - (ii) Such variance may increase the risks to life and property.
- (g) In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
 - (i) That there is good and sufficient cause.
 - (ii) That failure to grant the variance(s) would result in exceptional hardship to the applicant.
 - (iii) That the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats of public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public or conflict with any other applicable local or state ordinance and regulations.
- (h) A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.
- (i) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

I. Special Permit Application Review Procedures. Upon receipt of an application for a special permit by the Borough Council, the following procedures shall apply in addition to those enumerated above.

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

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- (2) If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respects the application is deficient.
- (3) If the Borough Council decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- (4) If the Borough Council approves the application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five working days after the date of approval.
- (5) Before issuing the Special Permit, the Borough Council shall allow the Department of Community Affairs 30 days, after receipt of the notification by the Department, to review the application and the decision made by the Borough.
- (6) If the Borough Council does not receive any communication from the Department of Community Affairs during the thirty-day review period, it may issue a special permit to the applicant.
- (7) If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough Council and the applicant, in writing, of the reasons for the disapproval, and the Borough Council shall not issue the special permit.

(Ord. 167A, 5/7/1985, §701; as amended by Ord. 2010-1, 2/9/2010)

§27-702. Appointment and Powers of Zoning Officer.

1. For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Borough of Mill Hall, shall be appointed.
2. The Zoning Officer shall meet the qualifications established by the Borough of Mill Hall and shall be able to demonstrate to the satisfaction of the Borough of Mill Hall a working knowledge of municipal zoning.
3. The Zoning Officer shall administer this chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.
4. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
5. He shall:

- A. Receive and process applications, 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 the approved plans or permit shall be noted, and the holder of the permit shall be notified of the discrepancies.
- C. Keep a record of all applications received, all permits issued, reports of inspection, notices and orders issued, and the complete record 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. At least quarterly, 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.
- D. Take such other actions as may be necessary to enforce the provisions of this Chapter 27.

(Ord. 167A, 5/7/1985, §702; as amended by Ord. 184, 4/3/1990)

§27-703. Permits.

1. Requirements. It shall be unlawful to commence the excavation for or the construction or alteration of any buildings until the Zoning Officer has issued a land use/zoning permit for such work. No permit shall be required for repairs to or maintenance of any building, structure or grounds provided such repairs or maintenance do not change the use of the structure or land, the existing perimeter of the structure, or otherwise violate the provisions of this Chapter 27.
2. Form of Application. Applications 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 Work. The application shall contain a general description of the proposed work, use and occupancy of all parts of the building, structure, or sign

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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 distances of the same from the existing lot lines.

4. Issuance of Permits. If the application or plans do not conform to the provisions of this Chapter 27 and all pertinent local laws, the Zoning Officer shall reject the application in writing, stating the reasons for rejection. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this Chapter 27 and all laws and ordinances applicable thereto, he shall issue a permit.
5. Expiration of Permits. Governed by §27-701, Subsection 5.
6. Revocation of Permits. The Zoning Officer may revoke a permit or approval issued under the provisions of this Chapter 27 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 27.
7. Payment of Fees. No permit to begin work for any activity covered by this §27-703 shall be issued until the fees set by resolution of the Borough Council shall be paid to the Zoning Officer. The payment of fees under this §27-703 shall not relieve the applicant or holder of the permit from payment of other fees that may be required by this Chapter 27, or any other ordinance or law.
8. Compliance with this 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 27, except as stipulated by the Zoning Hearing Board.
9. 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.
10. Certificate of Occupancy.
 - A. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used in whole or in part or shall be changed in use until an occupancy permit has been issued by the Zoning Officer. In the case of residential construction, such permit shall not be issued until the exterior walls of the building are complete, all essential or vital utilities have been installed and all requirements of any state statutes or other ordinances of the Borough have been met. The issuance of an occupancy permit is not, however, intended to guarantee or warranty, either stated or otherwise, the soundness of any construction nor the habitability of any building or struc-

ture. The purpose of the certificate is only to certify that all work authorized by a land use/zoning permit has been completed and that the building or the proposed use thereof complies with the provisions of this chapter.

- B. Issuance and Effect. The applicant shall notify the Zoning Officer upon completion of the permitted activity, providing evidence, as required, of compliance with any state statutes and/or other applicable ordinances of the Borough. The Zoning Officer shall determine whether such compliance has occurred. The Zoning Officer shall issue or deny the occupancy permit within 10 days after receipt of notification and all applicable paperwork showing, otherwise, compliance with applicable state statutes and/or Borough ordinances. Once granted, the occupancy permit shall continue in effect so long as there is no change of use, regardless of change in ownership, tenants or occupants. If, as part of issuance of the occupancy permit, the Zoning Officer inspects the construction and a violation is determined, the applicant shall be notified, in writing, by the Zoning Officer of the deficiencies found or the reasons for denial of the permit.

