

Centerport Borough
Zoning Ordinance
Ordinance No. _____

NOVEMBER 2004

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THE ZONING ORDINANCE
of
CENTERPORT BOROUGH

AN ORDINANCE REGULATING AND RESTRICTING THE SIZE OF YARDS AND OTHER OPEN SPACES; THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER PURPOSES; THE LOCATION AND SIZE OF SIGNS; THE ESTABLISHMENT AND MAINTENANCE OF BUILDING LINES AND SETBACK BUILDING LINES UPON ANY OR ALL PUBLIC ROADS OR HIGHWAY; CREATING ZONING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; CREATING THE OFFICE OF ZONING OFFICERS CREATING A ZONING HEARING BOARD AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE INCLUDING THE IMPOSITION OF PENALTIES, AND REPEALING ALL EXISTING ORDINANCES INCONSISTENT HEREWITH.

ARTICLE I: TITLE AND PURPOSE

Section 101. This Ordinance shall be known and may be cited as the “Zoning Ordinance of Centerport Borough – 2004.”

Section 102. COMMUNITY DEVELOPMENT OBJECTIVES. These Zoning Regulations are enacted for the following purposes:

- A. To promote, protect and facilitate the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; airports and national defense facilities; the provision of adequate light and air; access to incident solar energy; police protection; vehicle parking and loading space; transportation; water; sewage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural, or industrial use; and other public requirements as well as preservation of the natural, scenic, and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains. To prevent overcrowding of land, blight, danger, and congestion in travel and transportation, loss of health, life, or property from fire, flood, panic, or other dangers.
- B. Community Development Objectives: this Ordinance shall be interpreted so as to bring about as well as possible as authorized by this Ordinance,

the following Community Development Objectives:

1. Preservation of Open Spaces: Increasing urbanization and residential construction lead to increasing problems stemming from storm runoff and drainage. To that end, floodplain areas should, whenever possible, be preserved and zoned primarily for conservation and recreation.
2. Provide for Residential Growth and Development: There should be preserved areas for housing needs. To preserve the suburban atmosphere so much desired, it will be necessary to utilize marginal agricultural land and woodland areas for this purpose. It may be necessary to provide for medium and high density developments, utilizing such concepts as townhouse and garden apartments and planned residential developments. Further, because of the density factor, these must be located in areas economically accessible to public water and sewerage. The increasing demand for mobile home living must be met by providing for and insuring well planned and designed parks, either enlarging presently existing parks or approving new parks carefully located and adequate in size to the need. The tendency for indiscriminate stripping of both mobile homes and single family residences along rural roads must be discouraged and deterred.
3. Conservation of the Environment: The quality of the environment has recently come to the forefront among essential considerations of modern planning. In Centerport Borough, as elsewhere, there is much to be done to terminate destruction of the natural environment and to reclaim much that has already occurred. The effective handling of solid waste disposal and cleaning up the proliferation of junk is a case in point. Waterways require protection. Floodplains, as previously noted, should be set aside and withdrawn from development.
4. Development of Recreational facilities: In keeping with the preservation of open space, provision must be made now to assure the long-term development of both public and private recreation areas.

Section 103. INTERPRETATION

- A. In interpreting and applying this Zoning Ordinance, its provisions shall be

held to be the minimum requirements for promotion of health, safety, morals, and general welfare of the Borough. Any use permitted subject to the regulations prescribed by the provisions of this Zoning Ordinance shall conform with all regulations for the Zoning District in which it is located and with all other pertinent regulations of the Ordinance. This Ordinance is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restriction, or reservations contained in deeds or other agreements, but if the Ordinance imposes more stringent restrictions upon the use of buildings and land than are contained in the deeds or agreements, the provisions of the Ordinance would control.

- B. As provided for and further defined by the Pennsylvania Municipalities Planning Code, in the event that any provision of this Ordinance is in conflict with any of the State acts listed hereunder, the provisions of the said act(s) shall supercede this Ordinance to the extent of such conflict.
1. Act 418 of 1945, known as the "Surface Mining Conservation and Reclamation Act;"
 2. Act 219 of 1984, known as the "Non-Coal Surface Mining Conservation and Reclamation Act;"
 3. Act 223 of 1984, known as the "Oil and Gas Act;"
 4. Act 1 of 1966, known as "The Bituminous Mine Subsidence and Land Conservation Act;"
 5. Act 6 of 1993, known as the "Nutrient Management Act;"
 6. Act 43 of 1991, known as the "Agricultural Area Security Law;"
and
 7. Act 133 of 1982, know as "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances."

Section 104. APPLICATION.

The provisions, regulations, limitations, and restrictions of this Ordinance shall apply to all structures, buildings, uses, signs, and their accessory structures, buildings uses, and signs. Nothing in this Ordinance shall require any change in plans or construction of a lawful use, the construction of which is lawfully started before the effective date of this Ordinance and which is completed within one (1) year after the effective date of this Ordinance.

Section 105. PUBLIC UTILITY CORPORATIONS

This Ordinance shall not apply to any existing or proposed building, or extension

thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building is question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

Section 106. SEPARABILITY

It is hereby declared to be legislative intent that:

- A. If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separate and fully effective.
- B. If a court of competent jurisdiction finds that the application of any provision or provisions of this Ordinance to any lot, building, or other structures or tract of land, to be invalid or ineffective in whole or part, the effect of such a decision shall be limited to the person, property, or situations shall not be affected.

ARTICLE II: DEFINITIONS

GENERAL: For the purpose of this Ordinance, certain terms and words are herewith defined as follows. In addition to these provisions, words used in the present tense shall include the future; the singular shall include the plural; the word "structure" shall include the word "building" and shall be interpreted to include any part of a structure or building; the word "shall" is mandatory, indicating a required action; the word "may" is permissive, indicating an optional action.

DEFINITIONS: Unless otherwise expressly stated, the following words shall be construed throughout this Ordinance to have meanings indicated in this section below;

Accessory Building – A building subordinated to the main building on a lot and used for purposes customarily incidental to those of the main building.

Accessory Use – A subordinate use of a portion of a lot which is customarily incidental to the main or principal use of the land or of a building lot.

Agriculture – The raising and keeping of field, truck, or tree crops, and/or the raising and keeping of any members of the animal kingdom, the total of such being greater than or equal to one (1) animal unit. Kennels and roadside stands as defined herein are specifically excluded.

General Agriculture. An activity shall be considered general agriculture provided the number of animal units is a maximum of 0.25 units per acre on parcels equal to or less than 10 contiguous acres, the number of animal units is a maximum of 2.0 units per acre on parcels greater than 10 contiguous acres, and the area of greenhouses erected is less than or equal to 50,000 square feet. The production of mushrooms is excluded.

Alley – A minor right-of-way, privately or publicly owned, primarily for the use of access to the rear of properties.

Alterations to Buildings – Any exterior, structural addition or any renovation to a building which would change its use classification.

Animal Unit – One animal unit is equal to a total of 1000 pounds of animal(s).

Apartment House – See dwelling.

Aquaculture – A form of agriculture which is the controlled cultivation of aquatic plants, animals and microorganisms.

Basement – A story partly underground and having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as story if subdivided and used for dwelling or business purposes.

Bed and Breakfast – A premises that provides overnight guest accommodations including daily breakfast as regulated under this Ordinance.

Borough – The Borough of Centerport, Berks County, Pennsylvania.

Borough Council – The governing body of the Borough of Centerport, Berks County, Pennsylvania.

Building – A structure having a roof supported by columns or walls, or any structure affording shelter of persons, animals, or chattels. In the case of any such structures separated by a division wall without openings or party wall, each portion of such building shall be deemed a separate structure. The term building includes: porches, swimming pools, tents, lunch wagons, dining cars, mobile homes, and similar structures, whether stationary or movable, but excluding fences and walls which are part of the landscaping, signs, and awnings.

Building Area – The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, including cornices, eaves, gutters, chimneys, steps, one-

story open porches, bay windows, breezeways, and balconies.

Building Setback Line – A line parallel to and the distance from a public or private street as specified in this Ordinance. Such line is measured from the street right-of-way line.

Campground - A lot or tract of ground, which shall be a minimum of five (5) acres in size, on which may be placed tents, campers, or travel trailers which do not exceed three hundred twenty (320) square feet in floor area, where persons or families may live on a temporary basis for a time period which shall not exceed fifteen (15) weeks in any calendar year.

Cartway - The portion of a street, road, or alley right-of-way that is paved or unpaved and intended for vehicular use.(See sketch No. 1).

Cellar - A story having more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purpose of height measurement.

Cellular Communications Antenna – A transmitting and/or receiving device used in telecommunications that radiates or captures radio signals.

Cellular Communications Antenna Height – The vertical distance measured from the base of a cellular communications antenna support structure at grade to the highest point of said structure. If this structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the cellular communications antenna height.

Cellular Communications Antenna Support Structure – Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Cell Site – A tract or parcel of land that contains a cellular communications antenna, the cellular communications antenna support structure, accessory building(s) and parking, and may include other uses associated with and ancillary to cellular communication transmission.

Cellular Telecommunications – A Commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to two (2) providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Cemetery – Land reserved or used for gravesites.

Child Day Care - A facility which is licensed to provide care for 7 or more children at any one time, where the child care areas are not being used as a family residence. For the purposes of Child Day Care, a child is a person under 16 years of age.

Church – A building used for public worship by a congregation, excluding buildings used exclusively for residential, educational, burial, recreational or other uses not normally associated with worship.

Club – An association of persons for some common non-profit activity (not including groups organized primarily to render a service customarily carried on as a business).

Commercial School – A school for the teaching of trades, arts or skills, operated as a business.

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

Community Center – A building or portion of a building used as a gathering place or meeting area by local residents or the residents of the development within which it is located. The short-term lease of a community center for private functions is permitted, subject to compliance with applicable building and fire safety codes, and further provided that such use does not unduly restrict the center's overall public function. The use of a community center for uses addressed by other provisions of this Ordinance shall be limited by such provisions.

Construction Site - The total necessary land required for all buildings or uses within a unified development.

Convenience Store – A use that primarily sells routine household goods, groceries and prepared ready-to-eat foods to the general public, but that is not primarily a restaurant, and that includes a building with a floor area of less than (8000) square feet. A convenience store shall not have drive-through service; otherwise it shall be considered a restaurant.

Corner Lot - A lot fronting on two intersecting streets, roads, or highways.

Cross Bar – A structure at or near the top of a low power mobile radio service telecommunications facility that provides support and horizontal separation for the antenna(e).

Curb Cut - A break or spacing in the curbing that provides for access to and from a street or highway created by a driveway, highway, or road, generally provided

for driveways or parking facility entrances.

Density - The proportionate amount of land allocated for each primary use.

Directional Antenna - A cellular communications antenna or array of cellular communications antennae designed to concentrate a radio signal in a particular area.

District (Zoning) - An area including all buildings and lots within certain designated boundaries as indicated on Zoning Map.

Dwelling - A building permanently erected on and attached to a foundation, having a fixed location on the ground and used as living quarters for one or more families, which building when so erected and attached, shall be, in the normal frame of reference, immobile. Hospitals, hotels, boarding, rooming, and lodging houses, institutional houses, tourist courts, and the like that offer overnight accommodations for guests or patients shall not be considered dwellings within the meaning of this Ordinance.

- (A) Apartment House - A dwelling which does not have a lot line between dwelling units and is designed to accommodate two (2) or more dwelling units.
- (B) Single Family Detached Dwelling - A dwelling which does not have party or lot line wall and is designed to accommodate one (1) dwelling unit.
- (C) Semi-Detached Dwelling - A building which has only one party or lot line wall and is designed to accommodate two (2) dwelling units.
- (D) Single Family Attached (Townhouse) - A building with three (3) dwelling units but no more than six (6) dwelling units attached by party walls and with unpierced part walls, not to include motels.

Dwelling Unit - One or more living and/or sleeping rooms arranged for the use of one (1) or more individuals living as a single housekeeping unit with cooking, living, and sanitary facilities.

Effective Radiated Power (ERP) - The product of the cellular communications antenna power input and the numerically equal antenna power gain.

- Family -
- (A) A single individual
 - (B) Two or more persons related by blood, marriage or adoption within and including the degree of first cousins.
 - (C) A group of not more than three (3) persons who are not related.

Farm Building - A barn, silo, or any building used for agricultural uses permitted

by this Ordinance. The term "farm building" shall not include a dwelling.

Floor Area - The sum of the gross horizontal areas of every floor of a building, including basement space, roofed porches, breezeways, and over garages or carports.

Forestry – The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

Free-Standing Low Power Mobile Radio Service Facility – A low-power mobile radio service telecommunications facility that consists of a stand-alone cellular communications antenna support structure, cellular communications antennae, and associated equipment. The cellular communications antenna support structure may be a wooden pole, steel monopole, lattice tower, light standard, or other vertical support.

Funeral Home – A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- a) embalming and the performance of other services used in preparation of the dead for burial;
- b) the performance of autopsies and other surgical procedures;
- c) the storage of caskets, funeral urns, and other related funeral supplies; and
- d) the storage of funeral vehicles, but shall not include facilities for cremation.

Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage - A building, structure, or any part thereof, in which one (1) or more motor vehicles are housed, kept, or repaired. Garages are classed as "Private Garages" or "Public Garages".

- (A) Private Garage - An accessory building for the storage of one or more automobiles and/or other vehicles accessory and incidental to the primary use of the premises; provided however, that one (1) commercial vehicle of not more than one and one-half (1-1/2) tons capacity may be stored therein where the use of such vehicle is not incidental to the use of the premises. No business, occupation, or service shall be conducted therein, nor shall space therein for more than one (1) vehicle be leased to a non-occupant of the premises.
- (B) Public Garage - Any garage not included within the definition of a private

garage.

Golf Course - (A) Conventional Golf Course - A golf course with a minimum of 2,800 yards of play in nine (9) holes.

(B) Special Golf Course - Any form of golf which is not included in the definition

Governing Body - The Borough Council of Centerport Borough, Berks County, Pennsylvania.

Group Home - A household of two (2) or three (3) members, not necessarily related by blood, marriage, adoption, or legal guardianship, who, because their physical, emotional or behavioral condition or their social or interpersonal skills otherwise would limit, inhibit, or prevent their ability to function as useful or productive members of society, are provided supportive services through a nonprofit social service agency.

Group Lodge - A household of more than three (3), but not more than six (6) members, not necessarily related by blood, marriage, adoption or legal guardianship, who, because their physical, emotional or behavioral condition or their social or interpersonal skills otherwise would limit, inhibit or prevent their ability to function as useful or productive members of society, are provided supportive services through a nonprofit social service agency.

Height of Building - The vertical distance measured, in the case of flat roofs, from the mean level of the surrounding ground to the level of the highest point of the roof beams adjacent to the street wall, and in the case of pitched roofs to the mean height level of the gable. Where no roof beam exists, the height shall be measured to the level of the highest point of the building.

Highway Access Point - The location or place of egress or access to a street or highway created by a driveway, minor street or another highway.

Highway Frontage - The lot dimensions measured along the right-of-way or street line of any street or highway abutting the lot.

Home Business - Any lawful enterprise carried on within the boundary of a property where one of the owners of the enterprise resides. The business may be conducted within the dwelling or in another building located upon the property.

Hospital - A use that involves the diagnosis, treatment or other medical care of humans that includes care requiring stays overnight and that may also include out-patient care. A medical care use that does not involve stays overnight shall be considered a Medical Clinic. A hospital may involve care and rehabilitation for medical, dental or mental health, but shall not include housing of the criminally insane nor primarily involve housing or treatment of persons actively serving an

official sentence after being convicted of a felony. A hospital may also involve medical research and training for health care professions.

Hotel or Motel - A building, or group of buildings, specifically designed for the temporary lodging of transient guests.

Impervious – Not easily penetrated by water (i.e., roads, buildings, sidewalks, access drives, loading areas, parking areas, and paved recreation courts).

Impervious Surface – A surface which is impervious.

Junk – Used and discarded materials including, but not limited to, waste paper, rags, scrap metal or other scrap, salvage, discarded material, unlicensed, uninspected, wrecked or disabled vehicles, or wrecked, disabled, or otherwise unused or unusable machinery.

Junk Yard - A lot, land, or structure, or parts thereof used for the collection, storage, dismantling, salvage or sale of unused and discarded materials including, but not limited to waste paper, rags, scrap metal or other scrap, salvage, discarded material, vehicles or machinery. The deposit or storage of one or more unlicensed, wrecked or disabled vehicle(s) shall be deemed to be a “junkyard”.

Kennel – Any structure or premises in which more than 4 dogs more than 6 months old are housed, groomed, bred, boarded, or trained for commercial purposes. Kennels are subject to the standards of this Ordinance.

Lattice Tower – A guyed or self-supporting three (3) or four (4) sided open, steel frame structure used to support telecommunications equipment.

Length of Building - The longest overall horizontal measurement of the structure measured parallel to outside walls.

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

Lot Coverage - The building area divided by the lot area, expressed as a percentage.

Lot Line - The boundary line of a lot.

Lot Size - The area of the lot.

Lot Width - The distance between the side lot line of the lots measured in the shortest straight line distance.

Low Power Commercial Mobile Radio Network – A system of low power commercial telecommunications facilities which allows wireless conversation to occur from site to site.

Low Power Commercial Mobile Radio Service – Mobile service provided for various uses, including:

- A. for profit;
- B. interconnected to Public Switch Network; and
- C. available to the public for such classes of eligible users as to be effectively available to a substantial portion of the public, which service must propose to or have developed multiple network sites within the County of Berks and any surrounding counties

Low Power Mobile Radio Service Telecommunications Facility – A facility that consists of equipment for the reception, switching, and transmission of low power mobile radio service communications. Such facility may include elevated (either building-mounted or ground-mounted) transmitting and receiving cellular communications antennae, low power mobile radio service base station equipment, and interconnection equipment. The categories of facility types include:

- A. roof and/or building mount facilities;
- B. free-standing low power mobile radio service facilities; and
- C. micro-cell or repeater facilities.

Low Power Telecommunications Facility – An unmanned facility consisting of equipment for the reception, switching, and/or receiving of wireless telecommunications operating at one thousand (1,000) watts or less effective radiated power (ERP), including, but not limited to, the following:

- A. Point-to-point microwave signals.
- B. Signals through FM radio translators.
- C. Signals through FM radio boosters under ten (10) watts effective radiated power (ERP).
- D. Cellular, Enhanced Specialized Mobile Radio (ESMR), and Personal Communications Networks (PCN).
- E. Private low power mobile radio service.

Micro-Cell – A low power mobile radio service telecommunications facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage. Micro-cells communicate with the primary low power mobile radio service facility in a coverage area via fiber optic cable or microwave.

Microwave Antenna – A dish-like cellular communications antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Minerals – Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil, and natural gas.

Mini Self Storage Units – A use of land where secure structures or secure units within a structure are offered for lease to the general public for the storage of personal articles.

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

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, which parcel is leased by the park owner to the occupants of the mobile home on the lot.

Mobile Home Park - A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

Monopole – A structure composed of a single spire used to support telecommunications equipment.

Motor Vehicle Service Station – A building designed or used for supply to the public of motor fuel, oil and accessories to motor vehicles, at retail. Convenience stores can be conducted as accessory uses.

Municipality –Centerport Borough, Berks County, Pennsylvania.

Municipal Use – Land owned or leased and maintained by the Municipality or a Municipal Authority, or an entity so designated by the Municipality or Municipal Authority.

No-impact Home-based Business - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in

excess of those normally associated with residential use. This use shall be a use permitted by right in every zoning district. The business or commercial activity must satisfy the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The business shall employ no employees other than family members residing in the dwelling.
- (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.

Non-Conforming Structures - A structure or part of a structure manifestly not designed to comply with the applicable provisions in a Zoning Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Ordinance or Amendment or prior to the application of such Ordinance or Amendment to its location by reason of annexation. Such non-conforming structures include, but are not limited to non-conforming signs.

Non-Conforming Uses - A use, whether of land or a structure which does not comply with the applicable use provisions of this Zoning Ordinance or Amendment heretofore or hereafter enacted, where such use was lawfully, in existence prior to the enactment of such Ordinance or Amendment, or prior to the application of such Ordinance or Amendment to its location by reason of annexation.

Nursing Home – Establishment providing nursing, dietary, and other similar personal services to convalescents, invalids, or aged persons, but excluding mental cases, cases of contagious or communicable disease, surgery, or other

treatments which are customarily provided in sanitariums and hospitals.

Omnidirectional Antenna – A cellular communications antenna that is equally effective in all directions, and whose size varies with the frequency and gain for which it is designed.

Parking Space - A space in a garage or on a lot, used for the parking of a motor vehicle, the area which is not less than 180 square feet and to which there is access from a street or alley.

Paved Area - A percentage which when multiplied by the lot area will determine the permitted ground area which may be covered with paving.

Paving – Hard material such as concrete, asphalt, brick, or stone applied to a lot in order to smooth or firm the surface of the lot.

Planning Commission - The Planning Commission of Centerport Borough.

Prime Agricultural Land – Land used for agricultural purposes that contains soils of the first, second or third class as defined in the Berks County Soil Survey.

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 legal right-of-way line of the street.

Private Low Power Mobile Radio Service – All forms of wireless telecommunications which have physical facilities similar to Commercial Low Power Mobile Radio Service, but which do not meet the definition of Commercial Mobile Radio Service.

Public Notice – Notification published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days prior to the date of the hearing.

Public Sewer - A municipal sanitary sewer system or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Resources.

Public Water - A municipal water supply system or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Resources.

Repeater – A low power mobile radio service telecommunications facility that extends coverage of a cell to areas not covered by the originating cell.

Residence - Same as Dwelling.

Retail Store – A use in which merchandise is sold or rented to the general public, but not including specifically allowed other uses such as the following: sales of motor vehicles or boats, adult entertainment establishments, manufacturing, tavern, car wash, motor vehicle service station, repair garage, or restaurant.

Roof and/or Building Mount Facility – A low power mobile radio service telecommunications facility in which cellular communications antennae are mounted to an existing structure on the roof (including rooftop appurtenances) or building face. Roof or building-mounted facilities may include micro-cell and/or repeater facilities.

Sanitary Landfill – A land site on which engineering principles are utilized to bury deposits of solid waste without creating public health or safety hazards, nuisances, pollution or environmental degradation.

Screen – An area of planting designed to provide a visual barrier either between abutting properties or between a property and an abutting street, as required within this Ordinance. Such landscaped area shall be maintained by the owner of the lot whereupon it is located such that it is of sufficient height and density to perform its barrier functions. Screens may include earthen berms with a maximum height of 48 inches. Unless otherwise required or permitted by this Ordinance, a screen shall:

- (a) Have a minimum height upon installation of five feet and shall achieve a minimum height of eight feet within three years of planting.
- (b) Be sufficient to provide a year-round barrier; and
- (c) Be composed of plant species which is indigenous to or is otherwise well-adapted to the conditions of this region.

Shopping Center – A group of commercial uses designed and constructed as an integrated unit, sharing common facilities for parking, loading, pedestrian circulation and sanitary facilities. Uses permitted within a shopping center include and are hereby limited to the retail sale of goods and services, financial services and offices, business and professional offices, eating and drinking establishments and uses customarily accessory to such uses.

Signs - Any advertisement, announcement, direction, or communication produced in whole or in part by constructing, erecting, affixing, or placing a structure on land or any other structure, or produced by painting, pasting, or otherwise placing any printed, lettered pictured, figured, or colored material on any building, structure, or surface, not including lettering or other identification which is part of

the architectural design of a building.

Special Exception - Permission or approval granted to an applicant pursuant to Section 1005(C) of this Ordinance to use land in a zoning district for a purpose other than permitted by right in that district. Uses permitted by special exception are specifically stated herein and shall be permitted only under the terms, procedures, and conditions prescribed in the Ordinance. Special exceptions are granted or denied by the Zoning Hearing Board in accordance with the procedures set forth in this Ordinance and in the Pennsylvania Municipalities Planning Code. The burden of proof in all requests for special exceptions shall be upon the applicant to establish compliance with all requirements of this Ordinance pertaining to the grant of a special exception and all provisions applicable thereto.

Stockyard – A large yard area with pens or stables where cattle, sheep, swine or other livestock are kept ready for sale or shipping.

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

Street Line - The dividing line between a lot and the outside boundary of a public street, road, or highway right-of-way legally open or officially plotted by a municipality or higher governmental authority; or between a lot and a private street, road, or way over which the owners or tenants of two or more lots held in single and separate ownership have the right-of-way. Where a future right-of-way width for a street has been established, the street line shall be the line of such future right-of-way. (See sketch No. 1).

Street Centerline - The center of the surveyed street right-of-way, or, where not surveyed, the center of the traveled cartway.(See sketch No. 1).

Structure – Any man-made object or assemblage of objects having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Telecommunications – The science or technology of communications by electronic transmission of impulses as by telegraph, cable, telephone, radio, television, microwave, earth station broadcast/cable television communications, and similar technology not otherwise enumerated and as may evolve after enactment of this Ordinance.

Townhouse - See Dwelling.

Use - The purpose or activity for which buildings, structures, or land is occupied or maintained.

Variance - The permission granted for an adjustment pursuant to the provisions and criteria of Section 1005(D) of this Ordinance to some regulation which, if strictly adhered to, would result in unnecessary hardship, and where the permission granted would not be contrary to the public interest and would maintain the spirit and intent of the Ordinance. Variances are granted or denied by the Zoning Hearing Board following a public hearing held in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code.

Whip Antenna – A cellular communications antenna that is cylindrical in shape which can be directional or omnidirectional. Their size varies based upon the frequency and gain for which they are designed.

Yard - The required open, unoccupied space on the same lot with a building, open and unobstructed from the ground upward except as otherwise provided, and not less in depth or width than the minimum required in each district.

- (A) Front - The required open space, extending along the street line throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices, and steps. The front yard shall be measured from the street line.
- (B) Side - The required open space, extending along the side line of the lot throughout the full depth of the lot, exclusive of overhanging eaves, gutters, cornices, and steps.
- (C) Rear - The required open space, extending along the rear line of the lot throughout the full width of the lot, exclusive of overhanging eaves, gutters, cornices and steps.

ARTICLE III: ESTABLISHMENT OF DISTRICTS

Section 301. ESTABLISHMENT OF DISTRICTS

The Township of Centre and the Borough of Centerport are divided into districts of different types, each type being of such number, shape, kind and area and of such common unity of purpose and adaptability of use that are deemed most suitable to carry out the objectives of the Joint Comprehensive Plan of Centerport Borough and Centre Township, and this Ordinance.

Section 302. TYPE OF DISTRICTS

Based upon the Comprehensive Plan, the districts for the Borough and of Centre Township have been established and designated as follows:

- AP Agricultural Preservation District
- R-1 Low Density Residential District

- R-2 Medium density Residential District
- B/VC Borough/Village Center Mixed Use District
- PC Planned Commercial/Office District
- LI Limited Industrial District

The entire Borough of Centerport is located within the B/VC – Borough/Village Center Mixed Use District.

Section 303. ZONING DISTRICT MAPS Districts are bounded and defined as shown on the municipal maps entitled "Zoning Districts" which accompany and which, with all explanatory matter thereon, are hereby made part of this Ordinance.

Section 305. REGULATIONS AND RESTRICTIONS Except as hereinafter provided, no erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land shall be permitted within the district in which such buildings, structures, or land are located:

- A. For any purpose other than is permitted in the district;
- B. To exceed the height or building coverage herein established for the district;
- C. To reduce yards or other open spaces in any manner except in conformity with the area regulations established;
- D. To be located on a lot in any manner except as herein defined; and, except as hereinafter provided, in no case shall there be more than one building on one lot;
- E. Without obtaining a zoning permit issued by the Zoning Officer.

Section 306. FORESTRY<![if !supportNestdAnchors]><![endif]>. Pursuant to the provisions of the Pennsylvania Municipalities Planning Code as amended, forestry is a use permitted by right in all zoning districts, subject to the following regulations:

- A. A Forestry Management Plan shall be prepared and followed for any forestry operation. This Plan shall be prepared by a professional forester.
- B. The Forestry Management Plan shall be consistent with the Timber Harvesting Guidelines of the PA Forestry Association.
- C. Clear cutting shall be prohibited except on tracts of less than 2 acres. This provision shall not apply to State Game Lands where clear cutting is done to benefit the natural habitat.
- D. On tracts larger than 2 acres, at least 25 percent of the forest cover (canopy) shall be kept and the residual trees shall be well distributed. At least 25 percent of these residual trees shall be composed of higher value

- species as determined by a professional forester.
- E. An Erosion and Sedimentation Control Plan shall be submitted to the County Conservation District for review and approval.
- F. The Forestry Management Plan shall include an appropriate method to ensure reforestation.
- G. Forestry is prohibited on areas with slopes greater than 25 percent, within the 100-year floodplain, within wetlands and within 50 feet of watercourses and water bodies.

ARTICLE IV: DISTRICT REGULATIONS

Section 403 B/VC BOROUGH/VILLAGE CENTER MIXED USE DISTRICT

Section 403.1 SPECIFIC INTENT

It is the intent of the B/VC Borough/Village Center Mixed Use District to provide a concentrated mix of residential and commercial uses, compatible with the character of the Borough of Centerport, as well as the Villages of Mohrsville and Dauberville in Centre Township as identified by the Joint Comprehensive Plan. Limited industrial uses in scale with the area, and which have no adverse environmental impacts, are also permitted.

Section 403.2 USES PERMITTED BY RIGHT

Land and buildings in a B/VC District shall be used for the following purposes and no others, unless a Special Exception as provided for in Section 403.3 below is granted:

- a. Single family detached dwelling.
- b. Single family semi-detached dwelling.
- c. Two family detached dwelling.
- d. Townhouses and apartment buildings subject to:
 - (1) The development shall be served by public sewage disposal and public or community water supply facilities.
 - (2) The minimum amount of land in the development shall be 30,000 square feet.
 - (3) The density of the development shall not exceed six (6) dwelling units per acre.
 - (4) Not less than twenty percent (20%) of the total area of the development shall be permanently set aside for non-commercial common space purposes, such as parks, recreation, or conservation of natural features.