(Ord. 167A, 5/7/1985, §703; as amended by Ord. 2010-1, 2/9/2010)

§27-704. Enforcement Notice.

1. If it appears to the Borough of Mill Hall that a violation of this chapter has occurred, the Borough of Mill Hall 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 of Mill Hall intends to take action.
 - B. The location of the property in violation.
 - C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.
 - D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.

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- 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. 184, 4/3/1990)

§27-705. 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 Mill Hall Borough Council or, with the approval of the Mill Hall Borough Council, an officer of the Borough of Mill Hall, 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 of Mill Hall at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Mill Hall Borough Council. No such action may be maintained until such notice has been given.

(Ord. 84, 4/3/1990)

§27-706. 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 therefore in a civil enforcement proceeding commenced by the Borough of Mill Hall, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough of Mill Hall 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 of Mill Hall 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 such violation until the fifth 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 of Mill Hall 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. 184, 4/3/1990)

§27-707. Zoning Hearing Board.

1. There is hereby created for the Borough of Mill Hall 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 residents of the Borough of Mill Hall appointed by resolution by the Mill Hall Borough Council. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Mill Hall 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 of Mill Hall.
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 Mill Hall Borough Council which appointed the member, taken after the member has received 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 of Mill Hall and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough of Mill Hall and shall submit a report of its activities to the Mill Hall Borough Council as requested by the Mill Hall Borough Council.
6. Within the limits of funds appropriated by the Mill Hall 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 Mill Hall

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Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Mill Hall Borough Council.

(Ord. 184, 4/3/1990)

§27-708. Hearings.

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

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer 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 week prior to the hearing.
- B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. 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 of Mill Hall, 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.
- D. The parties to the hearing shall be the Borough of Mill Hall, 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.
- E. 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.
- F. 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.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

- H. 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.
- I. 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.
- J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this 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 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 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 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 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.

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

(Ord. 184, 4/3/1990)

§27-709. 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 Mill Hall 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 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough of Mill Hall 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 therefore, 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 stormwater 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 Mill Hall 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. 184, 4/3/1990)

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§27-710. 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. 184, 4/3/1990)

§27-711. Special Exceptions.

Where the Mill Hall 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. 184, 4/3/1990)

§27-712. Conditional Uses.

Where the Mill Hall Borough Council, in this chapter, has stated conditional uses to be granted or denied by the Mill Hall Borough Council pursuant to express standards and criteria, the Mill Hall 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 Mill Hall 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. 184, 4/3/1990)

§27-713. Parties Appellant Before the Board.

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Mill Hall 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 of Mill Hall, 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. 184, 4/3/1990)

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§27-714. Time Limitations.

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Borough of Mill Hall 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 30 days after notice of the determination is issued.

(Ord. 184, 4/3/1990)

§27-715. Stay of Proceedings.

1. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

(Ord. 184, 4/3/1990)

§27-716. Enactment of Zoning Ordinance Amendments.

1. The Mill Hall 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 Mill Hall 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 of Mill Hall at points deemed sufficient by the Borough of Mill Hall along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
3. In the case of an amendment other than that prepared by the Planning Commission the Mill Hall Borough Council shall submit each such amendment to the Planning Commission at least 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 Mill Hall Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
5. At least 30 days prior to the public hearing on the amendment by the Mill Hall Borough Council, the Borough of Mill Hall shall submit the proposed amendment to the county planning agency for recommendations.
6. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the county planning agency.

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(Ord. 184, 4/3/1990)

§27-717. 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 Mill Hall 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 Mill Hall Borough Council. If the Borough of Mill Hall 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 Mill Hall 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 Mill Hall 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. 184, 4/3/1990)

§27-718. Procedure for Borough Curative Amendments.

1. If the Borough of Mill Hall determines that this chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
 - A. The Borough of Mill Hall shall declare by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days such declaration and proposal the Mill Hall 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 180 days from the date of the declaration and proposal, the Borough of Mill Hall 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 Mill Hall 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 1A. 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.

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4. The Borough of Mill Hall, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 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 of Mill Hall by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough of Mill Hall may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

(Ord. 184, 4/3/1990)