The common open space areas shall be suitable for the designated purpose and contain no structure or parking facility except as related to and incidental to open space uses. Written agreements satisfactory to and approved by the governing body shall be made for the perpetual preservation and maintenance of the common open space areas.

- (5) A system for pedestrian circulation throughout the development shall be provided.
- (6) The maximum length of an apartment building shall be one hundred sixty feet (160').
- (7) The number of townhouses within a continuous grouping shall not exceed six (6).
- (8) No apartment building or townhouse shall be located within thirty feet (30') of a property line of the development.
- (9) No apartment building shall be located within thirty feet (30') of another dwelling.
- (10) A townhouse shall be located at least thirty feet (30') from any dwelling which is not in the same row of townhouses.
- (11) No townhouse shall be located within thirty feet (30') of any street right-of-way line.
- (12) No apartment building shall be located within thirty feet (30') of any street right-of-way line.
- (13) No more than twenty percent (20%) of the total area of the development shall be covered by buildings.
- (14) No more than thirty percent (30%) of the total area of the development shall be paved.
- (15) Exterior storage areas for trash and rubbish shall be completely screened from view and be screened with evergreen plantings on three sides. All trash and rubbish shall be contained in vermin-proof containers.
- (16) Common parking areas shall not be designed or located to require cars to back into streets in order to leave the parking areas.
All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.
- (17) Common parking area and access drives shall be located a minimum of ten feet (10') from all structures and from the exterior lot lines of the

development. Common parking areas shall be a minimum of ten feet (10') from all street rights-of-way.

- (18) Entrance and exit ways to parking areas shall have a minimum width of twelve feet (12') for each lane of traffic entering or leaving the areas.
- (19) No more than sixty (60) parking spaces shall be accommodated in any one parking area and all parking areas shall be landscaped.

No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping, unless an alternative method of landscaping the parking area is approved by the governing body.

- (20) Evergreen plantings shall be provided of sufficient height and density to screen off-street parking from public street view and from adjoining residential districts. A planting plan specifying type, size, and location of existing and proposed planting material shall be submitted with the application for subdivision or land development approval.
- (21) Entrance and exit ways and interior access ways and parking spaces shall be designed so as to prevent the blocking of vehicles entering or leaving the site.
- (22) All multi-family dwelling buildings shall be built to conform with the building regulations as established by the State Department of Labor and Industry and all building regulations of the municipality, and in the case of conflict of such regulations, the more restrictive shall govern.
- (23) Lighting for buildings, access ways, and parking areas shall be so arranged as not to reflect toward public streets or cause any annoyance to building occupants or surrounding property owners or residents.
- (24) Even though a special exception is granted by the Zoning Hearing Board so as to permit apartment buildings or townhouses, no zoning permit shall be issued unless and until the owner thereof has complied with the Subdivision and Land Development Ordinance and obtained any and all final approvals required thereby.
- (25) Maximum building height shall be thirty-five feet (35').
- (26) Parking and landscaping requirements of the municipal Subdivision and Land Development Ordinance shall be complied with.

- e. State licensed day care center, nursery school, elementary school, middle school, junior high school or senior high school.

- f. Churches or similar places of worship.
- g. Public structures owned or operated by the Borough or a Municipal Authority organized by the Borough.
- h. Fire and/or ambulance station.
- i. Library, museum, art gallery or fine arts studio.
- j. Community center.
- k. Dwelling in the same building with a commercial or business use.
- l. Funeral home.
- m. Home Business, subject to Section 525 of this Ordinance.
- n. Home offices, subject to Section 527 of this Ordinance.
- o. Park, playground, or similar non-commercial recreation area owned and operated by a public or private non-profit agency.
- p. Parking lot.
- q. Commercial school for the teaching of trades, arts, or skills.
- r. Retail stores or shops or service establishments for the conducting of retail business or service, except adult entertainment establishments.
- s. Business, professional, or government offices and office buildings.
- t. Banks and other similar financial institutions.
- u. Restaurants, taverns, or other places serving food and beverages, excluding drive-through restaurants and drive-in restaurants.
- v. Theaters or motion picture theaters, except drive-ins and adult entertainment establishments.
- w. Hotels and motels.
- x. Health fitness center.
- y. Personal or household service establishments such as, but not limited to, barber shops, beauty shops, laundromats, laundry and dry cleaning shops (but not laundry or dry cleaning plants), tailor and seamstress shops, shops renting and repairing household goods, shoes, jewelry and appliances, medical equipment rental shops, video rental shops, and copy and mail services.
- z. Within office buildings, service and convenience uses including, but not limited to, eating and drinking places, specialized retail food sales, barber/beauty shop,

photo copy service, pharmacy, and optician. Such uses shall not occupy more than ten (10) percent of the floor area of the building in which they are located. Entrances to such uses shall be from the interiors of the buildings.

- aa. Medical Clinic
- bb. <[if !supportLists]><[endif]>Bakery.
- cc. <[if !supportLists]><[endif]>No-Impact Home Based Business
- dd. Accessory uses, buildings and structures to the above permitted uses when on the same lot as the permitted use.

Section 403.3 USES PERMITTED BY SPECIAL EXCEPTION

The following uses are permitted when Special Exceptions are granted by the Zoning Hearing Board pursuant to Section 705 of this Ordinance.

- a. Motor vehicle service station, provided that:
 - (1) All automobile parts, dismantled vehicles, and similar articles shall be stored within a building.
 - (2) Fuel pumps shall be at least twenty feet (20') from any street right-of-way line.
 - (3) All activities except those required to be performed at the fuel pumps shall be performed within a completely enclosed building.
- b. Repair garage for the repair of motor vehicles, subject to:
 - (1) All repair activities shall be performed within a completely enclosed building.
 - (2) All outdoor storage of vehicles awaiting repair shall be screened from view by a minimum of six (6) feet high fence or planting screen constructed of such material and in such a manner that the outdoor storage of vehicles is not visible from public streets and adjoining properties.
 - (3) All automobile parts, dismantled vehicles, and similar articles shall be stored within a building.
 - (4) A minimum ten foot (10') buffer yard along side and rear lot lines shall be planted with a hedge of evergreen trees and other appropriate ground cover of sufficient height and density to give maximum screening. Such screening shall be permanently maintained and replaced when necessary to present an attractive appearance.
- c. Restaurant with drive-through or drive in service, subject to:

- (1) Minimum lot size shall be one (1) acre.
 - (2) A buffer strip a minimum of ten feet (10') in width shall be provided along the front lot line, except where entrance and exit drives exist.
 - (3) Drive-thru service is permissible only if it can be conducted with a safe and orderly traffic pattern with sufficient waiting areas for vehicles waiting to conduct business, as demonstrated by traffic plans and studies submitted by the applicant and subject to approval by the Zoning Officer.
- d. Public utility service buildings and structures, subject to Section 524 of this Ordinance.
- e. Club or lodge for fraternal or social purposes, provided that the chief activity of such use shall not be one which customarily carried on as a business, and provided that the buildings and services shall be primarily for the use of members and their guests only.
- f. Group home or group lodge, subject to:
- (1) No more than one (1) Group Home or Group Lodge shall be located in any one dwelling;
 - (2) The premises where the Group Home or Group Lodge is located shall be owned or leased by the sponsoring agency sponsoring the Group Home or Group Lodge.
 - (3) A licensed physician, licensed psychologist, counselor or social worker in the employ of or under contract to the sponsoring agency shall be responsible for the assignment of residents to the Group Home or Group Lodge;
 - (4) By design and intent, the Group Home or Group Lodge shall provide for the long-term housing needs of its residents, not for the needs of transient individuals;
 - (5) No less than one (1) and no more than two (2) live-in supervisors shall reside in the Group Home or Group Lodge and at least one (1) of those supervisors shall be on the premises during all hours in which any resident of the Group Home or Group Lodge is on the premises;
 - (6) No Group Home or Group Lodge shall be located within seven hundred fifty feet (750') of another Group Home or Group Lodge;
 - (7) The Dwelling Unit shall not be altered in any manner that would change the single family dwelling character of the Group Home or Group Lodge;

- (8) One (1) off-street parking space in addition to the normal parking spaces required for a dwelling shall be provided for each supervisor assigned to the Group Home or Group Lodge;
 - (9) The sponsoring agency shall document to the governing body of the municipality that all plumbing, heating, electrical, sanitary sewer, storm sewer and similar facilities meet any applicable ordinances, rules, regulations and laws of the municipality and/or the Commonwealth of Pennsylvania.
- g. State licensed Family Day Care Home in a single family detached dwelling, subject to:
- (1) All State licensing requirements shall be met.
 - (2) In addition to a minimum of two off-street parking spaces for the dwelling, one off-street parking space shall be provided for each non-resident employee.
 - (3) Provision shall be made for safe pickup and delivery of children, such that children do not have to cross traffic areas to reach the car waiting to pick them up.
 - (4) No sign for the family day care home shall be displayed.
 - (5) There shall be no alteration to the outside of the dwelling that will alter the single family character of the dwelling, be inconsistent with the basic architecture of the dwelling, or be incompatible with surrounding dwellings.
- h. Bed and breakfast, subject to:
- (1) No cooking facilities shall be permitted in rooms for rent.
 - (2) The maximum number of rooms for rent shall be six (6).
 - (3) The maximum number of consecutive nights a room can be rented to any individual is fourteen (14).
 - (4) The Bed and Breakfast shall be owner occupied.
 - (5) At least one (1) bathroom shall be provided for every three (3) units, plus at least one (1) bathroom for the resident owner.
 - (6) The use shall maintain an appearance and character consistent with a residence. The only exterior changes permitted to portions of residential buildings that are visible from a public street shall be for historic restoration, cosmetic improvements, and any necessary safety

improvements or removal of architectural barriers.

- (7) Bed and Breakfasts shall only be permitted within single-family detached dwellings that existed on the effective date of this Ordinance.
 - (8) One (1) off-street parking space shall be provided for each room available for rent and one (1) parking space shall be provided for each non-owner employee, in addition to those required for the dwelling unit occupied by the owner.
 - (9) All parking areas shall be set back a minimum of twenty-five feet (25') from all property lines, and shall be screened from adjoining lots and streets.
 - (10) A Bed and Breakfast may erect one (1) sign no larger than nine square feet (9 S.F.) in size, which must be set back at least ten feet (10') from all lot lines.
 - (11) Meals shall be offered only to registered overnight guests, and breakfast and afternoon tea are the only meals which can be offered.
 - (12) The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
 - (13) The applicant shall furnish proof of any needed land development approvals and approval from the Commonwealth of Pennsylvania Department of Labor and Industry.
- i. Nursing home, subject to:
- (1) The minimum building setback from public streets shall be thirty feet (30').
 - (2) All structures shall be located a minimum of thirty feet (30') from the property lines of the lot.
 - (3) No more than twenty percent (20%) of the total area of the lot shall be covered by buildings.
 - (4) No more than twenty percent (20%) of the total area of the lot shall be paved surface such as streets, interior access drives, parking areas, sidewalks and courts.
 - (5) Common parking areas and interior access drives shall be located a minimum of fifteen feet (15') from the property lines of the lot.
 - (6) All buildings shall be set back a minimum of fifteen feet (15') from all common parking areas and internal access drives and streets, except for

off-street loading areas and areas at entrances to buildings where residents will enter and leave standing vehicles.

- (7) All principal buildings shall be separated by a minimum horizontal distance of thirty feet (30').
- (8) No less than thirty percent (30%) of the total area of the lot shall be permanently set aside for non-commercial common open space purposes, such as parks, recreation, or conservation or natural features. The common open space areas shall be suitable for the designated purposes and contain no structure or parking facility except as related to and incidental to open space uses.
- (9) All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.
- (10) Entrances to and exits from parking areas shall have a minimum width of twelve feet (12') for each lane of traffic entering or leaving the areas.
- (11) No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
- (12) An entrance to or exit from a common parking area shall be located a minimum of fifty (50) feet from the point of intersection of any street right-of-way lines.
- (13) A system of paved walkways a minimum of five feet (5') in width shall be provided for access between buildings and common parking areas, open space areas, and other community facilities.
- (14) A landscaping plan for the nursing home prepared by a registered landscape architect shall be submitted to the municipality, and is subject to approval by the municipality. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.
- (15) There shall be no architecturally unbroken building face of more than one hundred sixty (160) lineal feet. A building face shall be considered architecturally broken if there is a deflection in the building axis of at least thirty degrees (30°) or, where there is no deflection in the building axis of at least thirty degrees (30°), an integral architectural feature of the building projects from the building face a minimum of ten feet (10') for a minimum distance of ten feet (10') along the building face. Such architectural feature shall extend the entire height of the building included within stories.

- (16) Parking and landscaping requirements of the municipal Subdivision and Land Development Ordinance shall be complied with.
- j. Small-scaled light manufacturing, assembly and warehousing operations, compatible with the physical fabric of the Borough and Villages, which are not noxious and present similar appearances to office or commercial structures, such as but not limited to communication equipment, electronic components, medical instruments and equipment, measuring devices, furniture and fixtures, printing and publishing, and electric lighting and wiring equipment, subject to:
 - (1) All side and rear lot lines abutting residential zoning districts shall be appropriately screened by fences, walls, or year-round planting and/or other suitable enclosures of a minimum height of five (5) feet. If trees, evergreen hedges or other types of year-round plants are used, a landscaped area shall be provided at least ten (10) feet in width along the entire lot lines.
- k. Any other uses as determined by the Zoning Hearing Board to be of the same general character as a use permitted by right or special exception when not specifically permitted elsewhere in this Ordinance.
- l. Accessory buildings and uses customarily incidental to the above permitted uses.

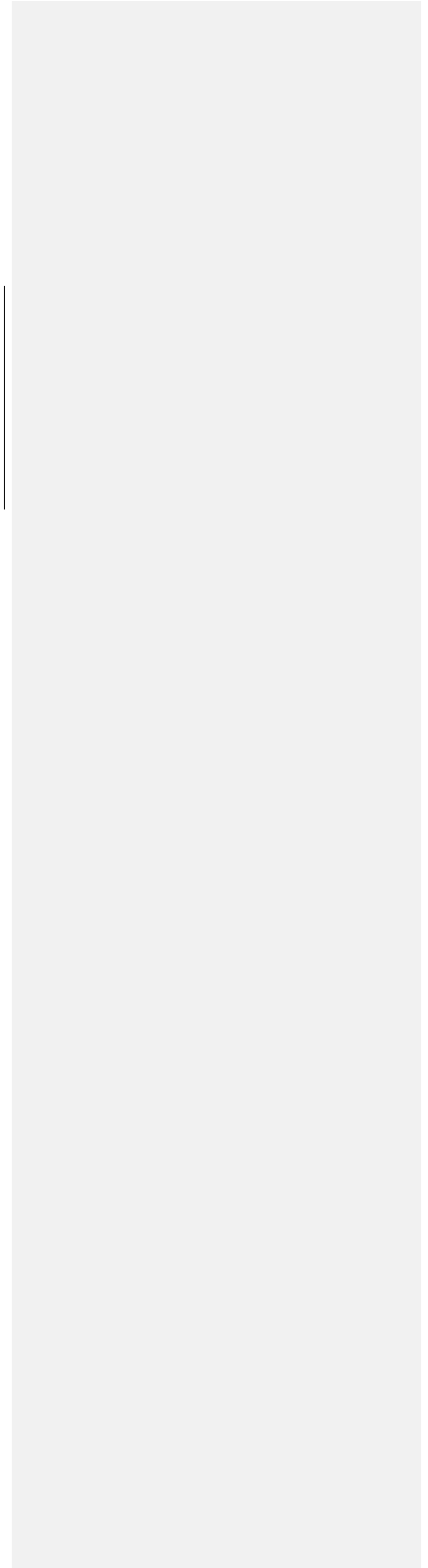
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Section 403.4 AREA, YARD, AND HEIGHT REGULATIONS (Except as noted elsewhere in this Ordinance)

	SINGLE FAMILY DETACHED DWELLING			TWO FAMILY DETACHED DWELLING		
	Without Public Sewage Disposal	Public Sewage Disposal and On-Site Water Supply	Public Sewage Disposal and Public or Community Water Supply	Without Public Sewage Disposal	Public Sewage Disposal and On-Site Water Supply	Public Sewage Disposal and Public or Community Water Supply
<u>Maximum Permitted</u>						
Building Height	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet
Lot Area Covered by Buildings	20 Percent	20 Percent	30 Percent	15 Percent	20 Percent	20 Percent
Lot Area Covered by Impervious Surface	35 Percent	35 Percent	35 Percent	25 Percent	35 Percent	35 Percent
<u>Minimum Requirements</u>						
Lot Size	1 acre	10,000 sq.ft.	5,000 sq.ft.	1 Acre	20,000 sq.ft.	10,000 sq.ft.
Lot Width						
At Street Line	60 Feet	40 Feet	30 Feet	100 Feet	50 Feet	40 Feet
At Building Setback	100 Feet	45 Feet	35 Feet	100 Feet	60 Feet	45 Feet
Front Yard	35 Feet	30 Feet	25 Feet	40 Feet	30 Feet	30 Feet
Rear Yard	25 Feet	20 Feet	15 Feet	30 Feet	25 Feet	20 Feet
Total Side Yard	30 Feet	20 Feet	15 Feet	40 Feet	30 Feet	20 Feet
One Side	15 Feet	10 Feet	5 Feet	20 Feet	15 Feet	10 Feet
	NON-RESIDENTIAL USES			SINGLE FAMILY SEMI DETACHED DWELLING		
	Without Public Sewage Disposal	Public Sewage Disposal and On-Site Water Supply	Public Sewage Disposal and Public or Community Water Supply	Without Public Sewage Disposal	Public Sewage Disposal and On-Site Water Supply	Public Sewage Disposal and Public or Community Water Supply
<u>Maximum Permitted</u>						
Building Height	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet
Lot Area Covered by Buildings	60 percent	60 Percent	60 Percent	20 Percent	20 Percent	30 Percent
Lot Area Covered by Impervious Surface	75 percent	75 Percent	75 Percent	35 Percent	35 Percent	35 Percent

Minimum Requirements

	1 acre	10,000 q.ft.	5,000 sq.ft.	1 acre	10,000 sq.ft.	5,000 sq.ft.
Lot Size						
Lot Width						
At Street Line	60 Feet	40 Feet	35 Feet	100 Feet	40 Feet	35 Feet
At Building Setback	100 Feet	40 Feet	35 Feet	100 Feet	40 Feet	35 Feet
Front Yard	35 Feet	30 Feet	25 Feet	35 Feet	30 Feet	25 Feet
Rear Yard	25 Feet	20 Feet	15 Feet	25 Feet	20 Feet	15 Feet
Total Side Yard	30 Feet	20 Feet	15 Feet	---	---	---
One Side	15 Feet	10 Feet	5 Feet	25 Feet	20 Feet	15 Feet



Section 403.5 PERFORMANCE STANDARDS

Upon request of the municipality, a landowner shall furnish proof at his own expense that he is in compliance with the following standards. No use shall be operated in such a manner as to constitute a danger to the residents and inhabitants of the community:

a. Air Management

- (1) Air quality standards of the Pennsylvania Department of Environmental Protection shall be complied with unless a more restrictive standard is established by this ordinance and in which case the more restrictive standard shall apply.
- (2) No person shall permit the emission into the outdoor atmosphere of visible air contaminants.
- (3) No dust or dirt shall be discharged beyond the lot lines of the lot on which it originates.

b. Wastewater Management

- (1) No wastewater discharge is permitted into a reservoir, sewage or storm disposal system, stream, open body of water, or into the ground, of any materials in such a way or of such nature or temperature as could contaminate any water supply or damage or be detrimental to any sewage system or sewage treatment plant, or otherwise cause the emission of dangerous objectionable elements unless treated so that the insoluble substances (oils, grease, acids, alkalines and other chemicals) are in accordance with the standards as approved by Water Pollution Control Boards, appropriate agencies of the Department of Environmental Protection, other municipality regulations or other agencies having jurisdiction.

c. Solids Waste Management

- (1) No storage of waste material on the lot shall be permitted. All waste materials awaiting transport shall be concealed from view from all adjacent properties and streets, kept in enclosed containers, and be enclosed by a fence or other suitable means to adequately prevent access to the material from all adjacent properties.

d. Noise and Vibration

- (1) Sound level limits, measured at the property line of the source of noise shall be as follows, unless a more restrictive standard is applied elsewhere in this Ordinance.

Ambient sound levels shall be observed with an Integrating Sound Level Meter complying with current Type 1 ANSI or ISO standards. The meter shall be set for “fast” response and “A” weighting. The average (equivalent) sound level shall be observed over at least a 20-minute period.

Measurements to determine compliance with Sound Level Limits shall be done with an Integrating Sound Level Meter conforming to current Type 1 ANSI or ISO standards. The meter shall be set for “fast” response and “A” weighting. The average (equivalent) sound level shall be observed over at least a 20-minute period.

Sound Levels by Receiving Land Use

<u>Zoning of Adjoining Lot</u>	<u>Time</u>	<u>Sound Level (Leq) Limit</u>
Residential, Agricultural, Institutional, or Mixed Use	7:00 a.m. – 10:00 p.m.	60 dBA
	10:00 p.m. – 7:00 a.m. plus Sundays and legal holidays	50 dBA
Industrial	7:00 a.m. – 10:00 p.m.	60 dBA
	10:00 p.m. – 7:00 a.m. plus Sundays and legal holidays	65 dBA

If existing ambient sound levels are equal to or higher than the prescribed limit, the new noise source shall be permitted to result in a sound level increase of up to 3dBA over existing ambient sound levels, or to a maximum level which is 7 dBA higher than the prescribed maximum in the preceding table, whichever is lower. If the existing ambient sound levels are more than 7dBA above the prescribed maximum, no increase above ambient sound levels shall be permitted.

The maximum permissible sound levels listed in the previous table shall not apply to any of the following noise sources:

- The emission of sound for the purpose of alerting persons to the existence of an emergency.

- Emergency work to provide electricity, water, or other public utilities when public health or safety are involved.
 - Construction operations.
 - Lawn and landscaping maintenance equipment.
 - Motor vehicle operations.
- (2) No physical vibration shall be perceptible without use of instrument at or beyond the lot lines, unless such vibration shall be regulated by and shall have been approved by the Pennsylvania Department of Environmental Protection.
- e. Visual or Heat
- (1) No lighting shall be utilized in a manner which produces glare perceptible at or beyond the lot lines.
- (2) Any operation producing heat shall be conducted in such a manner as to prevent any effect from the heat beyond the lot lines of the lot on which the operation is located.
- f. Electromagnetic and Radioactive Radiation
- (1) All electromagnetic radiation shall comply with the regulations of the Federal Communication Commission, provided that no electromagnetic radiation shall be produced which interferes with radio or television reception or the operation of other equipment beyond the lot lines. No injurious electromagnetic radiation or radioactive emission shall be produced, and all radioactive emissions shall meet Federal and State standards.
- g. Carcinogenic Substances
- (1) No carcinogenic substances shall be released into the air, ground, or water.
- h. PA DEP Requirements
- (1) All regulations of the Pennsylvania Department of Environmental Protection shall be complied with.
- i. Signs
- (1) No flashing signs shall be permitted.
- (2) No sign facing shall be readable from the rear of the property where it abuts a residential district.
- (3) No sign advertising a use not conducted or goods not sold on the premises

shall be permitted.

Section 403.6 PROCEDURES FOR DEVELOPMENT OF LAND FOR PURPOSES OTHER THAN AGRICULTURE

The following procedure shall be followed to determine developable area by all applicants for subdivision and land development approval for Townhouses and Apartment Buildings. This procedure is enacted to protect sensitive natural resources and relate the development of a site to the conditions of the site.

- a. Phase 1. The applicant shall prepare an “Existing Conditions Map” of the parcel which shall identify and calculate the areas composed of the following resources:

Natural Resources:

- Floodplains (100-year);
- Wetlands;
- Watercourses, including lakes, ponds and streams;
- Areas of steep slope, including areas of very steep slopes (25 percent and over) and areas of steep slopes (between 15 and 25 percent);
- Woodlands;
- Wetland margins (the areas within 100 feet of a wetland);

Manmade Resources:

- Existing roadways;
- Existing rights-of-way (including utility and access rights-of-way);

- b. Phase II. The applicant shall calculate the “Protected Area” of the parcel, which shall be determined as follows:

Natural and Manmade Open	Open Space	Acres of Land	Resource Protected Land (Acres in Resource times
<u>Feature</u>	<u>Percentage</u>	<u>in Resource</u>	<u>Space Percentage</u>
Floodplain	100%	x _____	= _____
Wetlands	100%	x _____	= _____
Watercourses	100%	x _____	= _____
Woodland	70%	x _____	= _____
Woodland (if overlapping another protected feature)	90%	x _____	= _____
Very Steep Slope (25% and over)	90%	x _____	= _____
Steep Slope (15-24%)	80%	x _____	= _____
Wetland Margin	80%	x _____	= _____

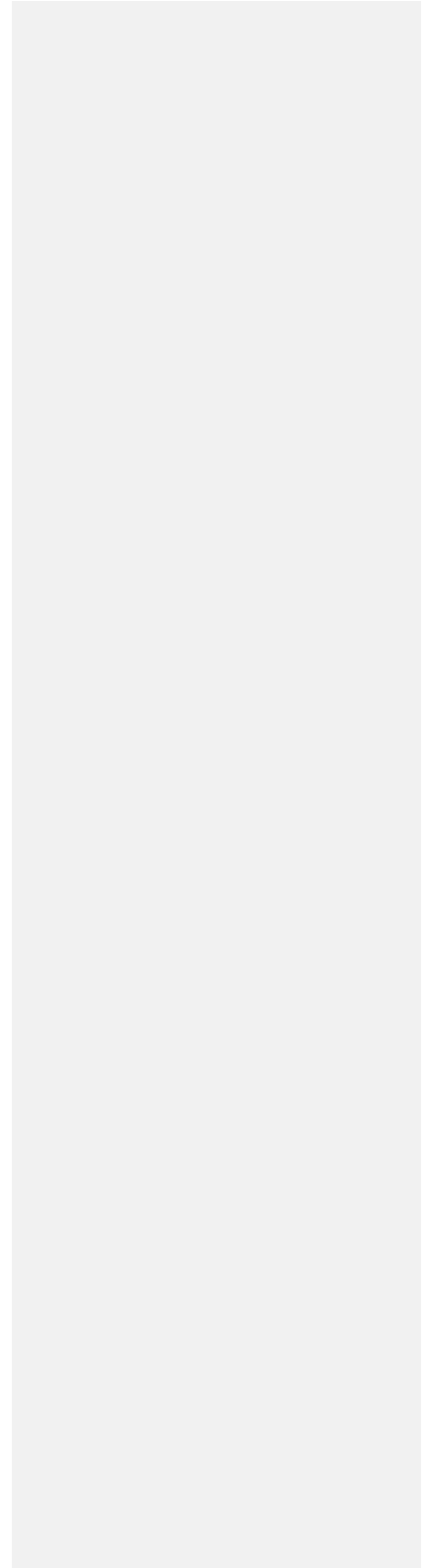
Existing Roadways	100%	x	_____	=	_____
Existing Rights-of-Way	100%	x	_____	=	_____
Total Protected Area					_____

Individual acreage results shall be totaled to result in the “Protected Area.” The Protected Area shall be deducted from the total site area. The resulting figure shall be the “Developable Area.” Calculations of permissible density or intensity of development shall be based on this figure.

In the event that two (2) or more resources overlap, the resource with the greatest protection standard (the largest Open Space Percentage) shall apply.

Section 403.7 SPECIAL PROCEDURAL REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

- a. More than one structure housing a permitted or permissible principal use may be erected on a single lot provided that the minimum distance between these structures shall be twenty feet (20’). More than one principal use may be located within a single building, as in the case of a shopping center.
 - (1) When more than one structure housing a principal use is to be erected on a single lot or more than one principal use is to be located within a single building, a Plan of the development must be submitted to the planning commission for review and be approved by the governing body. This plan shall include:
 - (a) The location, boundaries, dimensions, and ownership of the land to be included within the development.
 - (b) The location, dimensions, arrangement, and proposed use of all buildings, open spaces, yards, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, buffer areas, and screening devices.
 - (c) A description of the provisions made for sewage and waste disposal, water supply, and storm water drainage.
 - (d) Sufficient data to enable the municipality to judge the effectiveness of the design and the character of the proposed use, its compliance with the requirements of this Ordinance, and to consider properly such things as its relationship to surrounding areas, anticipated traffic, and the public health, safety, and welfare.



- (2) If there is more than one principal building constructed on a lot, the proposed development shall be designed as part of a single architectural and landscaping scheme.
- (3) Any building façade which faces a patron parking area, street or other space used or viewed by the public shall be provided with decorative façade treatment, architecturally integrated with all other building faces.
Site models and/or three-dimensional graphic portrayals, providing a clear perspective of the relationship of the proposed development to the site and its visual impact on adjacent properties, shall be submitted to the Borough.

ARTICLE V: GENERAL REGULATIONS

Section 500. APPLICABILITY

These General Regulations shall apply within the Zoning Districts established by this Ordinance.

Section 501. RESIDENTIAL ACCESSORY USES

1. Accessory buildings, such as animal shelters, detached garages, greenhouses, utility sheds, and other outbuildings, shall not be permitted between the building setback line and the street line, nor within ten (10) feet of the rear or side lot line, unless a lesser rear or side yard requirement is established by this Ordinance, in which case the yard requirement shall apply.

In the case of a lot on which a principal building existed on the effective date of this Ordinance, an accessory building thereto may be located closer to a side lot line than permitted above, provided that the accessory building is situated to the rear of the principal building and is not located closer to the side lot line than the principal building.

On any lot on which a principal building existed at the effective date of this Ordinance, an accessory building to such existing principal building which is constructed after the effective date of this Ordinance does not have to be set back further from any street right-of-way than that principal building.

2. Amateur and citizen band antennas shall be considered accessory to residential uses. See Section 508.
3. Swimming Pools – No structure shall be permitted unless a permanent continuous fence of four (4) feet in height, together with a locking gate surrounds the facility. The fence must be constructed so as to not permit the passage of a

four inch (4”) diameter object through its entire length. No structure shall be permitted between the building setback line and the street line, nor within ten (10) feet of the rear or side lot line, unless a lesser rear or side yard requirement is established by this Ordinance, in which case the yard requirement shall apply.

Where pools are of the type having above-ground construction, that portion of the pool wall extending above the ground may be included as part of the height of the 4 foot high fence. Above-ground pools shall have a ladder or stairway which can be removed or rendered unusable, and the entrance to the pool shall be capable of being securely closed to a height of four (4) feet.

Additionally, all pools shall comply with all applicable state and local building codes and other regulations.

4. All dwellings with direct access from the dwelling unit to a public street, except apartment units, may be used for the practice of a home occupation, home office, or home business when permitted by this Ordinance and unless otherwise restricted by this Ordinance.

5. No activities shall be permitted which create a public nuisance and/or interfere with the use of adjacent lots.

6. No commercial or industrial activities except those permitted as a home occupation, home office, or home business shall be permitted.

Section 502. NON-RESIDENTIAL ACCESSORY USES

1. Storage Areas. All such facilities shall be located in an area which has direct access to a street or driveway. No such area shall be located within fifty (50) feet of any street line.

Outdoor storage of any type shall not be permitted unless such storage is a part of the normal operations conducted on the premises, subject to requirements of the prevailing zoning district.

Materials shall not be stored outdoors within 100-year floodplains.

Outdoor storage of products or materials which could be hazardous to humans shall be enclosed by a fence a minimum of six (6) feet in height.

Outdoor storage of materials shall be screened from view from adjoining residentially zoned properties. No outdoor storage shall be permitted within ten (10) feet of any side or rear lot line. Screening shall meet all requirements of the municipal Subdivision and Land Development Ordinance.

2. Non-residential accessory buildings shall not be located in required front, side, and rear yards.
3. Facilities Building – Facilities designed to provide non-commercial, non profit services to the entire community shall be permitted as accessory uses even though there is no direct relationship to the primary use.
4. Living Quarters – Living quarters meeting all applicable Borough requirements shall be permitted for watchmen, caretakers, or similar employees.

Section 503. CONFORMITY AND NON-CONFORMITY REGULATIONS

1. From and after the effective date of this Zoning Ordinance, any existing or proposed structure, building, sign, or land shall not be erected, constructed, placed, altered, extended, maintained, used or occupied except in conformity with this Ordinance.
2. Continuance of Non-Conforming Uses. From and after the effective date of this Ordinance, any use existing at the time of enactment of this Ordinance, but not in conformity with the permitted use provisions for the District in which it is located, may be continued subject to the following limitations:
 - A. Expansion of Non-Conforming Uses.
 - (1) No expansion of a non-conforming use shall hereafter be made unless an appeal has been filed with the Zoning Hearing Board and such expansion has been approved by such Board as a special exception; provided, however, that the expansion of the non-conforming use shall be limited to a distance of two hundred (200) feet in any direction from the existing non-conforming use and for the same use, or in the case of a building, the expansion shall be limited to an area equal to fifty (50) percent of the existing total usable floor area of the existing building; and provided, further, that any expansion of a non-conforming use shall be limited to the lot limits which existed on the property in question at the time of enactment of this Ordinance.
 - (2) Notwithstanding anything contained herein to the contrary, the foregoing limitations on the allowable distance and percentage of expansion for a non-conforming use shall only apply for a period of ten (10) years from the date a non-conforming use is lawfully expanded to such limits. After said ten (10) year period has elapsed, the Zoning Hearing Board may approve, as a special

exception, a further expansion of the non-conforming use which shall again be limited to a distance of two hundred (200) feet in any direction from the existing non-conforming use or to an area equal to fifty (50) percent of the total usable floor area of the existing building. This further right of expansion shall be noncumulative if not exercised, and the Zoning Hearing Board shall not approve an expansion or expansions in excess of the foregoing imitations during any period of ten (10) years. It is the intention of this provision to allow progressive expansion of a non-conforming use where needed to provide for its natural expansion and the accommodation of increased trade, so long as such additions are not detrimental to the public health, safety and welfare. Provided, however, that all such further expansions shall be limited to the lot limits which existed on the property in question at the time of the enactment of this Ordinance.

B. Continuity of a Non-Conforming Use. No non-conforming use may be re-established after it has been discontinued for twelve (12) months. Vacating of premises or buildings or non-operating status of such premises or buildings shall be conclusive evidence of discontinued use.

C. Substitution of Non-Conforming Uses. No non-conforming use may be changed to any other non-conforming use unless the Zoning Hearing Board shall, in granting a special exception, find that the proposed non-conforming use is not more detrimental to the District than the existing non-conforming use of the property. The Zoning Hearing Board may specify such appropriate conditions and safeguards as may be required in connection with such change and the granting of such special exception.

D. Damage to Non-Conforming Structures. A non-conforming structure which is partially damaged may be rebuilt to the same footprint, but shall not be more non-conforming than prior to damage. A non-conforming structure entirely destroyed by voluntary or involuntary means may be rebuilt but shall comply with all the standards of this Ordinance. In both cases, reconstruction shall start within one (1) year from the time of damage to the structure and shall be pursued diligently to completion.

E. Discontinued Non-Conforming Use of Open Land. All non-conforming signs, billboards, junk areas, and other non-conforming uses of open land, when discontinued for a period of ninety (90) days or

damaged or deteriorated to an extent of sixty (60) percent or more of replacement costs, shall not be continued, repaired, or reconstructed.

F. Substitution of a Non-Conforming Use with a Conforming Use. If a non-conforming use is proposed to be eliminated and conforming use substituted but certain land regulations cannot be met (such as area, yard, etc.) the Zoning Hearing Board, with such appropriate conditions and safeguards as the Board may see fit, may grant a special exception to permit such conforming use.

G. Signs – When a sign is utilized in advertising a non-conforming use located on the same premises as a non-conforming use, the Zoning Hearing Board may grant a special exception to permit a type and size of sign not otherwise permitted in the District in which the non-conforming use is located. The Board shall determine that the proposed location, size, and the type of construction will not be detrimental to the adjoining properties. The burden shall be upon the applicant to prove that the approval of the application for such a sign will not be detrimental to the health, safety and general welfare of the community.

3. Non-Conforming Lots

A. Lot Area Exceptions – Any lot represented on the effective date of this Zoning Ordinance by an existing deed which does not meet the minimum area and lot size requirements of the Zoning District in which it is located shall be regarded as non-conforming and may be used for any use permitted in that District. However, all yard, height, coverage and open space requirements for that District shall be met unless a special exception is granted by the Zoning Hearing Board.

Non-conforming lots which are too small shall not be made more non-conforming, except as permitted under Section 400.14 and except that the governing body may allow as a conditional use the reduction of a non-conforming lot subject to the following conditions.

(1) The land transferred from a non-conforming lot shall be transferred to another non-conforming lot and make that lot more conforming.

(2) The land transferred from a non-conforming lot shall improve the configuration and usability of the non-conforming lot to which it is transferred.

(3) The transferred land shall not be used as a separate

building lot.

(4) No more than thirty percent (30%) of the area of a non-conforming lot shall be transferred.

(5) The transfer of land shall not adversely affect the use of the lot from which it is transferred nor the use of adjoining lots.

B. Prior Recorded Plans – If the lot size on those subdivisions plans that were approved by the Borough and recorded in the Office of the Recorder of Deeds prior to the adoption of this Ordinance do not meet the minimum requirements of the District in which the tract is located, the Zoning Hearing Board may grant a special exception to the required minimum lot size requirement if the Zoning Hearing Board determines that a hardship would be created by requiring the redesign of the subdivision so that the lots would conform to minimum requirements and further that the smaller lot sizes would not be a detriment to the District in which the lot is located.

Section 504. SIGN REGULATIONS. All exterior signs are subject to the following regulations:

A. Permitted Uses in Agricultural and Residential Districts.

1. Signs permitted without requirement of a permit for erection when erected and maintained in conformity with this Ordinance.

a. Governmental Signs – Official traffic and street name signs, identification, informational and/or directional signs required by governmental bodies.

b. Temporary Real Estate Signs – Temporary real estate signs (i.e., sale, sold, rented, development) when placed on property to be sold, rented, or developed provided the signs do not exceed four (4) square feet.

c. Professional, Home Occupation and Trespassing Signs – Professional, accessory use, or name signs indicating the name, profession, or activity of the occupant of a dwelling and trespassing signs, or signs indicating the private nature of a driveway or premises providing:

(1) The area on one side of any sign shall not exceed four (4) square feet.

(2) The sign shall be erected on the property it identifies.

(3) There shall be no more than two (2) such signs on the premises except that this requirement shall not be applicable to trespassing signs, or private property signs.

d. Temporary Signs – Temporary signs advertising a sale or event sponsored by a civic or religious group, provided that such signs shall not be displayed in excess of thirty (30) days and shall be promptly removed after the event.

e. Farm Product Signs – Signs advertising the sale of farm products, provided that:

(1) The area on one side of any such sign shall not exceed ten (10) square feet.

(2) Not more than two (2) such signs shall be erected and maintained on the premises in question to which they relate.

(3) Such signs shall be displayed only when such products are sold.

f. Public Utility Signs – Signs which are necessary for the operation, identification, or protection of public utility facilities.

2. Signs permitted only after acquisition of permit from Zoning Officer.

a. Real Estate Signs

(1) Signs advertising the sale or rental premises, provided that:

(a) Such signs shall be erected only on the premises to which they relate.

(b) The area on one side of any sign shall not exceed twelve (12) square feet.

(c) No more than two (2) such signs shall be placed on any lot or premises.

(2) Signs indicating the location of premises available for or in the process of development and having

inscribed thereon the name of the owner, developer, builder or agent; provided that:

(a) The area on one side of any such sign shall not exceed twenty-four (24) square feet.

(b) Not more than one such sign shall be erected on each five hundred (500) feet of street frontage.

(3) Signs indicating the direction to premises available for or in the process of current development; provided that:

(a) The area on one side of any sign shall not exceed four (4) feet.

(b) The signs shall be promptly removed when the purpose for which they were erected or placed ceases to exist.

b. Contractors, Mechanics and Artisans Signs – Temporary signs of contractors, engineers, architects, mechanics and artisans, provided that:

(1) Such signs shall be erected only on the premises where such work is being performed.

(2) The area on one side of any such sign shall not exceed four (4) square feet.

(3) Such signs shall be removed promptly upon completion of work.

c. Public Building Signs. Signs for schools, colleges, churches, hospitals and other public institutions, as well as signs indicating the nature of a particular organization, home for the aged, nursing or convalescent home, farm or estate, shall not exceed twenty-four (24) square feet on one side of any such sign, except that the Zoning Hearing Board may grant a special exception for the use of a larger sign. The Board may attach limitations on the size, location, design and type of the larger sign so as to protect the appearance and character of the District. The burden shall be on the applicant to prove that the approval of the application for such a sign will not be detrimental to the health, safety and general welfare of the community.

d. Business Directional Signs. Business directional signs shall conform to the following:

(1) No such sign shall be wider than four (4) inches or longer than twenty-four (24) inches.

(2) The top of any sign shall be no more than four (4) feet from the ground surface immediately underneath.

(3) No industrial, commercial, or business establishment shall erect, place, install, or maintain more than three (3) such signs within the Borough.

(4) No more than three (3) such signs may be placed at any one corner of an intersection.

(5) No such sign shall be erected, placed, installed, or maintained without the emission of the owner of the real property involved.

(6) All signs shall relate only to those businesses permitted in the district in which the sign is located.

B. Permitted Signs in Commercial, Industrial and Mixed Use Districts. All advertising structures and signs, except panel signs (billboards) must relate to the business conducted on the premises on which the sign is located.

1. One (1) projecting or free standing sign is permitted provided the area on each side, limit of two (2) sides, does not exceed fifty (50) square feet. One (1) additional projecting or free standing sign is permitted if it does not exceed twenty (20) square feet on each side, limit two (2) sides. The above permitted sign uses are also subject to the regulations as set forth in Section 504.C. No more than one (1) freestanding and one (1) projecting sign are permitted on a lot. In addition, one (1) temporary sign of not more than twenty (20) square feet on each side, limit two (2) sides, is permitted for not more than thirty (30) consecutive days.

2. Real Estate Signs.

a. Signs advertising the sale or rental of premises, provided that:

(1) Such signs shall be erected only on the premises to which they relate.

(2) The area on one side of any sign shall not exceed forty (40) square feet.

(3) Not more than two (2) such signs shall be placed on any one lot or premises.

3. Any sign as permitted in the Residential and Agricultural Districts.
4. The Zoning Hearing Board may grant a special exception as to the number and size of additional signs under the following conditions:
 - a. The burden shall be upon the applicant to prove that the approval of the application for such a sign will not be detrimental to the health, safety and general welfare of the community.
 - b. One additional sign may be permitted on each street on which the property abuts provided the minimum frontage is one hundred (100) feet. Under no circumstances may the size of the sign exceed eighty (80) square feet on each side.

C. General Sign Regulations. The following regulations shall apply to all permitted sign uses.

1. No sign shall be placed in such a position that it will cause danger to vehicular or pedestrian traffic on a street or intersection by obscuring the view.
2. No sign located within three hundred (300) feet of any traffic light shall be illuminated with red, green, or yellow lighting.
3. No sign or sign-bearing structure other than official traffic signs and public utility signs shall be erected within or extend into the right-of-way of a street unless authorized by the Zoning Hearing Board as a special exception.
4. No sign shall contain or use flashing, intermittent, or rotating illumination, except official traffic control signs, and those parts of a sign which show time and/or temperature.
5. If the sign is lighted, no objectionable glare shall result.
6. No free standing sign shall be higher than twenty (20) feet and no sign which is attached to a building shall be higher than the height limit of the permitted principal uses in the district in which the sign is located provided however, if other provisions of this Article establish lower height restrictions for certain types of signs, the lower height limit shall control.

7. All signs must be constructed of durable materials, must be kept in good condition and repair, and shall not be allowed to become dilapidated. A dilapidated sign shall be removed upon notification to the owner or leasee of the property on which it is located. If not removed within forty-five (45) days of notification from the Zoning Officer, the Borough may remove sign at the expense of the owner or leasee.

8. No sign shall be erected or located so as to prevent free ingress or egress from any window, door, or fire escape.

9. No sign shall be permitted which is pasted, stapled, or otherwise permanently attached to public utility poles or trees within the right-of-way of any street.

10. The area of any sign shall be the product computed by multiplying the greatest height by the greatest width of the sign's major face, including trim or frame.

11. All signs shall be promptly removed when the purpose for which they were erected or placed ceases to exist.

12. Nothing contained herein shall be construed to abrogate or affect the provisions of any lawful or federal statute or regulation controlling outdoor advertising which are more restrictive than the provisions of this Ordinance.

D. Non-Conforming Signs

Any sign which lawfully existed and was maintained at the effective date of this Revised Zoning Ordinance may be continued provided that it meets the requirements of Section 504.C. above.

Section 505. PARKING AND LOADING REGULATIONS

Specific Intent – It is the intent of these requirements that adequate off-street parking and loading facilities be provided for each use of land. Requirements are intended to be based on the demand created by each use.

A. Design Requirements for Parking Facilities.

1. The design of vehicular parking facilities shall be in compliance with the standards of the Borough of Centerport Subdivision and Land Development Ordinance.

2. The illumination of parking facilities shall be in accordance with the Borough of Centerport Subdivision and Land Development Ordinance.

3. Location. All parking spaces shall be provided on the premises except that after Zoning Hearing Board approval, all or part of the required number of spaces may be provided on a separate lot or lots within five hundred (500) feet from such premises.

B. Minimum Parking Requirements.

1. Dwelling – Two (2) spaces for each dwelling unit.
2. Hotel, motel, tourist home, boarding house – One (1) space for each rental unit plus one (1) space for each two (2) employees on duty.
3. Theatre, auditorium, church, stadium, membership club, lodge hall, funeral home and similar places of public assembly. One (1) space for each four (4) permanent seats; and for establishments without permanent seats, one (1) space for every fifty (50) square feet of floor area used for assembly purposes.
4. Restaurant or Tavern – One (1) space for each four (4) seats of planned capacity and one (1) space for every employee on the largest shift.
5. Medical Clinic or Doctor’s Office – Six (6) spaces for every doctor engaged in practice at the clinic or office.
6. Nursing home, convalescent home or retirement home – Two (2) spaces for each five (5) beds in the home, plus one (1) space for each two (2) employees; where individual dwelling units are provided in the form of apartments or bungalows, one (1) space per dwelling unit is required.
7. Commercial business establishments and offices other than those specifically mentioned in this Section – Sufficient space to accommodate the cars of all persons to be employed on the premises and to have business thereon. In no case shall there be less than one (1) space for every three hundred (300) square feet of floor space other than warehouse or storage area.
8. Manufacturing or Industrial establishments – Generally one (1) space for each two (2) employees, computed on the maximum number of employees at any one time on premises. In all cases a plan shall accompany the application for the permit which shall provide relevant data to show that the facilities to be provided will in fact meet all anticipated needs for its ownership, employees, visitors and all other parties using the plan.
9. All structures and uses not specifically mentioned above – Sufficient space shall be provided to accommodate the vehicles of all

persons regularly to be employed, to have business thereon or to reside on the premises.

C. Special Exception

If the vehicle parking spaces required above cannot reasonably be provided on the same lot on which the principal use is conducted, the Zoning Hearing Board may, as a special exception, permit such spaces to be provided on another lot. Such off-lot parking spaces shall not thereafter be reduced or encroached upon in any manner. The same off-lot space may not be claimed by more than one user for use at the same time. The burden shall be upon the applicant to prove that the approval of the application will not be detrimental to the health, safety and general welfare of the community.

D. Off-Street Loading and Unloading Space

Adequate off-street loading and unloading space shall be provided on the same premises with every building or part thereof hereafter erected or occupied for any use which involves the receipt or distribution of materials or merchandise by motor vehicle. This space shall be so placed and arranged as not to interfere with the free movement of vehicles and pedestrians over a public road. The Zoning Hearing Board may grant a special exception where a hardship would result when an existing use is expanded and the off-street loading and unloading requirements of this Ordinance would otherwise have to be met. The burden shall be upon the applicant to prove that the approval of the application will not be detrimental to the health, safety and general welfare of the community.

E. Parking and Storage of Vehicles

Automotive vehicles of any kind or type without current license plates and/or current inspection stickers shall not be parked or stored on any residentially, rurally, Borough or village, or agriculturally zoned property, other than in completely enclosed accessory buildings, unless otherwise permitted in conjunction with a permitted use. The requirements of this Section shall not be applicable to implements and other vehicles not normally used as conveyances on public highways.

Section 506. SLOPE CONTROLS

A. Uses Permitted. The following uses are the only uses permitted by right in areas subject to slope controls: i.e., where the grade of the slope exceeds twenty-five (25) percent.

- parks and outdoor recreation

- open areas or yards, subject to the restrictions of this Ordinance
- agricultural uses and tree farming when conducted in conformance with conservation practices that ensure sufficient protection against soil erosion

B. The following use is permitted by Special Exception when authorized by the Zoning Hearing Board:

- buildings constructed in accordance with the regulations of the prevailing Zoning District on a grade exceeding twenty-five (25) percent if the building is constructed in such a manner which does not unduly disturb the existing grade and natural soil condition and further the applicant shall submit to the Zoning Hearing Board a statement prepared by a registered architect with an explanation of the building methods to be used in overcoming foundation and other structural problems. Such statement shall also include an explanation of the manner by which natural watershed will be maintained and soil erosion prevented. The application will be referred to the Municipal Engineer for his review and recommendations to the Zoning Hearing Board.

Section 507. RESERVED

Section 508. ANTENNAE

A. Noncommercial Antennae.

1. Amateur Radio and Citizen Radio Service Stations. In all zoning districts, duly licensed radio and television transmitting and receiving stations of the Amateur Radio Service that are accessory to the established primary use shall be permitted.

2. Noncommercial Radio and Television Transmitting and Receiving Antennae and Noncommercial Antenna Structures.

a. Noncommercial radio and television transmitting and receiving antennae and noncommercial antenna structures mounted atop an existing building shall not exceed a height of twenty-five feet (25') above the established roof line. These structures shall include roof mounted and chimney mounted structures.

b. Noncommercial radio and television transmitting and receiving antennae and noncommercial antennae structures ground mounted or bracketed to the side of an existing building shall not exceed seventy-five feet (75') in height.

c. In all zoning districts, noncommercial radio and television transmitting and receiving antennae and noncommercial antenna structures which propose to exceed the height specifications in subsections a. and b. above shall be governed by subsection 3 of this section.

3. Noncommercial Antennae.

a. Noncommercial antennae and noncommercial antenna structures exceeding the height specified in subsection 2 of this section shall be permitted in all zoning districts provided that the allowing requirements are met along with any other requirements deemed necessary by the Zoning Hearing Board so as to protect the health, safety and welfare of the public.

(i) Such noncommercial antennae and noncommercial antenna structures shall meet the yard requirements of the primary use in the district except that guy wires and anchors may be located within such required yards regardless of any setback requirements specified elsewhere.

(ii) The applicant shall submit to the Board feasibility studies and valid engineering data.

(iii) Such noncommercial antennae and noncommercial antenna structures shall conform to all other applicable federal, state and local codes and ordinances.

Section 509. AIRPORTS AND LANDING STRIPS

A. Any areas to be used by aircraft under its own power shall conform to the following:

1. Be provided with dustless surface.
2. No area to be used by aircraft under its own power on the ground shall be less than two hundred (200) feet from any lot or street line.
3. No residential building shall be permitted within one thousand (1,000) feet of the end of any runway or within any aircraft

approach zone established by either the State of Federal Aviation Agency, whichever area is greater.

4. All provisions of Federal and State statutes and Borough Ordinances or regulations thereunder shall supersede any provisions of this Ordinance whenever there shall be inconsistencies and/or conflict.

5. Evidence shall be presented to the Zoning Hearing Board that ample safeguards to minimize hazard and disturbances from noise of aircraft affecting residents and properties in the vicinity will be assured at all times of operation.

6. Access to areas used by aircraft in motion shall be controlled by fences and gates.

7. Vending machines, newsstands, governmental installations, airport, airlines and express offices, and aircraft repair facilities may be permitted within completely enclosed buildings. Storage and sale of aviation gasoline may also be permitted.

8. The hours of operation may be limited by the Borough Council to prevent disturbance to nearby residences.

Section 510.

MOBILE HOMES

A. Mobile Homes for Temporary Residential use

1. Mobile homes or trailers shall be permitted in residential districts as temporary living quarters during the construction of dwellings on the same lot by the occupants thereof upon posting of bond in the amount of \$1,000 to ensure compliance with conditions of permit.

2. The permit for such mobile home or trailer shall expire one (1) year from date of issuance or upon completion of the dwelling, whichever event shall occur earlier.

3. Such mobile or trailer shall be completely removed from the lot upon expiration of the permit without cost to the Borough. In the event any person shall neglect, fail or refuse to remove said mobile home or trailer within the required period of time, the Borough may cause such mobile home or trailer to be moved and may collect from such person the costs and expenses thereof in addition to the other penalties prescribed in this Ordinance.

4. Any mobile home or trailer erected on a lot pursuant to this Section shall conform with all lot and yard requirements for single family

detached dwellings of the zoning district in which it is located.

5. Only one (1) mobile home or trailer shall be permitted on each lot.

6. Each mobile home or trailer shall be provided with a potable water supply and an approved means of sanitary sewage disposal.

Section 511. HEIGHT LIMIT EXCEPTIONS

Structures permitted above the height limit include roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, skylights, towers, flag poles, chimneys, smokestacks, wireless masts, radio and television antennae, utility poles, water tanks or similar structures. However, no penthouse nor roof structure nor any space above the height limit shall be allowed for the purpose of providing additional floor space for the use.

Section 512. LOT SIZE REDUCTIONS

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per dwelling unit, lot width or other requirements of this Ordinance are not maintained, except as noted in Section 503 and 400.14 of this Ordinance.

Section 513. CONVERSION OF EXISTING DWELLING

Conversion of a dwelling which existed at the date of enactment of this Ordinance into an apartment house is permitted subject to the following conditions and approval of the Zoning Hearing Board.

- A. There shall be no extension of the building other than as may be required for access or for safety.
- B. Two (2) automobile parking spaces for each proposed dwelling unit are to be provided on the premises.
- C. The lot area per dwelling unit, after the conversion, shall be a minimum of eight thousand (8,000) square feet, and shall also conform to any and all other applicable provisions of this Ordinance and other applicable ordinances or regulations.

Section 514. ACCESS TO BUILDINGS

Every building hereafter erected or moved shall be on a lot adjacent to a public road, approved improved private road, and all buildings shall be so located on lots as to provide safe and convenient access for servicing fire, protection and required off-street parking.

Section 515. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot, unless otherwise permitted by this Ordinance such as in the case of a shopping center or multiple buildings in conjunction with one use, and a plan has been recorded in compliance with any applicable subdivision and land development ordinance.

Section 516. RESERVED

In order to encourage the sound development of the highway frontage and to minimize traffic congestion and hazard, the following special provisions shall apply:

- A. All areas for off-street parking, off-street loading and unloading, and the storage or movement of motor vehicles shall be physically separated from the public street or highway by a raised curb, planting strip, wall or other suitable barrier against unchanneled vehicle entrance or exit, except for necessary accessways or roads which supply entrance to and egress from such parking, loading or storage area. All parking areas or lots shall be designed in such a manner as to provide adequate storage area and distribution facilities upon the lot to prevent back-up of vehicles on a public street during entry to the lot.
- B. Each use with less than one hundred (100) feet of frontage on a public street shall have not more than one accessway to each street, and no business or other use with one hundred (100) feet or more of frontage on a public street shall have more than two (2) accessways to any one street for each three hundred (300) feet of frontage. Where practicable, movement into and out of parking areas shall avoid direct access to or from a collector street.
- C. Accessways or access roads to parking areas or lots, other than those serving private single or two family dwellings, shall be not less than twelve (12) feet in width where one way traffic is to be accommodated, or not less than twenty-four (24) feet in width for two-way traffic.
- D. In the case of a shopping center, group of apartment houses, industrial park or similar grouping of buildings on a lot, and in any other case where practicable: (1) All parking, loading or service areas used by motor vehicles shall be located entirely within the lot lines of the property and (2) all points of vehicular access to and from a public street shall be located not less than seventy-five (75) feet from the intersection of any street lines.

Section 517. SETBACK ON COLLECTOR STREET

In the case of a collector street as classified in the Centerport Borough Subdivision and Land Development Ordinance, the front yard or setback shall be not less than one

hundred (100) feet from the center line of the highway, or the requirement of the applicable Zoning District, whichever is greater.

Section 518. SPECIFIC USES PROHIBITED

The following uses are specifically prohibited in all Districts.

- A. Any occupation, trade or process which may be in any way dangerous, noxious or injurious to the health or offensive to the inhabitants of the neighborhood.

Section 519. HISTORIC RESOURCE IMPACT STUDY AND MITIGATION AND DEMOLITION BY NEGLECT

- A. Applicability. An Historic Resource Impact Study, or any applicable portion thereof, shall be required when any of the following are proposed:

1. Subdivision or land development plans which will lead to the new construction of buildings, structures, roads, driveways, parking areas, or other site improvements located within 300 feet of any portion of an historic resource identified and/or inventoried by Borough, County, State or Federal agencies.
2. Subdivision or land development plans which propose adaptive reuse or demolition of an identified historic resource.

The Historic Resource Impact Statement shall be prepared by a qualified professional in historic preservation, historical architecture, planning, or related disciplines hired by the applicant. Qualifications of the professional shall be submitted to the Borough.

- B. Contents. The Study shall contain the following information:

1. Background Information
 - a. If not otherwise provided by the applicant, a general site description, including topography, watercourses, vegetation, landscaping, existing drives, and other site features.
 - b. General description of all historic resources located on the subject tract, on tracts immediately adjacent to the subject tract or within 300 feet of the subject tract.
 - c. Physical description of all historic resources indicated in b. above.
 - d. Statement of the significance of each historic resource, both relative to the Borough and region in general.

e. Sufficient number of photographs to show every historic resource identified in b. above, in its setting.

f. Narrative description of the historical development of the subject tract.

C. Proposed Change

1. General description of project, including timetable or phases.

2. Description of impact on each historic resource identified in subsection B.1.b. above, with regard to architectural integrity, historic setting, and future use.

3. General description of effect and noise, traffic, blasting and other demolition or excavation activities and any other impacts generated by the proposed change on each historic resource.

D. Mitigation Measures

1. A plan for mitigating the project's impact on historic resources, including design alternatives, buffering, landscaping, and any other appropriate measures permitted under the terms of this Ordinance and other applicable Ordinances, shall be submitted for review and approval by the Zoning Officer after consultation with the governing body and/or the historic consultant of their choice.

E. Demolition by Neglect. No identified historic resource shall be demolished by neglect. Demolition by neglect includes leaving a building or structure open or vulnerable to vandalism or decay by the elements. Demolition by neglect will be considered to be the readily observable deterioration of a building or structure due to lack of routine maintenance where the property owner cannot prove that the demolition by neglect has occurred as a result of lack of financial ability to provide maintenance. Unoccupied structures should be tightly sealed and/or secured by fencing.

F. Modifications to Area Yard and Height Regulations

1. The Zoning Hearing Board, through the grant of a special exception, may approve requested modifications to the otherwise applicable lot size, lot dimension, yard requirements, coverage requirements, or limits on the extension or enlargements of nonconforming uses for plans affecting identified historic resources provided the following additional criteria are met:

a. The granting of a special exception is deemed by the

Zoning Hearing Board to be necessary to the preservation of identified historic resource.

b. The granting of a special exception will be deemed by the Zoning Hearing Board to have minimal detrimental effect on neighboring properties.

Section 520. LANDSCAPING

1. Any portion of a site which is not used for buildings, other structures, loading or parking spaces, and aisles, sidewalks, and designated storage areas shall be planted with an all season ground cover or landscaped.
2. All dumpsters and outdoor trash storage areas shall be screened from view of adjoining streets and lots.

Section 521. LIGHTING

When any property is illuminated at night, such illumination shall be so designed and located that the light sources are shielded from adjoining properties and streets. No direct beams of light shall be directed toward adjacent properties or roads. No lighting shall be utilized in such a manner to produce a noxious glare or a light intensity greater than one (1) footcandle beyond the lot boundaries (0.6 footcandle when the property is used or zoned for residential purposes).

Section 522. FRONT YARD EXCEPTIONS

When an unimproved lot is situated between two (2) improved lots with front yard dimensions less than those required for the zoning district in which the unimproved lot is located, the front yard required for the unimproved lot may be reduced to a depth equal to the average of the two (2) adjoining lots; provided, however, that this provision shall only apply in such cases where the improved lots in question are improved as of the time of the adoption of this Ordinance. For the purpose of this section, an unimproved lot shall be the same as a vacant lot and an improved lot shall be one on which a principal building is erected.

Section 523. CORNER LOT RESTRICTIONS

1. Clear sight triangles shall be provided at all street intersections and intersections of driveways with streets. Within such triangles, nothing, except street signs, traffic lights or signs, utility poles, and mail boxes, which impedes vision between two and one-half (2-1/2) feet and ten (10) feet above the center line grades of the intersecting streets and driveways shall be erected, placed, planted, or allowed to grow. As a minimum, such

triangles shall be established by connecting points a distance of twenty feet (20') from the point of intersection of cartway lines. At driveway intersections with streets, a triangle shall be established by connecting points a distance of ten feet (10') from the point of intersection of cartway lines.

Where greater clear sight triangles are required by the Subdivision and Land Development Ordinance, such greater requirements shall apply.

2. Front yards shall abut a street. The yard opposite the front yard shall meet the rear yard requirements of the applicable zoning district. Except as otherwise provided in this Zoning Ordinance, any yard adjoining a street which was not designated the front yard must meet the front yard requirements of this Ordinance, and the yard opposite that yard shall meet the side yard requirements of the applicable zoning district. In the case of a building to be placed on a corner lot such that the front of the building will not be parallel to a street line, yards shall be provided so that no portion of the building will be placed closer to a street than the front yard requirement of this Ordinance, so that no portion of the rear of the building will be placed closer to a lot line than the rear yard requirement of the applicable zoning district, and so that no portion of a side of the building will be placed closer to a lot line than the side yard requirement of the applicable zoning district.

Section 524. STANDARDS FOR PUBLIC UTILITY USES

1. A structure or other installation for the purpose of servicing a public utility except common or contract carriers may be located within any zoning district, subject to:
 - a. The public utility shall file a plan with the Zoning Officer indicating the location of all existing and proposed structures (not including poles and towers supporting wires and lines) within the Borough.
 - b. No such facility shall create a danger to the public safety of any resident of the Borough.
 - c. A Special Exception must be received from the Zoning Hearing Board prior to the locating of any building.
 - d. All public utility facilities, storage, or activities outside a building, including parking and loading, shall be screened from view from public streets and adjoining lots.

- e. All areas for parking or loading shall be located between the building and the rear lot line.
- f. The proposed facility must provide a necessary function.

Section 525. HOME BUSINESS REGULATIONS

1. Only a resident of the dwelling unit may practice the home business.
2. No storage of materials or products related to the home business shall be permitted outside buildings.
3. No more than two (2) non-resident people, whether paid or unpaid, may be employed by the practitioner of a home business.
4. No noise, odor, dust, vibration, electromagnetic interference, smoke, heat or glare resulting from the home occupation shall be perceptible at or beyond the lot boundaries.
5. Any need for parking generated by the home business shall be met off-street on the lot on which the home occupation is conducted, in addition to those parking spaces required for the dwelling unit. As a minimum, for those occupations which serve patrons, two (2) off-street parking spaces shall be provided except in the case of dental, medical, or paramedical offices. Four off-street parking spaces shall be provided for each person engaged in dental, medical, or paramedical practice.

Patrons shall be served by home business between the hours of 7:00 a.m. and 9:00 p.m. only. All deliveries to and shipments from the home business shall be made between the same hours.
6. Home businesses shall be conducted within a building with its own egress and access to the outside of the building housing. All machinery, parts, equipment, vehicles and similar items relating to the home business shall be stored within buildings. Goods, materials, or products may be stored, displayed or sold outside of buildings provided they are screened from view from adjoining occupied residential properties and such screening meets all requirements of the municipal Subdivision and Land Development Ordinance. There shall be no exterior storage of commercial vehicles.
7. Not more than two (2) home businesses shall be practiced on any one property.
8. There shall be no alterations made to the outside of the dwelling in order to accommodate or facilitate a home business.

9. Goods available for retail sale shall be produced on the property, unless incidental to the principal service provided.
10. No display of products shall be visible from public streets or adjacent properties.
11. There shall be no outside advertising other than one sign of no more than four (4) square feet in area on any one side.
12. No potentially dangerous effluent from operations shall be discharged.
13. Home businesses shall be incidental or secondary to the use of the property as a residence.
14. Not more than the equivalent of fifty (50%) of the area of the first floor of the dwelling unit may be used for the purposes of the home business.
15. Servicing by more than one (1) tractor trailer truck per day is prohibited.

Section 526. CONDUCT OF AGRICULTURAL ACTIVITIES

Agricultural activities permitted to be conducted within the Borough by this Ordinance may be conducted even though those activities may create an annoyance or inconvenience to neighboring residential uses due to sights, sounds, smells or other conditions resulting from the agricultural activities, provided that the agricultural activities are conducted in accordance with any and all regulations of the Borough, this Ordinance, and the State and are not conducted in a manner which creates a definite danger to the health or safety of neighboring uses.

Section 527. HOME OFFICE STANDARDS

1. Home Office – An office for a professional business of a resident who may work for another employer, or contract or consult with another company or individual which does not involve any visiting by clients or patients and which does not use any employees on the premises and which does not involve any display of merchandise on the property. It is permitted on the same lot with and must be clearly incidental to a permitted dwelling in which the operator of the home office resides and may be permitted where it conforms with the following regulations.
 - a. The home office shall be accessory to a single family residence and carried on wholly indoors and within the dwelling and shall be clearly incidental and subordinate to the residential use of the property;
 - b. There shall be no use of show windows, display, or advertising visible outside the premises;
 - c. There shall be no exterior storage of materials or parking of commercial

- vehicles;
- d. In no way shall the appearance of the residential structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from the residential character by the use of colors, materials, construction, lighting, show windows or advertising visible outside the premises to attract customers or clients;
 - e. The home office shall be operated only by members of the immediate family residing in the dwelling in which the home office is located.
 - f. The floor area devoted to a home office shall not equal more than twenty-five percent (25%) of the first floor area of the principal residential structure or 400 square feet, whichever is less.
 - g. The use shall not include the following: animal hospital; commercial stable and kennel; funeral parlor and undertaking establishment; restaurant; rooming, boarding, and lodging house; clinic or hospital, beauty shop or barber shop, nursing home or any retail activity.
 - h. No equipment or process shall be used in such employment or occupation which creates discernible noise, vibration, glare, fumes, odors or electrical interference at the property line, and no equipment or process shall be used which creates visual or audible interference in any radio or television or telephone receiver off the lot or causes fluctuations in line voltage off the lot.
 - i. No home office shall be located in an area which is needed to meet the off-street parking requirements of the principal residence.

ARTICLE VI: ADMINISTRATIVE PROCEDURES

Specific Intent - It is the purpose of this Article to prescribe the procedures by which the administration of this Ordinance shall take place. Nothing contained within this Article shall be interpreted as limiting the adoption of additional administrative regulations which do not supersede the stated procedures which follow.

Section 601. ADMINISTRATION

- A. Zoning Officer. The provisions of this Ordinance shall be enforced by an agent, to be appointed by the Borough Council, who shall be known as the Zoning Officer. The Zoning Officer shall be appointed at the first meeting of the Borough Council following the adoption of this Ordinance to serve

until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one (1) year or until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such fees or compensation as the Borough Council may, by resolution, provide. He may not hold any elected office in the Borough.

B. Duties. The duties of the Zoning Officer shall be:

1. To receive, examine and process all applications for zoning permits and certificates of use and occupancy as provided by the terms of this Ordinance. The Zoning Officer shall also issue permits for special exception uses or for variances after the same have been approved by the Zoning Hearing Board.
2. To record and file all applications for the permits and accompanying plans and documents and to keep them for public record.
3. As directed by the governing body, to inspect non-conforming uses, structures, and lots and to keep a filed record of such non-conforming uses and structures as a public record and to examine them periodically, with the view of eliminating the non-conforming uses under the existing laws and regulations and to issue certificates of use and occupancy for them.
4. Issue notices of violations of the Zoning Ordinances.
5. Upon request of the Borough Council, or the Zoning Hearing Board, present to such bodies, fact, records, and any similar information on speck requests to assist such bodies in reaching their decisions.
6. To be responsible for the keeping up to date of this Ordinance and the Official Zoning Map, filed with the Borough Secretary and to include any amendments thereto.
7. Upon the approval by the Zoning Hearing Board of a special exception development located within the Floodplain District, written notice of the approval shall be sent by registered mail by the Zoning Officer to the Pennsylvania Department of Community and Economic Development.
8. To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit an annual report to the Federal Insurance Administration concerning the status of the Program in

the Borough (the annual report form shall be provided by the Federal Insurance Administration).

Section 602. ENFORCEMENT NOTICE

- A. If it appears to the Zoning Officer that a violation of this Ordinance has occurred, the Zoning Officer in the name of the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided hereunder.
- B. The enforcement notice shall be sent to the owner of record of the premises on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that premises, and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall include the following:
 - 1. The name of the owner of record and any other person against whom the Zoning Officer intends to take action.
 - 2. A description of the location or the address of the premises, lot, or property in violation.
 - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
 - 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days after the enforcement notice shall have been mailed by first class United States mail, postage prepaid.
 - 6. That failure to comply with the notice within the aforesaid thirty (30) day period, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions clearly described.

Section 603. 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 Ordinance, the appropriate governing body or, with the approval of the appropriate governing body, the Zoning Officer 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 all 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 a tenant, notice of that action shall be served upon the appropriate governing body at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the appropriate governing body. No such action may be maintained until such notice has been given.

Section 604. ENFORCEMENT REMEDIES

- A. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the appropriate governing body, pay a judgment of not more than \$500.00 plus all court cost, including reasonable attorneys fees incurred by the governing body of the municipality in which the violation occurs as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of a determination of the violation by the district justice before whom the civil enforcement proceeding is instituted. If the defendant in the civil enforcement proceeding neither pays nor timely appeals the judgment, the governing body 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 Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of the violation by the district justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for a violation of this Ordinance shall be paid over the appropriate governing body.
- B. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the appropriate governing body the right to commence any action for enforcement pursuant to this Section.

Section 605. PERMITS

- A. General.

1. A Zoning Permit shall be required prior to a change in use of land or structure; or the erection, construction, or alteration of any structure or portion thereof; or the alteration or development of any improved or unimproved real estate, including but not limited to mining, timber harvesting, dredging, filling, grading, paving, excavation, or drilling operations. No permit shall be required for repairs or maintenance of any structure or land provided such repairs do not change the use or otherwise violate the provisions of this Ordinance.
 2. Applications for permits shall be made in writing to the Zoning Officer.
 3. Such permits shall be granted or refused within thirty (30) days from the date of application.
 4. No permit shall be issued except in conformity with the regulations of this Ordinance, except after written order from the Zoning Hearing Boards or the Courts.
 5. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this Ordinance, it will be incumbent upon the applicant to furnish adequate evidence in support of the application. If such evidence is not presented, the Zoning Permit will be denied.
 6. The parcel or parcels shall be in a single and full ownership or proof of option shall be furnished at the time of application.
 7. Expiration of Zoning Permit. The permit shall expire within six (6) months from date of issuance if the work described in the permit has not begun. If the work described in the permit has begun, said permit shall expire one (1) year from the date of issuance thereof.
- B. Application for Zoning Permits for Non-Residential Uses in Commercial and Industrial Districts.
1. A location plan showing the tract to be developed, zoning districts, and adjoining tracts, significant natural features, and street for a distance of two hundred (200) feet from all tract boundaries, except when a larger distance is required elsewhere in this Ordinance.
 2. A plot plan of the lot showing the location of all existing and

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proposed buildings, drives, and parking lots, showing driveways, circulation patterns, curb cut accesses, parking stalls and bumpers, access from streets, screening fences and walls, waste disposal fields or other methods of sewage disposal, and other constructional features on the lot, and the location of all topographical features.

3. Architectural plans for any proposed building.
4. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, vibration, fire hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
5. Engineering and architectural plans for treatment and disposal of sewage and industrial waste, tailings, or unusable by-products.
6. Engineering and architectural plans for the handling of traffic, noise, glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation.
7. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained.
8. The proposed number of shifts to be worked and the maximum number of employees on each shift.
9. Where use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their floor area, and estimated number of employees.

Applications for permits under this Section, along with accompanying plans and data, shall be submitted by the Zoning Officer to the Planning Commission for information purposes only. The Commission may submit its comments to the Zoning Officer; however, the Zoning Officer shall process the application as required by this Ordinance without regard to the action or inaction of the Commission, though any comments so furnished shall be given due consideration by him, if submitted timely.

C. Application for All Other Permits.

1. Applications shall contain a general description of the proposed work, development, use, or occupancy of all parts of the structures

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or land and shall be accompanied by plans in duplicate drawn to scale and showing the following:

- a. Actual dimensions and shape of lot to be developed.
- b. Exact location and dimensions of any structures to be erected, constructed, or altered.
- c. Existing and proposed uses, including the number of families all structures are designed to accommodate.
- d. Off-street parking and loading spaces.
- e. Utility systems affected and proposed.
- f. Alteration or development of any improved or unimproved real estate.
- g. Any other lawful information that may be required by the Zoning Officer or by other sections of this Ordinance.

2. If the proposed development, excavation, or construction is located within the Floodplain District, the following information is specifically required to accompany all applications.

- a. The accurate location of the floodplain and floodway.
- b. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), of the lowest floor, including basements.
- c. The elevation, in relation to the NGVD, to which all structures and utilities will be floodproofed.

D. Temporary Use Permit

A temporary permit may be authorized by the Zoning Hearing Board subject to the requirements of Article VII of this Ordinance for a non-conforming structure or use which it deems beneficial to the public health or general welfare, or which it deems necessary to promote the proper development of the community, provided that such non-conforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such a permit shall be issued for a specified period of time not exceeding one (1) year.

Section 606. CERTIFICATE OF USE AND OCCUPANCY

A. Scope.

A Certificate of Use and Occupancy shall be required upon the completion of the work contemplated in the Zoning Permit for a principal building or structure. No principal building or structure shall be utilized in any manner until a Certificate of Use and Occupancy is issued.

B. Application Procedures.

Application shall be made in writing to the Zoning Officer on a form for such purpose.

C. Issuance.

1. Certificates of Use and Occupancy shall be granted or refused within ten (10) days from the date of application. No application shall be granted or refused until the Zoning Officer has inspected the premises. Issuance of this certificate shall be based on conformance of the work to the requirements of this Ordinance.
2. In Commercial and Industrial Districts in which performance standards are imposed, no Certificate of Use and Occupancy shall become permanent until thirty (30) days after the facility is fully operating, when upon a reinspection by the Zoning Officer, it is determined that the facility is in compliance with all performance standards.

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Section 607. FEES.

All fees shall be determined by the Borough Council and a schedule of such shall be made available to the general public. The Borough Council shall be empowered to reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted, at any public meeting of the Borough Council by resolution.

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ARTICLE VII: ZONING HEARING BOARD

Section 701. ESTABLISHMENT AND MEMBERSHIP.

When used hereafter in this Article, the word "Board" shall mean the Zoning Hearing Board. There shall be a Zoning Hearing Board which shall consist of three (3) members, who shall be Borough residents appointed by Borough Council. The term of office of each member shall be three (3) years and shall be fixed such that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

Members of the Board shall hold no other office in the Borough. Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the governing body, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 702. ORGANIZATION OF BOARD.

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, quorum shall be not less than a majority of all 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 Section 1004. The Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Borough and the laws of the Commonwealth.

The Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council once a year.

Section 703. EXPENDITURES FOR SERVICES - FEES.

- A. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, engineers, consultants, and other technical and clerical services.
- B. The applicant before the Board shall deposit with the Treasurer of the Borough Council such a sum of money as shall be deemed sufficient by the Board to pay for the cost of expenses of the Board for the hearing. These costs may include, but are not limited to, cost for providing notice, cost of such compensation as the Board may receive, and necessary administrative overhead connected with the hearing, including up to one-half of the appearance fee for the stenographer. These costs shall *not* include legal expenses of the Board; expenses for engineering, architectural, or other technical costs; or expert witness costs. Funds deposited excess of the actual cost of the requested hearing shall be returned to the applicant upon completion of the proceedings, and in the event that the costs of the hearing exceed the funds deposited, the applicant shall pay to the Treasurer of the Borough Council funds equal to such excess cost.
- C. Every applicant shall pay a non-refundable fee of five hundred (\$500.00) dollars to cover a portion of all of the costs as set forth hereinabove, and

the Borough Treasurer shall require additional deposits or payments as is deemed proper in the discretion of the said officer.

Section 704. HEARINGS

The Board shall conduct Hearings and make decisions in accordance with the following requirements:

- A. The Board shall fix a reasonable time and place for public hearings and shall give notice thereof as follows:
 - 1. By publishing a notice thereof once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days prior to the date of the hearing.
 - 2. By mailing a notice thereof to the parties in interest, including all adjacent property owners.
 - 3. By mailing a notice thereof to the Zoning Officer, the Borough Secretary, who shall then mail a notice thereof to each member of the Borough Council, each member of the Planning Commission, the Secretary of the Berks County Planning Commission, and to every person or organization who shall have registered with the Board for the purpose of receiving such notices.
 - 4. The notice herein required shall state the location of the lot or building and the general nature of the question involved.
 - 5. In addition to the notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing date.
 - 6. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- B. 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, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- C. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board,

and any 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.

- D. 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.
- E. The parties shall have 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.
- F. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- G. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- H. 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 material 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 representatives unless all parties are given an opportunity to be present.
- I. The Board or hearing officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. When the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Ordinance or of any act, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and

recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this paragraph, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 704(A)1, above. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this paragraph shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- J. 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 by certified mail not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 705. **BOARD FUNCTIONS**

- A. Appeals from the Zoning Officer<![if !supportNestedAnchors]><![endif]>
The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures, or has misinterpreted or misapplied any provision of this Ordinance or the Official Zoning Map, or any valid rule or regulation governing the action of the Zoning Officer.
- B. Challenge to the Validity of the Zoning Ordinance or Map
The Board shall hear challenges to the validity of this Zoning Ordinance or the Official Zoning Map except as indicated in the Act of June 1, 1972, P1333 No. 93. In all such challenges, the Board shall take evidence and make a record thereon provided in Section 704. At the conclusion of the hearing, the Board shall decide all contested questions and shall make

findings on all relevant issues of fact which shall become part of the record on appeal to the Court.

C. Special Exceptions

Where special exceptions are provided for in this Ordinance, the Board shall hear and decide requests for such special exceptions in accordance with stated standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purpose of this Ordinance. All requests for special exception shall be sent by the Board to the Planning Commission for review and recommendation in accordance with the Comprehensive Plan. However, such submission is for information purposes only and is not a part of the application process, which shall proceed as provided herein without regard to the action or inaction of the Commission, though any comment so furnished shall be given due consideration by the Board, if submitted timely. In rendering its decision the Board shall consider the following:

1. The suitability of the property for the use desired. Assure itself that the proposed request is consistent with the spirit, purpose, and intent of the Zoning Ordinance.
2. The proposed special exception will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and that the use of the property adjacent to the area included in the proposed change of plan is adequately safeguarded.
3. The proposed special exception will serve the best interest of the Borough, the convenience of the community, and the public welfare.
4. The effect of the proposed special exception upon the logical efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, and public schools.
5. The conditions, in addition to those required, which are necessary to assure that the intent of the Zoning Ordinance is complied with. Such conditions may include, but are not limited to, planting and its maintenance as a sight or sound screen; the minimizing of noxious, offensive, or hazardous elements; adequate standards of

parking; and sanitation.

6. The suitability of the proposed location of an industrial or commercial use with respect to probable effects upon highway traffic and that adequate access arrangements, in order to protect major streets and highways from undue congestion and hazard, are available.
7. The adequacy of sanitation and public safety provisions, where applicable, and the issuance of a certificate of adequacy of sewage and water facilities from the Sewage Enforcement Officer in such case required herein or deemed available.
8. Financial hardship shall not be construed as the basis for granting special exceptions.
9. For development within the Floodplain District: the effect of the development on flood heights, frequencies, and velocities; the susceptibility of the development to flood damage; the availability of emergency access to the development in times of flood; and the necessity of the development to be located near the floodplain area.
10. The listing of any use or structure on the National Register of Historic Places or on the Pennsylvania Register of Historic Sites and Landmarks.

D. Variances

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

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance in the

neighborhood or district in which the property is located.

3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
6. That the development permitted is not unusually susceptible to flood damage, that emergency access is available to the development, that it is necessary the development be located near the floodplain, and that the development will not be located in the floodway if the development will increase the base flood elevation.
7. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance. The Board shall require that adequate on or offsite water and sewage disposal facilities are available for the use intended.

Section 706. PARTIES APPELLANT BEFORE BOARD.

Appeals under Section 705(A) and proceedings to challenge this Ordinance under Section 705(B) may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for variance under Section 705(D) and for special exception under Section 705(C) may be filed with the Board by any landowner or by any tenant with the permission of such landowner. Any appeal shall state:

1. The name and address of the appellant and applicant.
2. The name and address of the landowner of the real estate to be affected.
3. A brief description, including the location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request.
4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.

5. A statement of the section of this Ordinance under which the variance or exception requested may be allowed and reasons why it should be granted.

Section 707. TIME LIMITATIONS.

No person shall be permitted to file before the Board any action later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer or governing body if such proceedings are designed to secure reversal or to limit the approval in any matter 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 or preliminary plan for a Planned Residential Development or from an adverse decision by the Zoning Hearing Board on a challenge to the validity of this Ordinance or the Official Zoning Map pursuant to the Act of June 1, 1972 PL333 No. 93, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative or preliminary approval.

Section 708. STAY OF PROCEEDINGS.

Upon any filing or any proceeding referred to in Section 605 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 of the Board or of a court of competent jurisdiction 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. Such proceedings shall then be governed by applicable laws.

Section 709. APPEAL.

Any person, taxpayer, or the Borough aggrieved by any decision of the Board may within thirty (30) days after such decision of the Board seek review by the Court of Common Pleas of such decision in the manner provided by the law of the

Commonwealth of Pennsylvania.

ARTICLE VIII: AMENDMENTS

Section 801. POWER OF AMENDMENT.

The Borough Council may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change or repeal this Ordinance including the Official Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Planning Commission, Borough Council, or by a petition to the Borough Council by an interested party.

Section 802. ENACTMENT OF AMENDMENTS.

- A. Where the amendment has been prepared by a party other than the Planning Commission, the governing body shall submit the proposed amendment to the Planning Commission and to the other governing body for their review and comment. Such submission shall be not less than thirty (30) days prior to the date of the public hearing required under Section 802(E), below.
- B. Amendments proposed and prepared by the Planning Commission (whether or not at the direction of the governing body) shall be submitted to the governing body simultaneously for review and comment.
- C. The governing body shall submit the proposed amendment to the Berks County Planning Commission for their review and comment. Such submission shall not be less than thirty (30) days prior to the date of the public hearing required under Section 802(E), below.
- E. Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice as defined in Article II. The public notice of a proposed amendment to this Ordinance or the Zoning Map shall further include either the full text thereof, or a brief summary prepared by the municipal Solicitor setting forth all the provisions in reasonable detail and stating places within the Borough where complete copies of the proposed amendment are available for public examination. In addition, complete copies of the proposed amendment shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published, and an attested copy of the proposed amendment shall be filed in the Berks County Law Library or other County office as may be designated by the County Commissioners.
 1. If the proposed amendment involves a change to the Zoning Map,

notice of the public hearing shall be conspicuously posted by the municipality at points deemed sufficient along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

- F. Amendments to the Zoning Ordinance shall be implemented by ordinance.
 - G. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Berks County Planning Commission.

Section 803. PROCEDURE FOR CURATIVE AMENDMENT BY A LANDOWNER.

- A. A landowner who desires to challenge on substantive grounds the validity of this Zoning Ordinance 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 governing body with a written request that his challenge and proposed amendment be heard and decided as provided for by Section 916.1 of the Pennsylvania Municipalities Planning Code. The governing body shall commence a hearing thereon within sixty (60) days of receipt of the request. Prior to the hearing, the curative amendment and challenge shall be referred to the Planning Commission and the Berks County Planning Commission for review and comment in the same manner as prescribed for other amendments in Sections 802(A) and 802(C), above. Notice of the hearing shall be given as required by Section 802(E), above.
- B. The hearing shall be conducted in accordance with Section 908 of the Pennsylvania Municipalities Planning Code; for the purposes of this section, all references in the said Section 908 to the Zoning Hearing Board shall be deemed references to the governing body.
- C. If the municipality does not accept a landowner's curative amendment brought in accordance with the provisions of this section, and a court of competent jurisdiction subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and Zoning Map, but only for those provisions specifically relating to the landowner's curative amendment and challenge.
- D. If the governing body determines that a validity challenge has merit, they may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment that will cure the challenged provisions. The governing body shall consider the curative amendments,

plans, and explanatory material submitted by the landowner, and shall also consider:

1. the impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities;
 2. 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 the Ordinance or map;
 3. 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;
 4. the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, 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
 5. the impact of the proposal on the preservation of agriculture and other land uses that are essential to the public health and welfare.
- E. Amendments to the Zoning Ordinance shall be implemented by ordinance.
- F. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Berks County Planning Commission.

Section 804. PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENT.

If the municipality determines that this Zoning Ordinance or any portion hereof is substantially invalid, they shall take the following actions.

- A. The governing body may thereby declare by formal action that this Ordinance or portions thereof is substantially invalid and prepare or cause to be prepared a municipal curative amendment pursuant to the following.
- B. Within thirty (30) days of the first formal action invoking a municipal cure, the municipality shall perform the following actions.
1. Pass a resolution making specific findings setting forth the declared invalidity of this Ordinance. Such findings may include:
 - a. references to specific uses that are either not permitted or

- are not permitted in sufficient quantity,
 - b. references to a class of uses or uses that require revision, or
 - c. references to the entire Ordinance that requires revision.
 - 2. Begin to prepare a curative amendment to the Zoning Ordinance to correct the declared invalidity.
- C. Within 180 days of the first formal action invoking a municipal cure, the municipality shall enact a curative amendment to validate the declared invalidity of the Zoning Ordinance, or to reaffirm the validity of the Ordinance. The curative amendment shall be enacted in the same manner as required for other types of amendment as provided for in Section 802 above.
- D. Upon the initiation of the procedures described above in Section 804(A), the governing body shall not be required to entertain or to consider any landowner curative amendment submitted pursuant to Section 803, nor shall the Zoning Hearing Board be required to render any decision or opinion pursuant to Section 705 of this Ordinance or Section 916.1 of the Pennsylvania Municipalities Planning Code involving grounds substantially similar to those specified by the findings required pursuant to Section 804(B)(1).
- E. Upon completion of the procedures described above in Section 804(B) and Section 804(C), no rights to a cure pursuant to Section 705(B) of this Ordinance or Section 916.1 of the Pennsylvania Municipalities Planning Code shall accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this section.
- F. If the municipality implements the procedures described above in Section 804(A) and Section 804(B), they may not again utilize this municipal cure procedure for a period of thirty-six (36) months following the date of the enactment of the curative amendment, or the reaffirmation of the validity of the Zoning Ordinance where no amendment is enacted. If, however, following the date of declaration described in Section 804(A) there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a decision by the Pennsylvania Appellate Court, then the municipality may again utilize the provisions of this section to prepare a curative amendment to this Ordinance to fulfill said duty or obligation.

Section 805. AUTHENTICATION OF OFFICIAL ZONING MAP.

Whenever there has been a change in the boundary of a zoning district or a reclassification of the zoning district adopted in accordance with the above, the change on the Official Zoning Map shall be made and shall be duly certified by the Borough Secretary and shall thereafter be refiled as part of the permanent records of the Borough.

ARTICLE IX: REPEALER

Section 901. REPEALER

Any resolution, Ordinance, or part of any resolution or Ordinance, including but not limited to existing Zoning Ordinances of the Borough of Centerport, including the Centre Township and Centerport Borough Zoning Ordinance of 2001, as amended, that are inconsistent herewith and any amendments thereof are hereby expressly repealed.

Section 902. SEPARABILITY.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE X: EFFECTIVE DATE

Section 1001. EFFECTIVE DATE.

This Zoning Ordinance shall become effective November 10th, 2004.

This Ordinance, ordained and enacted this 1st day of November, 2004.

ATTEST:

(SEAL)

Council of Borough of Centerport:

(SEAL)

